

# AN ACT

To amend sections 9.24, 9.981, 101.68, 102.02, 102.06, 108.05, 109.54, 109.57, 109.79, 109.91, 109.98, 117.10, 120.06, 120.13, 120.23, 120.52, 120.53, 121.37, 121.38, 122.011, 122.17, 122.171, 122.18, 122.40, 122.603, 122.71, 122.72, 122.73, 122.74, 122.75, 122.751, 122.76, 122.77, 122.78, 122.79, 122.82, 122.83, 122.95, 122.951, 123.01, 123.152, 123.17, 124.07, 124.321, 124.328, 125.041, 125.05, 125.11, 125.831, 125.832, 126.25, 127.16, 131.02, 131.23, 133.08, 133.081, 133.09, 140.01, 141.011, 141.04, 145.01, 145.33, 147.05, 147.10, 147.11, 147.12, 147.371, 149.30, 150.07, 150.10, 154.11, 173.26, 173.40, 173.99, 181.251, 181.51, 181.52, 181.54, 181.55, 181.56, 183.28, 184.02, 305.171, 307.37, 307.695, 307.86, 307.88, 317.08, 317.36, 319.20, 319.302, 321.24, 323.01, 323.152, 325.31, 329.04, 329.051, 339.72, 339.88, 340.03, 340.16, 351.01, 351.021, 351.06, 351.141, 351.16, 718.09, 718.10, 731.14, 731.141, 742.59, 901.43, 903.05, 905.32, 905.33, 905.331, 905.36, 905.37, 905.38, 905.381, 905.50, 905.501, 905.66, 907.16, 913.02, 913.23, 915.02, 915.16, 915.24, 921.02, 921.16, 923.44, 923.45, 923.46, 926.01, 927.69, 1111.04, 1327.511, 1502.02, 1509.06, 1509.072, 1509.31, 1515.14, 1517.02, 1521.062, 1531.27, 1533.10, 1533.11, 1533.111, 1533.112, 1533.12, 1533.32, 1541.03, 1548.06, 1707.01, 1707.17, 1707.19, 1707.20, 1707.22, 1707.23, 1707.25, 1707.261, 1707.431, 1707.44, 1707.46, 1711.52, 1711.53, 1713.03, 1751.03, 1751.04, 1751.05, 1901.26, 1901.31, 1907.24, 2113.041, 2117.061, 2151.352, 2151.416,

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Sections 16.09, 19.01, 20.01, 22.03, 22.04, 23.02, 23.12, 23.13, 23.19, 23.26, 23.45, and 24.01 of Am. Sub. H.B. 16 of the 126th General Assembly; to amend Section 3 of Am. H.B. 67 of the 126th General Assembly; to amend Sections 203.03, 203.03.09, 203.03.10, 203.06.06, 203.06.12, 203.06.15, and 203.06.24 of Am. Sub. H.B. 68 of the 126th General Assembly; to amend Section 41.36 of Am. Sub. H.B. 95 of the 125th General Assembly and to amend Section 41.36 of Am. Sub. H.B. 95 of the 125th General Assembly for the purpose of codifying it as section 3323.19 of the Revised Code; to amend Section 14 of Sub. H.B. 434 of the 125th General Assembly; to amend Section 4 of Am. Sub. H.B. 516 of the 125th General Assembly; to amend Sections 3.01, 3.04, and 26.01 of Am. Sub. S.B. 189 of the 125th General Assembly; to amend Section 22 of Am. Sub. S.B. 189 of the 125th General Assembly, as amended by Am. Sub. H.B. 16 of the 126th General Assembly; to amend Section 3 of Am. Sub. H.B. 621 of the 122nd General Assembly, as subsequently amended; to amend Section 153 of Am. Sub. H.B. 117 of the 121st General Assembly, as subsequently amended; to amend Section 5 of Am. Sub. S.B. 50 of the 121st General Assembly, as subsequently amended; and to repeal Sections 59.19, 89.17, and 147 of Am. Sub. H.B. 95 of the 125th General Assembly to make operating appropriations for the biennium beginning July 1, 2005 and ending June 30, 2007, and to provide authorization and conditions for the operation of state programs, and to repeal Section 553.01 of this act on February 16, 2006.

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

SECTION 101.01. That sections 9.24, 9.981, 101.68, 102.02, 102.06, 108.05, 109.54, 109.57, 109.79, 109.91, 109.98, 117.10, 120.06, 120.13, 120.23, 120.52, 120.53, 121.37, 121.38, 122.011, 122.17, 122.171, 122.18, 122.40, 122.603, 122.71, 122.72, 122.73, 122.74, 122.75, 122.751, 122.76, 122.77, 122.78, 122.79, 122.82, 122.83, 122.95, 122.951, 123.01, 123.152, 123.17, 124.07, 124.321, 124.328, 125.041, 125.05, 125.11, 125.831, 125.832, 126.25, 127.16, 131.02, 131.23, 133.08, 133.081, 133.09, 140.01, 141.011, 141.04, 145.01, 145.33, 147.05, 147.10, 147.11, 147.12, 147.371, 149.30, 150.07, 150.10, 154.11, 173.26, 173.40, 173.99, 181.251, 181.51, 181.52, 181.54, 181.55, 181.56, 183.28, 184.02, 305.171, 307.37, 307.695, 307.86, 307.88, 317.08, 317.36, 319.20, 319.302, 321.24, 323.01, 323.152, 325.31, 329.04, 329.051, 339.72, 339.88, 340.03, 340.16, 351.01, 351.021, 351.06, 351.141, 351.16, 718.09, 718.10, 731.14, 731.141, 742.59, 901.43, 903.05, 905.32, 905.33, 905.331, 905.36, 905.37, 905.38, 905.381, 905.50, 905.501, 905.66, 907.16, 913.02, 913.23, 915.02, 915.16, 915.24, 921.02, 921.16, 923.44, 923.45, 923.46, 926.01, 927.69, 1111.04, 1327.511, 1502.02, 1509.06, 1509.072, 1509.31, 1515.14, 1517.02, 1521.062, 1531.27, 1533.10, 1533.11, 1533.111, 1533.112, 1533.12, 1533.32, 1541.03, 1548.06, 1707.01, 1707.17, 1707.19, 1707.20, 1707.22, 1707.23, 1707.25, 1707.261, 1707.431, 1707.44, 1707.46, 1711.52, 1711.53, 1713.03, 1751.03, 1751.04, 1751.05, 1901.26, 1901.31, 1907.24, 2113.041, 2117.061, 2151.352, 2151.416, 2152.43, 2152.74, 2303.201, 2305.234, 2329.66, 2743.191, 2744.05, 2744.08, 2901.07, 2913.40, 2921.13, 2923.25, 2923.35, 2923.46, 2925.44, 2933.43, 2933.74, 2949.092, 2971.05, 3107.10, 3111.04, 3119.54, 3121.12, 3121.50, 3125.18, 3301.079, 3301.0710, 3301.0711, 3301.0714, 3301.0715, 3301.12, 3301.16, 3301.311, 3301.32, 3301.56, 3301.86, 3301.88, 3302.03, 3313.207, 3313.208, 3313.209, 3313.489, 3313.975, 3313.976, 3313.977, 3313.978, 3313.98, 3314.013, 3314.015, 3314.02, 3314.021, 3314.03, 3314.031, 3314.032, 3314.06, 3314.074, 3314.08, 3314.13, 3315.17, 3315.18, 3315.37, 3316.06, 3316.16, 3317.01, 3317.013, 3317.02, 3317.021, 3317.022, 3317.023, 3317.024, 3317.026, 3317.027, 3317.028, 3317.029, 3317.0216, 3317.0217, 3317.03, 3317.031, 3317.05, 3317.052, 3317.053, 3317.06, 3317.063, 3317.07, 3317.081, 3317.09, 3317.10, 3317.16, 3317.20, 3317.21, 3317.22, 3317.23, 3317.50, 3317.51, 3318.091, 3318.33, 3319.081, 3319.17, 3319.22, 3319.235, 3319.55, 3323.021, 3323.091, 3323.14, 3323.16, 3327.01, 3332.092, 3333.04, 3333.044, 3333.12, 3333.121, 3333.27, 3333.28, 3333.36, 3333.38, 3334.01, 3334.02, 3334.03, 3334.07, 3334.08, 3334.09, 3334.10, 3334.11, 3334.12, 3334.15, 3334.16, 3334.17, 3334.18, 3334.19, 3335.02, 3345.10, 3345.19,

3345.32, 3353.01, 3353.04, 3353.06, 3353.07, 3362.02, 3365.01, 3365.02, 3365.04, 3365.041, 3365.05, 3365.08, 3375.40, 3375.48, 3375.49, 3375.54, 3375.55, 3381.02, 3381.04, 3381.05, 3381.06, 3381.07, 3381.15, 3383.02, 3383.09, 3501.141, 3501.17, 3513.04, 3513.041, 3513.05, 3513.052, 3513.257, 3513.259, 3513.261, 3517.13, 3517.151, 3701.023, 3701.146, 3701.65, 3702.141, 3702.51, 3702.68, 3702.71, 3702.74, 3703.01, 3703.03, 3703.04, 3703.05, 3703.06, 3703.07, 3703.08, 3703.10, 3703.99, 3704.035, 3704.143, 3704.99, 3705.24, 3712.03, 3714.07, 3721.01, 3721.011, 3721.02, 3721.03, 3721.07, 3721.121, 3721.15, 3721.19, 3721.21, 3721.50, 3721.51, 3721.52, 3721.56, 3721.58, 3722.01, 3722.02, 3722.04, 3734.01, 3734.20, 3734.21, 3734.22, 3734.23, 3734.28, 3734.57, 3734.573, 3734.85, 3734.901, 3734.9010, 3735.27, 3743.01, 3743.02, 3743.04, 3743.05, 3743.06, 3743.15, 3743.17, 3743.18, 3743.19, 3743.57, 3743.59, 3743.65, 3743.75, 3745.11, 3745.12, 3746.04, 3746.071, 3748.07, 3748.13, 3773.34, 3773.38, 3773.39, 3773.40, 3773.57, 3781.07, 3781.10, 3781.102, 3793.09, 3901.021, 3901.17, 3901.3814, 3901.78, 3903.14, 3903.42, 3905.04, 3905.36, 3905.40, 3923.27, 4112.12, 4115.32, 4115.34, 4117.10, 4117.24, 4121.12, 4121.121, 4121.125, 4123.27, 4123.44, 4123.47, 4301.10, 4301.43, 4303.182, 4501.01, 4501.37, 4503.103, 4503.471, 4503.48, 4503.50, 4503.53, 4503.571, 4503.59, 4503.73, 4503.85, 4503.91, 4505.06, 4506.03, 4506.07, 4511.191, 4511.75, 4517.01, 4519.01, 4519.02, 4519.09, 4561.17, 4561.18, 4561.21, 4703.15, 4705.09, 4709.05, 4713.02, 4717.05, 4723.32, 4723.33, 4723.34, 4723.341, 4723.63, 4731.65, 4731.71, 4736.11, 4736.12, 4740.14, 4753.03, 4753.06, 4753.071, 4753.08, 4753.09, 4755.03, 4755.48, 4766.09, 4905.10, 4905.54, 4905.95, 4911.18, 4973.171, 5101.16, 5101.181, 5101.184, 5101.21, 5101.241, 5101.26, 5101.31, 5101.35, 5101.36, 5101.46, 5101.47, 5101.75, 5101.752, 5101.80, 5101.801, 5101.821, 5104.01, 5104.02, 5104.32, 5107.05, 5107.10, 5107.26, 5107.30, 5107.58, 5110.01, 5110.05, 5110.352, 5110.39, 5111.011, 5111.019, 5111.0112, 5111.02, 5111.021, 5111.022, 5111.023, 5111.025, 5111.042, 5111.06, 5111.082, 5111.11, 5111.111, 5111.113, 5111.16, 5111.17, 5111.19, 5111.20, 5111.204, 5111.21, 5111.22, 5111.221, 5111.23, 5111.231, 5111.235, 5111.241, 5111.25, 5111.251, 5111.255, 5111.257, 5111.26, 5111.261, 5111.263, 5111.264, 5111.27, 5111.28, 5111.29, 5111.291, 5111.30, 5111.31, 5111.32, 5111.33, 5111.62, 5111.81, 5111.85, 5111.87, 5111.871, 5111.88, 5111.97, 5111.99, 5112.03, 5112.08, 5112.17, 5112.30, 5112.31, 5115.20, 5115.22, 5115.23, 5119.61, 5120.09, 5120.51, 5121.01, 5121.02, 5121.03, 5121.04, 5121.05, 5121.06, 5121.061, 5121.07, 5121.08, 5121.09, 5121.10, 5121.11, 5121.12, 5121.21, 5122.03, 5122.31, 5123.01, 5123.045, 5123.046, 5123.047, 5123.049,

5123.0412, 5123.34, 5123.41, 5123.701, 5123.71, 5123.76, 5126.01, 5126.035, 5126.042, 5126.054, 5126.055, 5126.056, 5126.057, 5126.12, 5139.01, 5139.36, 5153.16, 5502.01, 5502.03, 5531.10, 5540.01, 5540.09, 5549.01, 5552.01, 5573.013, 5703.052, 5703.053, 5703.47, 5703.50, 5703.70, 5703.80, 5705.091, 5705.391, 5705.40, 5709.07, 5709.12, 5709.121, 5709.40, 5709.73, 5709.77, 5709.78, 5711.01, 5711.16, 5711.21, 5711.22, 5711.28, 5713.01, 5715.01, 5715.24, 5719.041, 5725.01, 5725.19, 5727.01, 5727.02, 5727.06, 5727.08, 5727.10, 5727.11, 5727.111, 5727.12, 5727.23, 5727.84, 5727.85, 5728.01, 5728.02, 5728.03, 5728.04, 5728.06, 5728.08, 5729.08, 5731.01, 5731.05, 5731.131, 5731.14, 5731.18, 5731.181, 5731.22, 5731.23, 5731.39, 5731.41, 5733.01, 5733.065, 5733.066, 5733.33, 5733.351, 5733.352, 5733.40, 5733.41, 5733.49, 5733.98, 5737.03, 5739.01, 5739.02, 5739.025, 5739.03, 5739.033, 5739.034, 5739.035, 5739.08, 5739.09, 5739.10, 5739.12, 5739.16, 5739.17, 5741.02, 5741.16, 5743.01, 5743.02, 5743.03, 5743.05, 5743.071, 5743.08, 5743.10, 5743.111, 5743.112, 5743.14, 5743.15, 5743.16, 5743.18, 5743.19, 5743.20, 5743.32, 5743.33, 5747.01, 5747.012, 5747.02, 5747.05, 5747.08, 5747.113, 5747.212, 5747.331, 5747.70, 5747.80, 5747.98, 5748.01, 5748.02, 5748.03, 5748.04, 5748.08, 5749.02, 5907.15, 5919.33, 5920.01, 6109.21, 6121.04, and 6123.04 be amended; that sections 9.833, 9.90, 3311.19, 3313.12, 3313.202, 3313.33, 4117.03, and 4117.08 be contingently amended; that sections 181.251 (5502.63), 181.51 (5502.61), 181.52 (5502.62), 181.54 (5502.64), 181.55 (5502.65), 181.56 (5502.66), 3314.031 (3314.21), 3314.032 (3314.22), 3314.034 (3314.24), 3317.21 (3318.47), 3317.22 (3318.48), 3317.23 (3318.49), 4723.63 (4723.91), 5101.75 (173.42), 5101.752 (173.43), 5111.02 (5111.021), 5111.021 (5111.022), 5111.022 (5111.023), 5111.023 (5111.0115), 5111.112 (5111.113), 5111.113 (5111.114), 5111.231 (5111.232), 5111.257, (5111.258), 5111.81 (5111.085), 5111.88 (5111.97), 5111.97 (5111.86), 5121.01 (5121.02), 5121.02 (5121.03), and 5121.03 (5121.01) be amended for the purpose of adopting new section numbers as indicated in parentheses; that Section 41.36 of Am. Sub. H.B. 95 of the 125th General Assembly be amended and that Section 41.36 of Am. Sub. H.B. 95 of the 125th General Assembly be amended for the purpose of codifying it as section 3323.19 of the Revised Code; that new sections 3317.012, 3353.02, 3353.03, 3704.14, 4723.63, 5111.02, 5111.112, 5111.231, 5111.24, 5111.257, 5111.34, 5111.88, and 5123.048 and sections 9.23, 9.231, 9.232, 9.233, 9.234, 9.235, 9.236, 9.237, 9.238, 9.239, 9.241, 101.391, 103.132, 109.579, 109.981, 120.07, 120.36, 121.373, 121.381, 121.382, 121.403, 122.075, 122.083, 122.172, 122.173,

125.18, 125.25, 125.60, 125.601, 125.602, 125.603, 125.604, 125.605, 125.606, 125.607, 125.608, 125.609, 125.6010, 125.6011, 125.6012, 131.022, 153.02, 173.39, 173.391, 173.392, 173.393, 173.44, 173.45, 173.46, 173.47, 173.48, 173.49, 173.50, 305.28, 306.331, 307.676, 341.192, 901.44, 907.111, 1547.721, 1547.722, 1547.723, 1547.724, 1547.725, 1547.726, 1707.164, 1707.165, 1711.531, 1751.271, 2151.282, 2305.2341, 2307.65, 2744.082, 2913.401, 2927.023, 2949.093, 3125.191, 3302.10, 3310.01, 3310.02, 3310.03, 3310.04, 3310.05, 3310.06, 3310.07, 3310.08, 3310.09, 3310.10, 3310.13, 3310.14, 3310.16, 3310.17, 3311.11, 3313.6410, 3314.014, 3314.061, 3314.084, 3314.085, 3314.12, 3314.25, 3314.26, 3314.27, 3314.28, 3314.35, 3314.36, 3316.043, 3317.016, 3317.017, 3317.035, 3317.201, 3318.18, 3319.06, 3319.0810, 3319.172, 3323.20, 3323.30, 3323.31, 3323.32, 3323.33, 3324.10, 3325.10, 3325.11, 3325.12, 3325.15, 3325.16, 3325.17, 3333.047, 3333.122, 3333.123, 3333.162, 3354.25, 3365.11, 3701.073, 3702.83, 3704.144, 3705.242, 3714.073, 3715.04, 3721.032, 3721.541, 3721.561, 3745.015, 3745.114, 3770.061, 3781.191, 3903.421, 4115.36, 4117.103, 4121.126, 4121.127, 4121.128, 4123.441, 4123.444, 4123.445, 4506.101, 4506.161, 4723.61, 4723.62, 4723.621, 4723.64, 4723.65, 4723.651, 4723.652, 4723.66, 4723.67, 4723.68, 4723.69, 4766.14, 4905.261, 4911.021, 5101.07, 5101.071, 5101.163, 5101.244, 5101.461, 5101.802, 5101.803, 5101.93, 5101.98, 5107.301, 5111.0114, 5111.027, 5111.061, 5111.062, 5111.083, 5111.084, 5111.10, 5111.161, 5111.162, 5111.163, 5111.176, 5111.177, 5111.191, 5111.222, 5111.223, 5111.242, 5111.243, 5111.244, 5111.254, 5111.265, 5111.266, 5111.65, 5111.651, 5111.66, 5111.661, 5111.67, 5111.671, 5111.672, 5111.673, 5111.674, 5111.675, 5111.676, 5111.677, 5111.68, 5111.681, 5111.682, 5111.683, 5111.684, 5111.685, 5111.686, 5111.687, 5111.688, 5111.851, 5111.852, 5111.853, 5111.854, 5111.855, 5111.856, 5111.881, 5111.882, 5111.883, 5111.884, 5111.885, 5111.886, 5111.887, 5111.888, 5111.889, 5111.8810, 5111.8811, 5111.8812, 5111.89, 5111.891, 5111.892, 5111.893, 5111.914, 5111.915, 5111.971, 5111.98, 5112.341, 5121.30, 5121.31, 5121.32, 5121.33, 5121.34, 5121.35, 5121.36, 5121.37, 5121.38, 5121.40, 5121.41, 5121.42, 5121.43, 5121.44, 5121.45, 5121.46, 5121.47, 5121.48, 5121.49, 5121.50, 5121.51, 5121.52, 5121.53, 5121.54, 5121.55, 5121.56, 5123.16, 5703.057, 5705.211, 5707.031, 5709.112, 5725.32, 5727.031, 5727.241, 5729.032, 5739.012, 5739.36, 5743.031, 5743.072, 5743.331, 5743.71, 5747.056, 5751.01, 5751.011, 5751.012, 5751.013, 5751.02, 5751.03, 5751.031, 5751.032, 5751.033, 5751.04, 5751.05, 5751.051, 5751.06, 5751.07, 5751.08, 5751.081, 5751.09, 5751.10,



5751.11, 5751.12, 5751.20, 5751.21, 5751.22, 5751.23, 5751.31, 5751.50, 5751.51, 5751.52, 5751.53, 5751.98, 5751.99, 5919.31, 5919.341, 6111.30, 6111.31, and 6111.32 be enacted; and that section 9.901 of the Revised Code be enacted (certain of its phases contingently) to read as follows:

Sec. 9.23. As used in sections 9.23 to 9.239 of the Revised Code:

(A) "Allocable nondirect costs" means the amount of nondirect costs allocated as a result of actual expenditures on direct costs. "Allocable nondirect costs" shall be calculated as follows: direct costs actually incurred for the provision of services pursuant to a contract entered into under section 9.231 of the Revised Code divided by the minimum percentage of money that is to be expended on the recipient's direct costs, as specified in the contract, minus the direct costs actually incurred.

(B) "Contract payment earned" means payment pursuant to a contract entered into under section 9.231 of the Revised Code for direct costs actually incurred in performing the contract, up to the minimum percentage of money that is to be expended on the recipient's direct costs, as specified in the contract, plus allocable nondirect costs associated with those direct costs.

(C) "Direct costs" means the costs of providing services that directly benefit a patient, client, or the public and that are set forth in the contract entered into under section 9.231 of the Revised Code. "Direct costs" does not include the costs of any financial review or audit required under section 9.234 of the Revised Code.

(D)(1) "Governmental entity" means a state agency or a political subdivision of the state.

(2) "Contracting authority" of a governmental entity means the director or chief executive officer, in the case of a state agency, or the legislative authority, in the case of a political subdivision.

(E) "Minimum percentage of money that is to be expended on the recipient's direct costs" means the percentage of the total amount of the contract entered into under section 9.231 of the Revised Code that, at a minimum, has to be expended on the recipient's direct costs in performing the contract in order for the recipient to earn the total amount of the contract.

(F) "Political subdivision" means a county, township, municipal corporation, or any other body corporate and politic that is responsible for government activities in a geographic area smaller than that of the state.

(G) "Recipient" means a person that enters into a contract with a governmental entity under section 9.231 of the Revised Code.

(H) "State agency" means any organized body, office, agency,

institution, or other entity established by the laws of the state for the exercise of any function of state government.

(I) A judgment is "uncollectible" if, at least ninety days after the judgment is obtained, the full amount of the judgment has not been collected and either a settlement agreement between the governmental entity and the recipient has not been entered into or a settlement agreement has been entered into but has not been materially complied with.

Sec. 9.231. (A)(1) Subject to divisions (A)(2) and (3) of this section, a governmental entity shall not disburse money totaling twenty-five thousand dollars or more to any person for the provision of services for the primary benefit of individuals or the public and not for the primary benefit of a governmental entity or the employees of a governmental entity, unless the contracting authority of the governmental entity first enters into a written contract with the person that is signed by the person or by an officer or agent of the person authorized to legally bind the person and that embodies all of the requirements and conditions set forth in sections 9.23 to 9.236 of the Revised Code. If the disbursement of money occurs over the course of a governmental entity's fiscal year, rather than in a lump sum, the contracting authority of the governmental entity shall enter into the written contract with the person at the point during the governmental entity's fiscal year that at least seventy-five thousand dollars has been disbursed by the governmental entity to the person. Thereafter, the contracting authority of the governmental entity shall enter into the written contract with the person at the beginning of the governmental entity's fiscal year, if, during the immediately preceding fiscal year, the governmental entity disbursed to that person an aggregate amount totaling at least seventy-five thousand dollars.

(2) If the money referred to in division (A)(1) of this section is disbursed by or through more than one state agency to the person for the provision of services to the same population, the contracting authorities of those agencies shall determine which one of them will enter into the written contract with the person.

(3) The requirements and conditions set forth in divisions (A), (B), (C), and (F) of section 9.232, divisions (A)(1) and (2) and (B) of section 9.234, divisions (A)(2) and (B) of section 9.235, and sections 9.233 and 9.236 of the Revised Code do not apply with respect to the following:

(a) Contracts to which all of the following apply:

(i) The amount received for the services is a set fee for each time the services are provided, is determined in accordance with a fixed rate per unit of time or per service, or is a capitated rate, and the fee or rate is established by competitive bidding or by a market rate survey of similar services

provided in a defined market area. The market rate survey may be one conducted by or on behalf of the governmental entity or an independent survey accepted by the governmental entity as statistically valid and reliable.

(ii) The services are provided in accordance with standards established by state or federal law, or by rules or regulations adopted thereunder, for their delivery, which standards are enforced by the federal government, a governmental entity, or an accrediting organization recognized by the federal government or a governmental entity.

(iii) Payment for the services is made after the services are delivered and upon submission to the governmental entity of an invoice or other claim for payment as required by any applicable local, state, or federal law or, if no such law applies, by the terms of the contract.

(b) Contracts under which the services are reimbursed through or in a manner consistent with a federal program that meets all of the following requirements:

(i) The program calculates the reimbursement rate on the basis of the previous year's experience or in accordance with an alternative method set forth in rules adopted by the Ohio department of job and family services.

(ii) The reimbursement rate is derived from a breakdown of direct and indirect costs.

(iii) The program's guidelines describe types of expenditures that are allowable and not allowable under the program and delineate which costs are acceptable as direct costs for purposes of calculating the reimbursement rate.

(iv) The program includes a uniform cost reporting system with specific audit requirements.

(c) Contracts under which the services are reimbursed through or in a manner consistent with a federal program that calculates the reimbursement rate on a fee for service basis in compliance with United States office of management and budget Circular A-87, as revised May 10, 2004.

(d) Contracts for services that are paid pursuant to the earmarking of an appropriation made by the general assembly for that purpose.

(B) Division (A) of this section does not apply if the money is disbursed to a person pursuant to a contract with the United States or a governmental entity under any of the following circumstances:

(1) The person receives the money directly or indirectly from the United States, and no governmental entity exercises any oversight or control over the use of the money.

(2) The person receives the money solely in return for the performance of one or more of the following types of services:

(a) Medical, therapeutic, or other health-related services provided by a person if the amount received is a set fee for each time the person provides the services, is determined in accordance with a fixed rate per unit of time, or is a capitated rate, and the fee or rate is reasonable and customary in the person's trade or profession;

(b) Medicaid-funded services, including administrative and management services, provided pursuant to a contract or medicaid provider agreement that meets the requirements of the medicaid program established under Chapter 5111. of the Revised Code.

(c) Services, other than administrative or management services or any of the services described in division (B)(2)(a) or (b) of this section, that are commonly purchased by the public at an hourly rate or at a set fee for each time the services are provided, unless the services are performed for the benefit of children, persons who are eligible for the services by reason of advanced age, medical condition, or financial need, or persons who are confined in a detention facility as defined in section 2921.01 of the Revised Code, and the services are intended to help promote the health, safety, or welfare of those children or persons;

(d) Educational services provided by a school to children eligible to attend that school. For purposes of division (B)(2)(d) of this section, "school" means any school operated by a school district board of education, any community school established under Chapter 3314. of the Revised Code, or any nonpublic school for which the state board of education prescribes minimum education standards under section 3301.07 of the Revised Code.

(e) Services provided by a foster home as defined in section 5103.02 of the Revised Code;

(f) "Routine business services other than administrative or management services," as that term is defined by the attorney general by rule adopted in accordance with Chapter 119. of the Revised Code;

(g) Services to protect the environment or promote environmental education that are provided by a nonprofit entity or services to protect the environment that are funded with federal grants or revolving loan funds and administered in accordance with federal law.

(3) The person receives the money solely in return for the performance of services intended to help preserve public health or safety under circumstances requiring immediate action as a result of a natural or man-made emergency.

(C) With respect to a nonprofit association, corporation, or organization established for the purpose of providing educational, technical, consulting,

training, financial, or other services to its members in exchange for membership dues and other fees, any of the services provided to a member that is a governmental entity shall, for purposes of this section, be considered services "for the primary benefit of a governmental entity or the employees of a governmental entity."

Sec. 9.232. A contract entered into under section 9.231 of the Revised Code shall, at a minimum, set forth all of the following:

(A) The minimum percentage of money that is to be expended on the recipient's direct costs;

(B) The records that a recipient must maintain to document direct costs;

(C) If some of the recipient's obligations under the contract involve the performance of any of the types of services described in division (B)(2)(a), (c), or (f) of section 9.231 of the Revised Code, the name and telephone number of the individual designated by the governmental entity as the contact for obtaining approval of contract amounts for purposes of division (A)(2)(a)(ii) of section 9.235 of the Revised Code;

(D) The financial review and audit requirements established under section 9.234 of the Revised Code and by rules of the auditor of state adopted under section 9.238 of the Revised Code or, with respect to any contract described in division (A)(3) of section 9.231 of the Revised Code, any financial compliance requirements established for purposes of that contract;

(E) The provisions established by rules of the attorney general adopted under section 9.237 of the Revised Code;

(F) Permissible dispositions of money received by a recipient in excess of the contract payment earned, if the excess is not to be repaid to the governmental entity.

Sec. 9.233. (A) A recipient shall be entitled to the contract payment earned. In no event shall a recipient be entitled to more than the contract payment earned. A recipient shall repay any money received in excess of the contract payment earned to the governmental entity or, if a different disposition is provided for in the recipient's contract with the governmental entity, dispose of that money in accordance with the terms of the contract.

(B) In order to determine the contract payment earned, all financial books and records open to inspection pursuant to section 9.235 of the Revised Code shall be held to standards consistent with generally accepted accounting principles.

Sec. 9.234. (A) Unless otherwise explicitly provided in the Revised Code, a recipient shall do all of the following:

(1) With respect to any money received prior to the performance of the

recipient's obligations under the contract entered into under section 9.231 of the Revised Code, and any money received in excess of the contract payment earned, keep current and accurate records of the receipt and use of the money in a manner consistent with the contract;

(2) With respect to any money received after the recipient has performed its obligations under the contract entered into under section 9.231 of the Revised Code, keep current and accurate records of the recipient's expenditures on direct costs;

(3) Annually provide the contracting authority of the governmental entity with a report that includes both of the following:

(a) (i) Subject to division (A)(3)(a)(ii) of this section, an audit report, if a financial audit is required by division (B)(3) of this section; a financial review, if a financial review is required by division (B)(2) of this section; a financial review, if a financial review is required by division (B)(1) of this section and is not waived; or financial statements, major categories of expenditure of the money, and a summary of the activities for which the recipient used the money.

(ii) With respect to any contract described in division (A)(3) of section 9.231 of the Revised Code, an audit report or financial review if the performance of a financial audit or review is a compliance requirement established for purposes of that contract.

(b) Any other information that may be required by the contract.

(B) (1) A recipient that, pursuant to one or more contracts entered into under section 9.231 of the Revised Code, receives money totaling at least one hundred thousand dollars but less than three hundred thousand dollars in any fiscal year shall have a financial review performed for each fiscal year in which it receives that amount of money in accordance with the financial review standards of the American institute of certified public accountants. The financial review shall be performed by an independent public accounting firm. The financial review contract between the recipient and the firm shall provide that the state is an intended third-party beneficiary of the contract.

This financial review requirement may be waived, however, if the contracting authority of each governmental entity from which the recipient received money that fiscal year pursuant to a contract entered into under section 9.231 of the Revised Code agrees to the waiver.

(2) A recipient that, pursuant to one or more contracts entered into under section 9.231 of the Revised Code, receives money totaling at least three hundred thousand dollars but less than five hundred thousand dollars in any fiscal year shall have a financial review performed for each fiscal year in

which it receives that amount of money in accordance with the financial review standards of the American institute of certified public accountants. The financial review shall be performed by an independent public accounting firm. The financial review contract between the recipient and the firm shall provide that the state is an intended third-party beneficiary of the contract.

(3) A recipient that, pursuant to one or more contracts entered into under section 9.231 of the Revised Code, receives money totaling five hundred thousand dollars or more in any fiscal year shall have a financial audit performed for each fiscal year in which it receives that amount of money according to generally accepted auditing standards by an independent public accounting firm. The engagement letter between the recipient and the firm shall provide that the state is an intended third-party beneficiary of the contract. The audit shall comply with rules adopted by the auditor of state under section 9.238 of the Revised Code. An audit performed pursuant to the federal "Single Audit Act of 1984," 98 Stat. 2327, 31 U.S.C. 7501 et seq., as amended, is sufficient if the state is an intended third-party beneficiary of the audit contract.

(C)(1) An audit conducted by the auditor of state pursuant to any other provision of the Revised Code is sufficient for purposes of division (B) of this section.

(2) A financial audit meeting the requirements of division (B)(3) of this section satisfies the financial review requirements of divisions (B)(1) and (2) of this section.

(3) The references in division (B) of this section to fiscal year mean the recipient's fiscal year.

(D) Nothing in this section shall be construed to limit in any way the authority of the auditor of state to conduct audits pursuant to any other provision of the Revised Code.

Sec. 9.235. (A)(1) Subject to division (A)(2) of this section, the financial books and records of a recipient, and the financial books and records of any person with which the recipient contracts for the performance of the recipient's obligations under the recipient's contract with the governmental entity, shall be open to inspection by the governmental entity and by the state from the time the recipient first applies for payment under the contract. If the recipient is paid before the performance of its obligations under the contract, the financial books and records of the recipient and of any person with which the recipient contracts for the performance of the recipient's obligations shall be open to inspection from the first anniversary of the payment or from any earlier date that the contract may provide.

(2) Division (A)(1) of this section does not apply to any person that contracts with the recipient solely for the performance of some of the recipient's obligations under the recipient's contract with the governmental entity that directly benefit the recipient's patients or clients, if either of the following applies:

(a) The services provided by the person are any of the types of services described in division (B)(2)(a), (c), or (f) of section 9.231 of the Revised Code and the full amount of the person's contract constitutes direct costs for the recipient and is reasonable and customary in the person's trade or profession. For purposes of division (A)(2)(a) of this section, the amount of the person's contract with the recipient shall be considered "reasonable and customary in the person's trade or profession" if any of the following applies:

(i) The amount is equal to or less than the maximum amount for those services specified in the recipient's contract with the governmental entity.

(ii) The amount was approved by the governmental entity after the recipient entered into the contract with the governmental entity.

(iii) A maximum amount for those services was specified in the recipient's contract with the governmental entity, the recipient's original contract with a person for the performance of those services was subsequently canceled or otherwise unfulfilled, the recipient entered into a replacement contract with another person, and the amount of that contract is not more than twenty-five per cent above the maximum amount for the services specified in the recipient's contract with the governmental entity.

(b) The services provided by the person are any of the types of services described in division (B)(2)(b), (d), or (e) of section 9.231 of the Revised Code.

(B)(1) Subject to division (B)(2) of this section, if a recipient contracts with another person for the performance of some or all of the recipient's obligations under the recipient's contract with the governmental entity, the recipient shall be entitled to claim spending by the other person as direct costs only to the extent the other person has spent money on direct costs in the performance of the recipient's obligations and only if the other person complies with all of the terms and conditions relating to the performance that the recipient is required to comply with under the contract with the governmental entity.

(2) The conditions set forth in division (B)(1) of this section do not apply with respect to any person described in division (A)(2) of this section.

(C)(1) Nothing in this section shall be construed as making any record of the receipt or expenditure of nonpublic money a public record for



purposes of section 149.43 of the Revised Code.

(2) Division (C)(1) of this section does not limit in any way the authority of the auditor of state to conduct audits or other investigations when public money is commingled with nonpublic money.

Sec. 9.236. (A) A recipient is liable to repay to the governmental entity any money received in excess of the contract payment earned.

(B)(1) A governmental entity may bring a civil action for the recovery of money due to the governmental entity from a recipient under division (A) of this section. In such an action, any person with which the recipient has contracted for the performance of the recipient's material obligations to a group of beneficiaries under the recipient's contract with the governmental entity may be made a party defendant if the person is unable to demonstrate to the satisfaction of the governmental entity that the person has materially complied with the terms of the contract with the recipient. In such a case, the person may be made a party defendant and the governmental entity may obtain a judgment against the person in accordance with division (B)(2) of this section.

(2) If a governmental entity obtains a judgment against a recipient in a civil action brought under division (B)(1) of this section and the judgment is uncollectible, the governmental entity may recover from the person with which the recipient contracted an amount not exceeding the lesser of the following:

(a) The unsatisfied amount of the judgment;

(b) The total amount received by the person from the recipient minus the total amount spent by the person on direct costs for services actually performed and retained by the person as allocable nondirect costs associated with those direct costs.

(C) If a governmental entity, pursuant to this section, obtains a judgment against a recipient or against a person with which the recipient contracted and that judgment debtor does not voluntarily pay the amount of the judgment, that judgment debtor shall be precluded from contracting with a governmental entity to the extent provided in divisions (A) and (B) of section 9.24 of the Revised Code for a debtor against whom a finding of recovery has been issued.

(D) In addition to other remedies provided in divisions (A) to (C) of this section, a governmental entity may void a contract between a recipient and another person for the performance by the other person of the recipient's obligations under the recipient's contract with the governmental entity to the extent that the other person has not yet performed its obligations under the contract or cannot demonstrate that the money it received was expended on

direct costs or retained as allocable nondirect costs.

(E) If a recipient is liable to repay money to a governmental entity under this section and the judgment obtained by the governmental entity against the recipient is uncollectible, then in addition to other remedies provided in divisions (A) to (C) of this section, and after the governmental entity has obtained a judgment against any necessary third party, the governmental entity may void any of the following contracts:

(1) A contract made not more than one hundred eighty days before the judgment against the recipient became uncollectible between the recipient and a director, trustee, or officer of the recipient or a business in which a director, trustee, or officer of the recipient has a material financial interest, if either of the following applies:

(a) The recipient has paid substantial value for property received and the property can be returned to the other person. If the property has experienced only normal wear and tear, the person shall be liable to the governmental entity for the full amount the recipient paid for the property. Otherwise, the person shall be liable to the governmental entity only for the market value of the property.

(b) The person with which the recipient contracted has received money that the recipient obtained pursuant to the contract with the governmental entity and the money was not expended on direct costs or retained as allocable nondirect costs. In such a case, the governmental entity may void the contract to the extent the money was not expended on direct costs or retained as allocable nondirect costs, and the person shall be liable to the governmental entity for that amount.

(2) A contract made not more than one hundred eighty days before the judgment against the recipient became uncollectible between the recipient and an employee of the recipient or a business in which an employee of the recipient has a material financial interest, if the employee has direct knowledge of the use of the money that the recipient obtained pursuant to the contract with the governmental entity and either division (E)(1)(a) or (b) of this section applies;

(3) A contract between the recipient and another person pursuant to which the recipient has paid or agreed to pay money to the other person, to the extent that the other person has not yet performed its obligations under the contract;

(4) A contract made not more than one year before the judgment against the recipient became uncollectible between the recipient and a person other than the governmental entity if the other person has not given or agreed to give consideration of reasonable and substantial value for the consideration

given by the recipient.

Sec. 9.237. The attorney general shall adopt rules in accordance with Chapter 119. of the Revised Code governing the terms of any contract entered into under section 9.231 of the Revised Code. The rules shall set forth all of the following:

(A) A definition of permissible components of direct costs, including a list of expenditures that may never be included in direct costs and a nonexclusive list of expenditures that may be included in direct costs pursuant to agreement of the parties;

(B) Permissible methods by which a recipient may keep records documenting direct costs and how long those records must be retained;

(C) Remedies not inconsistent with section 9.236 of the Revised Code in the event of a breach of the contract;

(D) Terms to be included in contracts between recipients and persons other than the governmental entity, including the notice of the remedies available to the governmental entity if the money under the contract with the governmental entity is not expended on direct costs or retained as allocable nondirect costs or, with respect to any contract described in division (A)(3) of section 9.231 of the Revised Code, is not earned under the terms of the contract with the governmental entity;

(E) Any other provisions that the attorney general considers necessary to carry out the purposes of sections 9.23 to 9.236 of the Revised Code.

Sec. 9.238. (A) The auditor of state shall prescribe a single form of the financial reviews required by divisions (B)(1) and (2) of section 9.234 of the Revised Code to be used for all governmental entities.

(B) The auditor of state may adopt rules in accordance with Chapter 119. of the Revised Code governing the form and content of the audit reports required by division (B)(3) of section 9.234 of the Revised Code and may prescribe a single form of the report to be used for all governmental entities. Upon request made by a recipient, the auditor of state shall, to the extent possible, require all governmental entities that have entered into a contract with that recipient under section 9.231 of the Revised Code to accept a particular audit report.

Sec. 9.239. (A) There is hereby created the government contracting advisory council. The attorney general and auditor of state shall consult with the council on the performance of their rule-making functions under sections 9.237 and 9.238 of the Revised Code and shall consider any recommendations of the council. The director of job and family services shall annually report to the council the cost methodology of the medicaid-funded services described in division (A)(3)(d) of section 9.231 of

the Revised Code. The council shall consist of the following members or their designees:

- (1) The attorney general;
- (2) The auditor of state;
- (3) The director of administrative services;
- (4) The director of aging;
- (5) The director of alcohol and drug addiction services;
- (6) The director of budget and management;
- (7) The director of development;
- (8) The director of job and family services;
- (9) The director of mental health;
- (10) The director of mental retardation and developmental disabilities;
- (11) The director of rehabilitation and correction;
- (12) The administrator of workers' compensation;
- (13) The executive director of the county commissioners' association of

Ohio;

- (14) The president of the Ohio grantmakers forum;
- (15) The president of the Ohio chamber of commerce;
- (16) The president of the Ohio state bar association;
- (17) The president of the Ohio society of certified public accountants;
- (18) The executive director of the Ohio association of nonprofit

organizations;

- (19) The president of the Ohio united way;
- (20) One additional member appointed by the attorney general;
- (21) One additional member appointed by the auditor of state.

(B) If an agency or organization represented on the council ceases to exist in the form it has on the effective date of this section, the successor agency or organization shall be represented in its place. If there is no successor agency or organization, or if it is not clear what agency or organization is the successor, the attorney general shall designate an agency or organization to be represented in place of the agency or organization originally represented on the council.

(C) The two members appointed to the council shall serve three-year terms. Original appointments shall be made not later than sixty days after the effective date of this section. Vacancies on the council shall be filled in the same manner as the original appointment.

(D) The attorney general or the attorney general's designee shall be the chairperson of the council. The council shall meet at least once every two years to review the rules adopted under sections 9.237 and 9.238 of the Revised Code and to make recommendations to the attorney general and

auditor of state regarding the adoption, amendment, or repeal of those rules. The council shall also meet at other times as requested by the attorney general or auditor of state.

(E) Members of the council shall serve without compensation or reimbursement.

(F) The office of the attorney general shall provide necessary staff, facilities, supplies, and services to the council.

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

Sec. 9.24. (A) Except as may be allowed under division (F) of this section, no state agency and no political subdivision shall award a contract as described in division (G)(1) of this section for goods, services, or construction, paid for in whole or in part with state funds, to a person against whom a finding for recovery has been issued by the auditor of state on and after January 1, 2001, if the finding for recovery is unresolved.

A contract is considered to be awarded when it is entered into or executed, irrespective of whether the parties to the contract have exchanged any money.

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

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

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

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

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

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

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

debtor;

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

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

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

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

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

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

(E) Before awarding a contract as described in division (G)(1) of this section for goods, services, or construction, paid for in whole or in part with state funds, a state agency or political subdivision shall verify that the person to whom the state agency or political subdivision plans to award the contract has no unresolved finding for recovery issued against the person. A state agency or political subdivision shall verify that the person does not appear in the database described in division (D) of this section or shall obtain other proof that the person has no unresolved finding for recovery issued against the person.

(F) The prohibition of division (A) of this section and the requirement

of division (E) of this section do not apply with respect to the companies or agreements described in divisions (F)(1) and (2) of this section, or in the circumstance described in division (F)(3) of this section.

(1) A bonding company or a company authorized to transact the business of insurance in this state, a self-insurance pool, joint self-insurance pool, risk management program, or joint risk management program, unless a court has entered a final judgment against the company and the company has not yet satisfied the final judgment.

(2) To medicaid provider agreements under Chapter 5111. of the Revised Code ~~or payments or provider agreements under disability assistance medical assistance established under Chapter 5115. of the Revised Code.~~

(3) When federal law dictates that a specified entity provide the goods, services, or construction for which a contract is being awarded, regardless of whether that entity would otherwise be prohibited from entering into the contract pursuant to this section.

(G)(1) This section applies only to contracts for goods, services, or construction that satisfy the criteria in either division (G)(1)(a) or (b) of this ~~division section~~. This section may apply to contracts for goods, services, or construction that satisfy the criteria in division (G)(1)(c) of this section, provided that the contracts also satisfy the criteria in either division (G)(1)(a) or (b) of this ~~division section~~.

(a) The cost for the goods, services, or construction provided under the contract is estimated to exceed twenty-five thousand dollars.

(b) The aggregate cost for the goods, services, or construction provided under multiple contracts entered into by the particular state agency and a single person or the particular political subdivision and a single person within the fiscal year preceding the fiscal year within which a contract is being entered into by that same state agency and the same single person or the same political subdivision and the same single person, exceeded fifty thousand dollars.

(c) The contract is a renewal of a contract previously entered into and renewed pursuant to that preceding contract.

(2) This section does not apply to employment contracts.

(H) As used in this section:

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

(2) "Political subdivision" means a political subdivision as defined in section 9.82 of the Revised Code that has received more than fifty thousand dollars of state money in the current fiscal year or the preceding fiscal year.

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

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

(5) "Person" means the person named in the finding for recovery.

(6) "State money" does not include funds the state receives from another source and passes through to a political subdivision.

Sec. 9.241. (A) As used in this section:

(1) "Governmental entity" and "a judgment is uncollectible" have the same meanings as in section 9.23 of the Revised Code.

(2) "Recipient" means a person that enters into or is awarded a contract with a governmental entity for the provision of goods, services, or construction.

(B) A recipient is liable to repay to the governmental entity any money received but not earned under the terms of the contract with the governmental entity.

(C)(1) A governmental entity may bring a civil action for the recovery of money due to the governmental entity from a recipient under division (B) of this section. In such an action, any person with which the recipient has contracted for the performance of the recipient's material obligations under the recipient's contract with the governmental entity may be made a party defendant if the person is unable to demonstrate to the satisfaction of the governmental entity that the person has materially complied with the terms of the contract with the recipient. In such a case, the person may be made a party defendant and the governmental entity may obtain a judgment against the person in accordance with division (C)(2) of this section.

(2) If a governmental entity obtains a judgment against a recipient in a civil action brought under division (C)(1) of this section and the judgment is uncollectible, the governmental entity may recover from the person with which the recipient contracted an amount not exceeding the lesser of the following:

(a) The unsatisfied amount of the judgment;

(b) The total amount received by the person from the recipient minus the total amount earned by the person under the terms of the recipient's contract with the governmental entity.

(D) If a governmental entity, pursuant to this section, obtains a



judgment against a recipient or against a person with which the recipient contracted and that judgment debtor does not voluntarily pay the amount of the judgment, that judgment debtor shall be precluded from contracting with a governmental entity to the extent provided in divisions (A) and (B) of section 9.24 of the Revised Code for a debtor against whom a finding of recovery has been issued.

(E) In addition to other remedies provided in divisions (B) to (D) of this section, a governmental entity may void a contract between a recipient and another person for the performance by the other person of the recipient's obligations under the recipient's contract with the governmental entity to the extent that the other person has not yet performed its obligations under the contract.

(F) If a recipient is liable to repay money to a governmental entity under this section and the judgment obtained by the governmental entity against the recipient is uncollectible, then in addition to other remedies provided in divisions (B) to (D) of this section, and after the governmental entity has obtained a judgment against any necessary third party, the governmental entity may void any of the following contracts:

(1) A contract made not more than one hundred eighty days before the judgment against the recipient became uncollectible between the recipient and a director, trustee, or officer of the recipient or a business in which a director, trustee, or officer of the recipient has a material financial interest, if either of the following applies:

(a) The recipient has paid substantial value for property received and the property can be returned to the other person. If the property has experienced only normal wear and tear, the person shall be liable to the governmental entity for the full amount the recipient paid for the property. Otherwise, the person shall be liable to the governmental entity only for the market value of the property.

(b) The person with which the recipient contracted has received money that the recipient obtained pursuant to the contract with the governmental entity and has used the money other than for the performance of the contract. In such a case, the governmental entity may void the contract to the extent that the person has used the money other than for the performance of the contract, and the person shall be liable to the governmental entity for that amount.

(2) A contract made not more than one hundred eighty days before the judgment against the recipient became uncollectible between the recipient and an employee of the recipient or a business in which an employee of the recipient has a material financial interest, if the employee has direct

knowledge of the use of the money that the recipient obtained pursuant to the contract with the governmental entity and either division (F)(1)(a) or (b) of this section applies;

(3) A contract between the recipient and another person pursuant to which the recipient has paid or agreed to pay money to the other person, to the extent that the other person has not yet performed its obligations under the contract;

(4) A contract made not more than one year before the judgment against the recipient became uncollectible between the recipient and a person other than the governmental entity if the other person has not given or agreed to give consideration of reasonable and substantial value for the consideration given by the recipient.

(G) This section does not apply with respect to any contract entered into by a governmental entity under section 9.231 of the Revised Code that is subject to section 9.236 of the Revised Code.

Sec. 9.833. (A) As used in this section, "political subdivision" means a municipal corporation, township, county, ~~school district~~, or other body corporate and politic responsible for governmental activities in a geographic area smaller than that of the state, and agencies and instrumentalities of these entities. For purposes of this section, a school district is not a "political subdivision."

(B) Political subdivisions that provide health care benefits for their officers or employees may do any of the following:

(1) Establish and maintain an individual self-insurance program with public moneys to provide authorized health care benefits, including but not limited to, health care, prescription drugs, dental care, and vision care, in accordance with division (C) of this section;

(2) After establishing an individual self-insurance program, agree with other political subdivisions that have established individual self-insurance programs for health care benefits, that their programs will be jointly administered in a manner specified in the agreement;

(3) Pursuant to a written agreement and in accordance with division (C) of this section, join in any combination with other political subdivisions to establish and maintain a joint self-insurance program to provide health care benefits;

(4) Pursuant to a written agreement, join in any combination with other political subdivisions to procure or contract for policies, contracts, or plans of insurance to provide health care benefits for their officers and employees subject to the agreement;

(5) Use in any combination any of the policies, contracts, plans, or

programs authorized under this division.

(C) Except as otherwise provided in division (E) of this section, the following apply to individual or joint self-insurance programs established pursuant to this section:

(1) Such funds shall be reserved as are necessary, in the exercise of sound and prudent actuarial judgment, to cover potential cost of health care benefits for the officers and employees of the political subdivision. A report of amounts so reserved and disbursements made from such funds, together with a written report of a member of the American academy of actuaries certifying whether the amounts reserved conform to the requirements of this division, are computed in accordance with accepted loss reserving standards, and are fairly stated in accordance with sound loss reserving principles, shall be prepared and maintained, within ninety days after the last day of the fiscal year of the entity for which the report is provided for that fiscal year, in the office of the program administrator described in division (C)(3) of this section.

The report required by division (C)(1) of this section shall include, but not be limited to, disbursements made for the administration of the program, including claims paid, costs of the legal representation of political subdivisions and employees, and fees paid to consultants.

The program administrator described in division (C)(3) of this section shall make the report required by this division available for inspection by any person at all reasonable times during regular business hours, and, upon the request of such person, shall make copies of the report available at cost within a reasonable period of time.

(2) Each political subdivision shall reserve funds necessary for an individual or joint self-insurance program in a special fund that may be established for political subdivisions other than an agency or instrumentality pursuant to an ordinance or resolution of the political subdivision and not subject to section 5705.12 of the Revised Code. An agency or instrumentality shall reserve the funds necessary for an individual or joint self-insurance program in a special fund established pursuant to a resolution duly adopted by the agency's or instrumentality's governing board. The political subdivision may allocate the costs of insurance or any self-insurance program, or both, among the funds or accounts ~~in the subdivision's treasury established under this division~~ on the basis of relative exposure and loss experience.

(3) A contract may be awarded, without the necessity of competitive bidding, to any person, political subdivision, nonprofit corporation organized under Chapter 1702. of the Revised Code, or regional council of

governments created under Chapter 167. of the Revised Code for purposes of administration of an individual or joint self-insurance program. No such contract shall be entered into without full, prior, public disclosure of all terms and conditions. The disclosure shall include, at a minimum, a statement listing all representations made in connection with any possible savings and losses resulting from the contract, and potential liability of any political subdivision or employee. The proposed contract and statement shall be disclosed and presented at a meeting of the political subdivision not less than one week prior to the meeting at which the political subdivision authorizes the contract.

A contract awarded to a nonprofit corporation or a regional council of governments under this division may provide that all employees of the nonprofit corporation or regional council of governments and the employees of all entities related to the nonprofit corporation or regional council of governments may be covered by the individual or joint self-insurance program under the terms and conditions set forth in the contract.

(4) The individual or joint self-insurance program shall include a contract with a member of the American academy of actuaries for the preparation of the written evaluation of the reserve funds required under division (C)(1) of this section.

(5) A joint self-insurance program may allocate the costs of funding the program among the funds or accounts ~~in the treasuries of established under this division~~ to the participating political subdivisions on the basis of their relative exposure and loss experience.

(6) An individual self-insurance program may allocate the costs of funding the program among the funds or accounts ~~in the treasury of established under this division~~ to the political subdivision that established the program.

(7) Two or more political subdivisions may also authorize the establishment and maintenance of a joint health care cost containment program, including, but not limited to, the employment of risk managers, health care cost containment specialists, and consultants, for the purpose of preventing and reducing health care costs covered by insurance, individual self-insurance, or joint self-insurance programs.

(8) A political subdivision is not liable under a joint self-insurance program for any amount in excess of amounts payable pursuant to the written agreement for the participation of the political subdivision in the joint self-insurance program. Under a joint self-insurance program agreement, a political subdivision may, to the extent permitted under the written agreement, assume the risks of any other political subdivision. A

joint self-insurance program established under this section is deemed a separate legal entity for the public purpose of enabling the members of the joint self-insurance program to obtain insurance or to provide for a formalized, jointly administered self-insurance fund for its members. An entity created pursuant to this section is exempt from all state and local taxes.

(9) Any political subdivision, other than an agency or instrumentality, may issue general obligation bonds, or special obligation bonds that are not payable from real or personal property taxes, and may also issue notes in anticipation of such bonds, pursuant to an ordinance or resolution of its legislative authority or other governing body for the purpose of providing funds to pay expenses associated with the settlement of claims, whether by way of a reserve or otherwise, and to pay the political subdivision's portion of the cost of establishing and maintaining an individual or joint self-insurance program or to provide for the reserve in the special fund authorized by division (C)(2) of this section.

In its ordinance or resolution authorizing bonds or notes under this section, a political subdivision may elect to issue such bonds or notes under the procedures set forth in Chapter 133. of the Revised Code. In the event of such an election, notwithstanding Chapter 133. of the Revised Code, the maturity of the bonds may be for any period authorized in the ordinance or resolution not exceeding twenty years, which period shall be the maximum maturity of the bonds for purposes of section 133.22 of the Revised Code.

Bonds and notes issued under this section shall not be considered in calculating the net indebtedness of the political subdivision under sections 133.04, 133.05, 133.06, and 133.07 of the Revised Code. Sections 9.98 to 9.983 of the Revised Code are hereby made applicable to bonds or notes authorized under this section.

(10) A joint self-insurance program is not an insurance company. Its operation does not constitute doing an insurance business and is not subject to the insurance laws of this state.

(D) A political subdivision may procure group life insurance for its employees in conjunction with an individual or joint self-insurance program authorized by this section, provided that the policy of group life insurance is not self-insured.

(E) Divisions (C)(1), (2), and (4) of this section do not apply to individual self-insurance programs in municipal corporations, townships, or counties.

(F) A public official or employee of a political subdivision who is or becomes a member of the governing body of the program administrator of a

joint self-insurance program in which the political subdivision participates is not in violation of division (D) or (E) of section 102.03, division (C) of section 102.04, or section 2921.42 of the Revised Code as a result of either of the following:

(1) The political subdivision's entering under this section into the written agreement to participate in the joint self-insurance program;

(2) The political subdivision's entering under this section into any other contract with the joint self-insurance program.

Sec. 9.90. (A) The governing board of any public institution of higher education, including without limitation state universities and colleges, community college districts, university branch districts, technical college districts, and municipal universities, ~~or the board of education of any school district,~~ may, in addition to all other powers provided in the Revised Code:

(1) Contract for, purchase, or otherwise procure from an insurer or insurers licensed to do business by the state of Ohio for or on behalf of such of its employees as it may determine, life insurance, or sickness, accident, annuity, endowment, health, medical, hospital, dental, or surgical coverage and benefits, or any combination thereof, by means of insurance plans or other types of coverage, family, group or otherwise, and may pay from funds under its control and available for such purpose all or any portion of the cost, premium, or charge for such insurance, coverage, or benefits. However, the governing board, in addition to or as an alternative to the authority otherwise granted by division (A)(1) of this section, may elect to procure coverage for health care services, for or on behalf of such of its employees as it may determine, by means of policies, contracts, certificates, or agreements issued by at least two health insuring corporations holding a certificate of authority under Chapter 1751. of the Revised Code and may pay from funds under the governing board's control and available for such purpose all or any portion of the cost of such coverage.

(2) Make payments to a custodial account for investment in regulated investment company stock for the purpose of providing retirement benefits as described in section 403(b)(7) of the Internal Revenue Code of 1954, as amended. Such stock shall be purchased only from persons authorized to sell such stock in this state.

Any income of an employee deferred under divisions (A)(1) and (2) of this section in a deferred compensation program eligible for favorable tax treatment under the Internal Revenue Code of 1954, as amended, shall continue to be included as regular compensation for the purpose of computing the contributions to and benefits from the retirement system of such employee. Any sum so deferred shall not be included in the

computation of any federal and state income taxes withheld on behalf of any such employee.

(B) All or any portion of the cost, premium, or charge therefor may be paid in such other manner or combination of manners as the governing board ~~or the school board~~ may determine, including direct payment by the employee in cases under division (A)(1) of this section, and, if authorized in writing by the employee in cases under division (A)(1) or (2) of this section, by such governing board ~~or school board~~ with moneys made available by deduction from or reduction in salary or wages or by the foregoing of a salary or wage increase. Division (B)(7) of section 3917.01 and the last paragraph of section 3917.06 of the Revised Code shall not prohibit the issuance or purchase of group life insurance authorized by this section by reason of payment of premiums therefor by the governing board ~~or the school board~~ from its funds, and such group life insurance may be so issued and purchased if otherwise consistent with the provisions of sections 3917.01 to 3917.07 of the Revised Code.

(C) The board of education of any school district may exercise any of the powers granted to the governing boards of public institutions of higher education under divisions (A) and (B) of this section, except in relation to the provision of health care benefits to employees. All health care benefits provided to persons employed by the public schools of this state shall be medical plans designed by the school employees health care board pursuant to section 9.901 of the Revised Code.

Sec. 9.901. (A)(1) All health care benefits provided to persons employed by the public schools of this state shall be provided by medical plans designed pursuant to this section by the school employees health care board. The board, in consultation with the superintendent of insurance, shall negotiate with and, in accordance with the competitive selection procedures of Chapter 125. of the Revised Code, contract with one or more insurance companies authorized to do business in this state for the issuance of the plans. Any or all of the medical plans designed by the board may be self-insured. All self-insured plans adopted shall be administered by the board in accordance with this section. As used in this section, a "public school" means a school in a city, local, exempted village, or joint vocational school district, and includes the educational service centers associated with those schools.

(2) Prior to soliciting proposals from insurance companies for the issuance of medical plans, the board shall determine what geographic regions exist in the state based on the availability of providers, networks, costs, and other factors relating to providing health care benefits. The board

shall then determine what medical plans are offered by school districts and existing consortiums in the state. The board shall determine what medical plan offered by a school district or existing consortium in the region offers the lowest premium cost plan.

(3) The board shall develop a request for proposals and solicit bids for medical plans for the school districts in a region similar to the existing plans. The board shall also determine the benefits offered by existing medical plans, the employees' costs, and the cost-sharing arrangements used by public schools participating in a consortium. The board shall determine what strategies are used by the existing medical plans to manage health care costs and shall study the potential benefits of state or regional consortiums of public schools offering multiple health care plans.

(4) As used in this section, a "medical plan" includes group policies, contracts, and agreements that provide hospital, surgical, or medical expense coverage, including self-insured plans. A "medical plan" does not include an individual plan offered to the employees of a public school, or a plan that provides coverage only for specific disease or accidents, or a hospital indemnity, medicare supplement, or other plan that provides only supplemental benefits, paid for by the employees of a public school.

(B) The school employees health care board is hereby created. The school employees health care board shall consist of the following nine members and shall include individuals with experience with public school benefit programs, health care industry providers, and medical plan beneficiaries:

(1) Three members appointed by the governor;

(2) Three members appointed by the president of the senate;

(3) Three members appointed by the speaker of the house of representatives.

A member of the school employees health care board shall not be employed by, represent, or in any way be affiliated with a private entity that is providing services to the board, an individual school district, employers, or employees in the state of Ohio.

(C)(1) Members of the school employees health care board shall serve four-year terms; however, one of each of the initial members appointed under divisions (B)(1) to (3) of this section shall be appointed to a term of one year. The initial appointments under this section shall be made within forty-five days after the effective date of this section.

Members' terms shall end on the same day of the same month as the effective date of this section, but a member shall continue to serve subsequent to the expiration of the member's term until a successor is



appointed. Any vacancy occurring during a member's term shall be filled in the same manner as the original appointment, except that the person appointed to fill the vacancy shall be appointed to the remainder of the unexpired term.

(2) Members shall serve without compensation but shall be reimbursed from the school employees health care fund for actual and necessary expenses incurred in the performance of their official duties as members of the board.

(3) Members may be removed by their appointing authority for misfeasance, malfeasance, incompetence, dereliction of duty, or other just cause.

(D)(1) The governor shall call the first meeting of the school employees health care board. At that meeting, and annually thereafter, the board shall elect a chairperson and may elect members to other positions on the board as the board considers necessary or appropriate. The board shall meet at least four times each calendar year and shall also meet at the call of the chairperson or three or more board members. The chairperson shall provide reasonable advance notice of the time and place of board meetings to all members.

(2) A majority of the board constitutes a quorum for the transaction of business at a board meeting. A majority vote of the members present is necessary for official action.

(E) The school employees health care board shall conduct its business at open meetings; however, the records of the board are not public records for purposes of section 149.43 of the Revised Code.

(F) The school employees health care fund is hereby created in the state treasury. The public schools shall pay all school employees health care board plan premiums in the manner prescribed by the school employees health care board to the board for deposit into the school employees health care fund. All funds in the school employees health care fund shall be used solely for the provision of health care benefits to public schools employees pursuant to this section and related administrative costs. Premiums received by the board or insurance companies contracted pursuant to division (A) of this section are not subject to any state insurance premium tax.

(G) The school employees health care board shall do all of the following:

(1) Design multiple medical plans, including regional plans, to provide, in the board's judgment, the optimal combination of coverage, cost, choice, and stability of health cost benefits. The board may establish more than one tier of premium rates for any medical plan. The board shall establish regions

as necessary for the implementation of the board's medical plans. Plans and premium rates may vary across the regions established by the board.

(2) Set an aggregate goal for employee and employer portions of premiums for the board's medical plans so as to manage plan participation and encourage the use of value-based plan participation by employees;

(3) Set employer and employee plan copayments, deductibles, exclusions, limitations, formularies, premium shares, and other responsibilities;

(4) Include disease management and consumer education programs, to the extent that the board determines is appropriate, in all medical plans designed by the board, which programs shall include, but are not limited to, wellness programs and other measures designed to encourage the wise use of medical plan coverage. These programs are not services or treatments for purposes of section 3901.71 of the Revised Code.

(5) Create and distribute to the governor, the speaker of the house of representatives, and the president of the senate, an annual report covering the plan background; plan coverage options; plan administration, including procedures for monitoring and managing objectives, scope, and methodology; plan operations; employee and employer contribution rates and the relationship between the rates and the school employees health care fund balance; a means to develop and maintain identity and evaluate alternative employee and employer cost-sharing strategies; an evaluation of the effectiveness of cost-saving services and programs; an evaluation of efforts to control and manage member eligibility and to insure that proper employee and employer contributions are remitted to the trust fund; efforts to prevent and detect fraud; and efforts to manage and monitor board contracts;

(6) Utilize cost containment measures aligned with patient, plan, and provider management strategies in developing and managing medical plans.

(H) The sections in Chapter 3923. of the Revised Code regulating public employee benefit plans are not applicable to the medical plans designed pursuant to this section.

(I)(1) Public schools are not subject to this section prior to the release of medical plans designed pursuant to this section.

(2) Prior to the school employees health care board's release of the board's initial medical plans, the board shall contract with an independent consultant to analyze costs related to employee health care benefits provided by existing school district plans in this state. The consultant shall determine the benefits offered by existing medical plans, the employees' costs, and the cost-sharing arrangements used by public schools either participating in a

consortium or by other means. The consultant shall determine what strategies are used by the existing medical plans to manage health care costs and shall study the potential benefits of state or regional consortiums of public schools offering multiple health care plans. Based on the findings of the analysis, the consultant shall submit written recommendations to the board for the development and implementation of a successful program for pooling school districts' purchasing power for the acquisition of employee medical plans. The consultant's recommendations shall address, at a minimum, all of the following issues:

(a) The establishment of regions for the provision of medical plans, based on the availability of providers and plans in the state at the time that the school employees health care board is established;

(b) The use of regional preferred provider and closed panel plans, health savings accounts, and alternative medical plans, to stabilize both costs and the premiums charged school districts and district employees;

(c) The development of a system to obtain eligibility data and data compiled pursuant to the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), 100 Stat. 227, 29 U.S.C. 1161, as amended;

(d) The use of the competitive bidding process for regional medical plans;

(e) The development of a timeline planning for the design and use of board medical plans by not later than December 31, 2007;

(f) The use of information on claims and costs and of information reported by districts pursuant to COBRA in analyzing administrative and premium costs;

(g) The experience of states that have mandated statewide medical plans for public school employees, including the implementation strategies used by those states;

(h) Recommended strategies for the use of first-year roll-in premiums in the transition from district medical plans to school employees health care board plans;

(i) The option of allowing school districts to join an existing regional consortium as an alternative to school employees health care board plans;

(j) Mandatory and optional coverages to be offered by the board's medical plans;

(k) Potential risks to the state from the use of medical plans developed pursuant to this section;

(l) Any legislation needed to ensure the long-term financial solvency and stability of a health care purchasing system;

(m) The potential impacts of any changes to the existing purchasing

structure on all of the following:

(i) Existing health care pooling and consortiums;

(ii) School district employees;

(iii) Individual school districts.

(n) Issues that could arise when school districts transition from the existing purchasing structure to a new purchasing structure;

(o) Strategies available to the board in the creation of fund reserves and the need for stop-loss insurance coverage for catastrophic losses;

(p) Any legislation needed to establish and maintain medical plans designed pursuant to this section. The consultant shall submit all legislative recommendations not later than December 31, 2005, in writing, to the school employees health care board and to the governor, the speaker of the house of representatives, and the president of the senate.

(3) The public schools health care advisory committee is hereby created under the school employees health care board. The committee shall make recommendations to the school employees health care board related to the board's accomplishment of the duties assigned to the board under this section. The committee shall consist of eighteen members. The governor, the speaker of the house of representatives, and the president of the senate shall each appoint a representative from the Ohio education association, the Ohio school boards association, the Ohio association of school business officials, the Ohio association of health underwriters, an existing health care consortium serving public schools, and a health insuring corporation licensed to do business in Ohio and recommended by the Ohio association of health plans. The initial appointees shall be appointed to a one-year term not later than July 31, 2005, the members' term to begin on that date. Subsequent one-year appointments, to commence on the thirty-first day of July of each year, shall be made in the same manner. A member shall continue to serve subsequent to the expiration of the member's term until the member's successor is appointed. Any vacancy occurring during a member's term shall be filled in the same manner as the original appointment, except that the person appointed to fill the vacancy shall be appointed to the remainder of the unexpired term. The governor shall call the first meeting of each newly appointed committee. At that meeting the board shall elect a chairperson who shall call the time and place of future committee meetings. Committee members are not subject to the conditions for eligibility set by division (B) of this section for members of the school employees health care board.

(4) The school employees health care board shall submit a written study to the governor and the general assembly not later than January 15, 2006, of

a plan to operate in compliance with this section, and on the governance of the school employees health care board. A copy of the board's plan of operation, including audit provisions, shall accompany the report on the board's governance and the report shall include the board's recommendations on any legislation needed to enforce the recommendations of the board on implementing the provisions of this section.

(5) Not later than January 15, 2009, and not later than the same day of each subsequent year, the school employees health care board shall submit a written report to the governor and each member of the general assembly, which report evaluates the performance of school employees health care board medical plans during the previous year. Districts offering employee health care benefits through a plan offered by a consortium of two or more districts, or a consortium of one or more districts and one or more political subdivisions as defined in section 9.833 of the Revised Code, representing five thousand or more employees as of January 1, 2005, may request permission from the school employees health care board to continue offering consortium plans to the districts' employees at the discretion of the board. If the board grants permission, the permission is valid for only one year but may be renewed annually thereafter upon application to an approval of the board. The board shall grant initial or continued approval upon finding, based on an actuarial evaluation of the existing consortium plan offerings, that benefit design, premium costs, administrative cost, and other factors considered by the board are equivalent to or lower than comparable costs of the board's plan options offered to the local district. Age and gender adjustments, benefit comparison adjustments, and the total cost of the consortium plan, including administration, benefit cost, stop-loss insurance, and all other expenses or information requested by the board shall be presented to the board prior to the board's decision to allow a local district to continue to offer health care benefits under a consortium plan. A district shall not participate in the consortium plan once the district has chosen to offer plans designed by the board to the district's employees and begins premium payments for deposit into the school employees health care fund.

(6) Any districts providing medical plan coverage for the employees of public schools, or that have provided coverage within two years prior to the effective date of this section, shall provide nonidentifiable aggregate claims data for the coverage to the school employees health care board or the department of administrative services, without charge, within thirty days after receiving a written request from the board or the department. The claims data shall include data relating to employee group benefit sets, demographics, and claims experience.

(J) The school employees health care board may contract with other state agencies as the board deems necessary for the implementation and operation of this section, based on demonstrated experience and expertise in administration, management, data handling, actuarial studies, quality assurance, or other needed services. The school employees health care board shall contract with the department of administrative services for central services until the board is able to obtain such services from other sources. The board shall reimburse the department of administrative services for the reasonable cost of those services.

(K) The board's administrative functions shall include, but are not limited to, the following:

(1) Maintaining reserves in the school employees health care fund, reinsurance, and other measures that in the judgment of the board will result in the long-term stability and solvency of the medical plans designed by the board. The board shall bill school districts, in proportion to a district's premium payments to all premium payments paid into the school employees health care fund during the previous year, in order to maintain necessary reserves, reinsurance, and administrative and operating funds. Each school district contributing to a board medical plan shall share any losses due to the expense of claims paid by the plan. In the event of a loss, the board may bill each district an amount, in proportion to the district's premium payments to all premium payments paid into the school employees health care fund during the previous year, sufficient in total to cover the loss. The state is not liable for any obligations of the school employees health care board or the school employees health care fund, or for expenses of public schools or school districts related to the board's medical plans.

(2) Providing health care information, wellness programs, and other preventive health care measures to medical plan beneficiaries, to the extent that the board determines to be appropriate;

(3) Coordinating contracts for services related to the board's medical plans. Contracts shall be approved by the school employees health care board.

(L) Not less than ninety days before coverage begins for public school employees under medical plans designed by the school employees health care board, a school district's board of education shall provide detailed information about the medical plans to the employees.

(M) Nothing in this section shall be construed as prohibiting public schools or school districts from consulting with and compensating insurance agents and brokers for professional services.

(N) The department of administrative services shall report to the

governor, the speaker of the house of representatives, and the president of the senate within eighteen months after the effective date of this section on the feasibility of achieving all of the following:

(1) Designing multiple medical plans to cover persons employed by public institutions of higher education that achieve an optimal combination of coverage, cost, choice, and stability, which plans include both state and regional preferred provider plans, set employee and employer premiums, and set employee plan copayments, deductibles, exclusions, limitations, formularies, and other responsibilities. For this purpose, "public institutions of higher education" include, without limitation, state universities and colleges, state community college districts, community college districts, university branch districts, technical college districts, and municipal universities.

(2) Maintaining reserves, reinsurance, and other measures to insure the long-term stability and solvency of the medical plans;

(3) Providing appropriate health care information, wellness programs, and other preventive health care measures to medical plan beneficiaries;

(4) Coordinating contracts for services related to the medical plans.

Sec. 9.981. (A) Sections 9.98 to 9.983 of the Revised Code are applicable to bonds:

(1) The payment of the debt service on which is to be provided for directly or indirectly by payments contracted to be made in the bond proceedings by the absolute obligors, being persons other than the issuer; and

(2) Which are authorized to be issued under sections 122.39 to 122.62, Chapter 165., 902., 3377., 3706., division (A)(4) of section 4582.06, division (A)(8) of section 4582.31, section 4582.48, or Chapter 6121. or 6123. of the Revised Code, notwithstanding other provisions therein.

(B) Sections 9.98 to 9.983 of the Revised Code are applicable to bonds issued under sections 306.37 and 6119.12 of the Revised Code and Chapters ~~133~~, 140., 152., 154., 175., and 349. of the Revised Code, and to any bonds authorized under laws which expressly make those sections applicable.

(C) Subject to division (A) of this section, the authority provided in sections 9.98 to 9.983 of the Revised Code is supplemental to and not in derogation of any similar authority provided by, derived from, or implied by, any law, the Ohio Constitution, or any charter, resolution, or ordinance, and no inference shall be drawn to negate the authority thereunder by reason of the express provisions of sections 9.98 to 9.983 of the Revised Code.

(D) Sections 9.98 to 9.983 of the Revised Code shall be liberally construed to permit flexibility in the arrangements therein provided to

enhance the issuance of such bonds and provide for terms most beneficial and satisfactory to the persons which undertake to provide for their payment, security, and liquidity.

Sec. 101.391. (A) There is hereby created the joint legislative committee on medicaid technology and reform. The committee may review or study any matter that it considers relevant to the operation of the medicaid program established under Chapter 5111. of the Revised Code, with priority given to the study or review of mechanisms to enhance the program's effectiveness through improved technology systems and program reform.

(B) The committee shall consist of five members of the house of representatives appointed by the speaker of the house of representatives and five members of the senate appointed by the president of the senate. Not more than three members appointed by the speaker of the house of representatives and not more than three members appointed by the president of the senate may be of the same political party.

Each member of the committee shall hold office during the general assembly in which the member is appointed and until a successor has been appointed, notwithstanding the adjournment sine die of the general assembly in which the member was appointed or the expiration of the member's term as a member of the general assembly. Any vacancies occurring among the members of the committee shall be filled in the manner of the original appointment.

(C) The committee has the same powers as other standing or select committees of the general assembly. The committee may employ an executive director.

Sec. 101.68. (A) ~~Within~~ Subject to division (D) of this section, within thirty days of the convening of the first regular session of the general assembly, each agency required to submit reports or similar documents to the general assembly pursuant to section 103.43, 3301.07, 5139.33, 5501.07, 5537.17, or 5593.21 of the Revised Code shall send written notice to each member of the general assembly in order to determine whether the member desires to personally receive the reports or similar documents as they are made available by the agency. If the member desires to personally receive the reports or similar documents as they become available, the member shall send a written request to the agency within thirty days of receiving the notice.

(B) Whenever any statute or rule requires that a report, recommendation, or other similar document be submitted to the general assembly under a law not cited in division (A) of this section, to the members of the general assembly, to one house of the general assembly, or



to the members of one house of the general assembly, the requirement shall be fulfilled by the submission of a copy of the report, recommendation, or document to the director of the legislative service commission, the president of the senate, the minority leader of the senate, the speaker of the house of representatives, and the minority leader of the house of representatives if both houses of the general assembly or their members are specified, or to the director of the legislative service commission, the president of the senate, and the minority leader of the senate if only the senate or its members are specified, or to the director of the legislative service commission, the speaker of the house of representatives, and the minority leader of the house of representatives if only the house of representatives or its members are specified. This division does not apply to items required to be distributed to members of the general assembly pursuant to section 103.14, 149.04, 149.07, or 149.17 of the Revised Code.

(C) Each month the legislative service commission shall provide to each member of the senate and to each member of the house of representatives a list of all reports, recommendations, and documents submitted to the officers of the general assembly under division (B) of this section. The list shall include a short and accurate description of the content, length, and form of each report, recommendation, or document submitted, as well as a statement setting forth the number printed, if applicable, and the cost of preparation. Each member may request from the legislative service commission a copy of any report, recommendation, or document on the list, and the legislative service commission shall comply with any such request.

(D) Notwithstanding any provision of the Revised Code to the contrary, whenever any statute or rule requires that an agency submit a report, recommendation, or other similar document to the general assembly or otherwise as described in division (B) of this section in a paper, book, or other hard copy format, the report, recommendation, or other document, to the extent technologically feasible, shall be submitted to the general assembly or otherwise as described in division (B) of this section through electronic means, rather than in the hard copy format, and shall be displayed by the agency on a web site it maintains.

Sec. 102.02. (A) Except as otherwise provided in division (H) of this section, all of the following shall file with the appropriate ethics commission the disclosure statement described in this division on a form prescribed by the appropriate commission: every person who is elected to or is a candidate for a state, county, or city office and every person who is appointed to fill a vacancy for an unexpired term in such an elective office; all members of the state board of education; the director, assistant directors, deputy directors,

division chiefs, or persons of equivalent rank of any administrative department of the state; the president or other chief administrative officer of every state institution of higher education as defined in section 3345.011 of the Revised Code; the executive director and the members of the capitol square review and advisory board appointed or employed pursuant to section 105.41 of the Revised Code; the chief executive officer and the members of the board of each state retirement system; each employee of a state retirement board who is a state retirement system investment officer licensed pursuant to section 1707.163 of the Revised Code; the members of the Ohio retirement study council appointed pursuant to division (C) of section 171.01 of the Revised Code; employees of the Ohio retirement study council, other than employees who perform purely administrative or clerical functions; the administrator of workers' compensation and each voting member of the workers' compensation oversight commission; the chief investment officer of the bureau of workers' compensation; all members of the board of commissioners on grievances and discipline of the supreme court and the ethics commission created under section 102.05 of the Revised Code; every business manager, treasurer, or superintendent of a city, local, exempted village, joint vocational, or cooperative education school district or an educational service center; every person who is elected to or is a candidate for the office of member of a board of education of a city, local, exempted village, joint vocational, or cooperative education school district or of a governing board of an educational service center that has a total student count of twelve thousand or more as most recently determined by the department of education pursuant to section 3317.03 of the Revised Code; every person who is appointed to the board of education of a municipal school district pursuant to division (B) or (F) of section 3311.71 of the Revised Code; all members of the board of directors of a sanitary district that is established under Chapter 6115. of the Revised Code and organized wholly for the purpose of providing a water supply for domestic, municipal, and public use, and that includes two municipal corporations in two counties; every public official or employee who is paid a salary or wage in accordance with schedule C of section 124.15 or schedule E-2 of section 124.152 of the Revised Code; members of the board of trustees and the executive director of the tobacco use prevention and control foundation; members of the board of trustees and the executive director of the southern Ohio agricultural and community development foundation; and every other public official or employee who is designated by the appropriate ethics commission pursuant to division (B) of this section.

The disclosure statement shall include all of the following:

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

(2)(a) Subject to divisions (A)(2)(b) and (c) of this section and except as otherwise provided in section 102.022 of the Revised Code, identification of every source of income, other than income from a legislative agent identified in division (A)(2)(b) of this section, received during the preceding calendar year, in the person's own name or by any other person for the person's use or benefit, by the person filing the statement, and a brief description of the nature of the services for which the income was received. If the person filing the statement is a member of the general assembly, the statement shall identify the amount of every source of income received in accordance with the following ranges of amounts: zero or more, but less than one thousand dollars; one thousand dollars or more, but less than ten thousand dollars; ten thousand dollars or more, but less than twenty-five thousand dollars; twenty-five thousand dollars or more, but less than fifty thousand dollars; fifty thousand dollars or more, but less than one hundred thousand dollars; and one hundred thousand dollars or more. Division (A)(2)(a) of this section shall not be construed to require a person filing the statement who derives income from a business or profession to disclose the individual items of income that constitute the gross income of that business or profession, except for those individual items of income that are attributable to the person's or, if the income is shared with the person, the partner's, solicitation of services or goods or performance, arrangement, or facilitation of services or provision of goods on behalf of the business or profession of clients, including corporate clients, who are legislative agents. A person who files the statement under this section shall disclose the identity of and the amount of income received from a person who the public official or employee knows or has reason to know is doing or seeking to do business of any kind with the public official's or employee's agency.

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

section requires a person filing the statement who derives income from a business or profession to disclose those individual items of income that constitute the gross income of that business or profession that are received from legislative agents.

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

(3) The name of every corporation on file with the secretary of state that is incorporated in this state or holds a certificate of compliance authorizing it to do business in this state, trust, business trust, partnership, or association that transacts business in this state in which the person filing the statement or any other person for the person's use and benefit had during the preceding calendar year an investment of over one thousand dollars at fair market value as of the thirty-first day of December of the preceding calendar year, or the date of disposition, whichever is earlier, or in which the person holds any office or has a fiduciary relationship, and a description of the nature of

the investment, office, or relationship. Division (A)(3) of this section does not require disclosure of the name of any bank, savings and loan association, credit union, or building and loan association with which the person filing the statement has a deposit or a withdrawable share account.

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

(5) The names of all persons residing or transacting business in the state to whom the person filing the statement owes, in the person's own name or in the name of any other person, more than one thousand dollars. Division (A)(5) of this section shall not be construed to require the disclosure of debts owed by the person resulting from the ordinary conduct of a business or profession or debts on the person's residence or real property used primarily for personal recreation, except that the superintendent of financial institutions shall disclose the names of all state-chartered savings and loan associations and of all service corporations subject to regulation under division (E)(2) of section 1151.34 of the Revised Code to whom the superintendent in the superintendent's own name or in the name of any other person owes any money, and that the superintendent and any deputy superintendent of banks shall disclose the names of all state-chartered banks and all bank subsidiary corporations subject to regulation under section 1109.44 of the Revised Code to whom the superintendent or deputy superintendent owes any money.

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

(7) Except as otherwise provided in section 102.022 of the Revised Code, the source of each gift of over seventy-five dollars, or of each gift of over twenty-five dollars received by a member of the general assembly from a legislative agent, received by the person in the person's own name or by any other person for the person's use or benefit during the preceding calendar year, except gifts received by will or by virtue of section 2105.06 of the Revised Code, or received from spouses, parents, grandparents,

children, grandchildren, siblings, nephews, nieces, uncles, aunts, brothers-in-law, sisters-in-law, sons-in-law, daughters-in-law, fathers-in-law, mothers-in-law, or any person to whom the person filing the statement stands in loco parentis, or received by way of distribution from any inter vivos or testamentary trust established by a spouse or by an ancestor;

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

(9) Except as otherwise provided in section 102.022 of the Revised Code, identification of the source of payment of expenses for meals and other food and beverages, other than for meals and other food and beverages provided at a meeting at which the person participated in a panel, seminar, or speaking engagement or at a meeting or convention of a national or state organization to which any state agency, including, but not limited to, any legislative agency or state institution of higher education as defined in section 3345.011 of the Revised Code, pays membership dues, or any political subdivision or any office or agency of a political subdivision pays membership dues, that are incurred in connection with the person's official duties and that exceed one hundred dollars aggregated per calendar year;

(10) If the disclosure statement is filed by a public official or employee described in division (B)(2) of section 101.73 of the Revised Code or division (B)(2) of section 121.63 of the Revised Code who receives a statement from a legislative agent, executive agency lobbyist, or employer that contains the information described in division (F)(2) of section 101.73 of the Revised Code or division (G)(2) of section 121.63 of the Revised Code, all of the nondisputed information contained in the statement delivered to that public official or employee by the legislative agent, executive agency lobbyist, or employer under division (F)(2) of section 101.73 or (G)(2) of section 121.63 of the Revised Code.

A person may file a statement required by this section in person or by mail. A person who is a candidate for elective office shall file the statement

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

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

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

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

Except for disclosure statements filed by members of the board of trustees and the executive director of the tobacco use prevention and control foundation and members of the board of trustees and the executive director of the southern Ohio agricultural and community development foundation, disclosure statements filed under this division with the Ohio ethics commission by members of boards, commissions, or bureaus of the state for

which no compensation is received other than reasonable and necessary expenses shall be kept confidential. Disclosure statements filed with the Ohio ethics commission under division (A) of this section by business managers, treasurers, and superintendents of city, local, exempted village, joint vocational, or cooperative education school districts or educational service centers shall be kept confidential, except that any person conducting an audit of any such school district or educational service center pursuant to section 115.56 or Chapter 117. of the Revised Code may examine the disclosure statement of any business manager, treasurer, or superintendent of that school district or educational service center. The Ohio ethics commission shall examine each disclosure statement required to be kept confidential to determine whether a potential conflict of interest exists for the person who filed the disclosure statement. A potential conflict of interest exists if the private interests of the person, as indicated by the person's disclosure statement, might interfere with the public interests the person is required to serve in the exercise of the person's authority and duties in the person's office or position of employment. If the commission determines that a potential conflict of interest exists, it shall notify the person who filed the disclosure statement and shall make the portions of the disclosure statement that indicate a potential conflict of interest subject to public inspection in the same manner as is provided for other disclosure statements. Any portion of the disclosure statement that the commission determines does not indicate a potential conflict of interest shall be kept confidential by the commission and shall not be made subject to public inspection, except as is necessary for the enforcement of Chapters 102. and 2921. of the Revised Code and except as otherwise provided in this division.

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

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

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

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

For state office, except member of the	
state board of education	\$65
For office of member of general assembly	\$40



For county office	\$40
For city office	\$25
For office of member of the state board of education	\$25
For office of member of a city, local, exempted village, or cooperative education board of education or educational service center governing board	\$20
For position of business manager, treasurer, or superintendent of a city, local, exempted village, joint vocational, or cooperative education school district or educational service center	\$20

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

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

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

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

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

(H) Division (A) of this section does not apply to a person elected or

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

Sec. 102.06. (A) The appropriate ethics commission shall receive and may initiate complaints against persons subject to this chapter concerning conduct alleged to be in violation of this chapter or section 2921.42 or 2921.43 of the Revised Code. All complaints except those by the commission shall be by affidavit made on personal knowledge, subject to the penalties of perjury. Complaints by the commission shall be by affidavit, based upon reasonable cause to believe that a violation has occurred.

(B) The appropriate ethics commission shall investigate complaints, may investigate charges presented to it, and may request further information, including the specific amount of income from a source, from any person filing with the commission a statement required by section 102.02 or 102.021 of the Revised Code, if the information sought is directly relevant to a complaint or charges received by the commission pursuant to this section. This information is confidential, except that the commission, in its discretion, may share information gathered in the course of any investigation with, or disclose the information to, the inspector general, any appropriate prosecuting authority, any law enforcement agency, or any other appropriate ethics commission. If the accused person is a member of the public employees retirement board, state teachers retirement board, school employees retirement board, board of trustees of the Ohio police and fire pension fund, or state highway patrol retirement board, or is a voting member of the workers' compensation oversight commission the appropriate ethics commission, in its discretion, also may share information gathered in the course of an investigation with, or disclose the information to, the attorney general and the auditor of state. The person so requested shall furnish the information to the commission, unless within fifteen days from the date of the request the person files an action for declaratory judgment challenging the legitimacy of the request in the court of common pleas of the county of the person's residence, the person's place of employment, or Franklin county. The requested information need not be furnished to the commission during the pendency of the judicial proceedings. Proceedings of

the commission in connection with the declaratory judgment action shall be kept confidential except as otherwise provided by this section. Before the commission proceeds to take any formal action against a person who is the subject of an investigation based on charges presented to the commission, a complaint shall be filed against the person. If the commission finds that a complaint is not frivolous, and there is reasonable cause to believe that the facts alleged in a complaint constitute a violation of section 102.02, 102.021, 102.03, 102.04, 102.07, 2921.42, or 2921.43 of the Revised Code, it shall hold a hearing. If the commission does not so find, it shall dismiss the complaint and notify the accused person in writing of the dismissal of the complaint. The commission shall not make a report of its finding unless the accused person requests a report. Upon the request of the accused person, the commission shall make a public report of its finding. The person against whom the complaint is directed shall be given reasonable notice by certified mail of the date, time, and place of the hearing and a statement of the charges and the law directly involved and shall be given the opportunity to be represented by counsel, to have counsel appointed for the person if the person is unable to afford counsel without undue hardship, to examine the evidence against the person, to produce evidence and to call and subpoena witnesses in the person's defense, to confront the person's accusers, and to cross-examine witnesses. The commission shall have a stenographic record made of the hearing. The hearing shall be closed to the public.

(C)(1)(a) If, upon the basis of the hearing, the appropriate ethics commission finds by a preponderance of the evidence that the facts alleged in the complaint are true and constitute a violation of section 102.02, 102.021, 102.03, 102.04, 102.07, 2921.42, or 2921.43 of the Revised Code, it shall report its findings to the appropriate prosecuting authority for proceedings in prosecution of the violation and to the appointing or employing authority of the accused. If the accused person is a member of the public employees retirement board, state teachers retirement board, school employees retirement board, board of trustees of the Ohio police and fire pension fund, or state highway patrol retirement board, the commission also shall report its findings to the Ohio retirement study council.

(b) If the Ohio ethics commission reports its findings to the appropriate prosecuting authority under division (C)(1)(a) of this section and the prosecuting authority has not initiated any official action on those findings within ninety days after receiving the commission's report of them, the commission may publicly comment that no official action has been taken on its findings, except that the commission shall make no comment in violation of the Rules of Criminal Procedure or about any indictment that has been

sealed pursuant to any law or those rules. The commission shall make no comment regarding the merits of its findings. As used in division (C)(1)(b) of this section, "official action" means prosecution, closure after investigation, or grand jury action resulting in a true bill of indictment or no true bill of indictment.

(2) If the appropriate ethics commission does not find by a preponderance of the evidence that the facts alleged in the complaint are true and constitute a violation of section 102.02, 102.021, 102.03, 102.04, 102.07, 2921.42, or 2921.43 of the Revised Code or if the commission has not scheduled a hearing within ninety days after the complaint is filed or has not finally disposed of the complaint within six months after it has been heard, it shall dismiss the complaint and notify the accused person in writing of the dismissal of the complaint. The commission shall not make a report of its finding unless the accused person requests a report. Upon the request of the accused person, the commission shall make a public report of the finding, but in this case all evidence and the record of the hearing shall remain confidential unless the accused person also requests that the evidence and record be made public. Upon request by the accused person, the commission shall make the evidence and the record available for public inspection.

(D) The appropriate ethics commission, or a member of the commission, may administer oaths, and the commission may issue subpoenas to any person in the state compelling the attendance of witnesses and the production of relevant papers, books, accounts, and records. The commission shall issue subpoenas to compel the attendance of witnesses and the production of documents upon the request of an accused person. Section 101.42 of the Revised Code shall govern the issuance of these subpoenas insofar as applicable. Upon the refusal of any person to obey a subpoena or to be sworn or to answer as a witness, the commission may apply to the court of common pleas of Franklin county under section 2705.03 of the Revised Code. The court shall hold proceedings in accordance with Chapter 2705. of the Revised Code. The commission or the accused person may take the depositions of witnesses residing within or without the state in the same manner as prescribed by law for the taking of depositions in civil actions in the court of common pleas.

(E) At least once each year, the Ohio ethics commission shall report on its activities of the immediately preceding year to the majority and minority leaders of the senate and house of representatives of the general assembly. The report shall indicate the total number of complaints received, initiated, and investigated by the commission, the total number of complaints for

which formal hearings were held, and the total number of complaints for which formal prosecution was recommended or requested by the commission. The report also shall indicate the nature of the inappropriate conduct alleged in each complaint and the governmental entity with which any employee or official that is the subject of a complaint was employed at the time of the alleged inappropriate conduct.

(F) All papers, records, affidavits, and documents upon any complaint, inquiry, or investigation relating to the proceedings of the appropriate ethics commission shall be sealed and are private and confidential, except as otherwise provided in this section and section 102.07 of the Revised Code.

(G)(1) When a complaint or charge is before it, the Ohio ethics commission or the appropriate prosecuting authority, in consultation with the person filing the complaint or charge, the accused, and any other person the commission or prosecuting authority considers necessary, may compromise or settle the complaint or charge with the agreement of the accused. The compromise or settlement may include mediation, restitution, rescission of affected contracts, forfeiture of any benefits resulting from a violation or potential violation of law, resignation of a public official or employee, or any other relief that is agreed upon between the commission or prosecuting authority and the accused.

(2) Any settlement agreement entered into under division (G)(1) of this section shall be in writing and be accompanied by a statement of the findings of the commission or prosecuting authority and the reasons for entering into the agreement. The commission or prosecuting authority shall retain the agreement and statement in the commission's or prosecuting authority's office and, in the commission's or prosecuting authority's discretion, may make the agreement, the statement, and any supporting information public, unless the agreement provides otherwise.

(3) If a settlement agreement is breached by the accused, the commission or prosecuting authority, in the commission's or prosecuting authority's discretion, may rescind the agreement and reinstitute any investigation, hearing, or prosecution of the accused. No information obtained from the accused in reaching the settlement that is not otherwise discoverable from the accused shall be used in any proceeding before the commission or by the appropriate prosecuting authority in prosecuting the violation. Notwithstanding any other section of the Revised Code, if a settlement agreement is breached, any statute of limitations for a violation of this chapter or section 2921.42 or 2921.43 of the Revised Code is tolled from the date the complaint or charge is filed until the date the settlement agreement is breached.

Sec. 103.132. The legislative service commission, in conjunction with the legislative information systems office, shall establish and maintain an electronic database containing current and historical revenue and expenditure data for each school district in the state that is easy to use and readily accessible through the internet.

Sec. 108.05. (A) The lieutenant governor shall be a member of the governor's cabinet and shall preside at its meetings in the absence of the governor.

(B) The governor may appoint the lieutenant governor as an administrative department head listed in section 121.03 of the Revised Code, ~~as director of the office of criminal justice services pursuant to section 181.52 of the Revised Code,~~ as the governor's representative on any board, agency, committee, or commission of which the governor is a member and has the authority to appoint a representative, or in an advisory capacity to any nonelective board, agency, committee, or commission in the executive department or may give the lieutenant governor any special assignment as the governor considers in the interest of the state.

(C) When carrying out any of the functions described in division (B) of this section, the lieutenant governor shall be reimbursed from funds of the particular authority for necessary expenses incurred in the conduct of authority business.

Sec. 109.54. (A) The bureau of criminal identification and investigation may investigate any criminal activity in this state that is of statewide or intercounty concern when requested by local authorities and may aid federal authorities, when requested, in their investigation of any criminal activity in this state. The bureau may investigate any criminal activity in this state related to the conduct of elections when requested by the secretary of state. The bureau may investigate any criminal activity in this state involving drug abuse or illegal drug distribution prohibited under Chapter 3719. or 4729. of the Revised Code. The superintendent and any agent of the bureau may participate, as the director of an organized crime task force established under section 177.02 of the Revised Code or as a member of the investigatory staff of a task force established under that section, in an investigation of organized criminal activity anywhere within this state under sections 177.01 to 177.03 of the Revised Code.

(B) The bureau may provide any trained investigative personnel and specialized equipment that are requested by any sheriff or chief of police, by the authorized designee of any sheriff or chief of police, or by any other authorized law enforcement officer to aid and assist the officer in the investigation and solution of any crime or the control of any criminal

activity occurring within the officer's jurisdiction. This assistance shall be furnished by the bureau without disturbing or impairing any of the existing law enforcement authority or the prerogatives of local law enforcement authorities or officers. Investigators provided pursuant to this section, or engaged in an investigation pursuant to section 109.83 of the Revised Code, may go armed in the same manner as sheriffs and regularly appointed police officers under section 2923.12 of the Revised Code.

(C)(1) The bureau shall obtain recording equipment that can be used to record depositions of the type described in division (A) of section 2152.81 and division (A) of section 2945.481 of the Revised Code, or testimony of the type described in division (D) of section 2152.81 and division (D) of section 2945.481 or in division (C) of section 2937.11 of the Revised Code, shall obtain closed circuit equipment that can be used to televise testimony of the type described in division (C) of section 2152.81 and division (C) of section 2945.481 or in division (B) of section 2937.11 of the Revised Code, and shall provide the equipment, upon request, to any court for use in recording any deposition or testimony of one of those types or in televising the testimony in accordance with the applicable division.

(2) The bureau shall obtain the names, addresses, and telephone numbers of persons who are experienced in questioning children in relation to an investigation of a violation of section 2905.03, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.09, 2907.21, 2907.23, 2907.24, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, or 2919.22 of the Revised Code or an offense of violence and shall maintain a list of those names, addresses, and telephone numbers. The list shall include a classification of the names, addresses, and telephone numbers by appellate district. Upon request, the bureau shall provide any county sheriff, chief of police, prosecuting attorney, village solicitor, city director of law, or similar chief legal officer with the name, address, and telephone number of any person contained in the list.

Sec. 109.57. (A)(1) The superintendent of the bureau of criminal identification and investigation shall procure from wherever procurable and file for record photographs, pictures, descriptions, fingerprints, measurements, and other information that may be pertinent of all persons who have been convicted of committing within this state a felony, any crime constituting a misdemeanor on the first offense and a felony on subsequent offenses, or any misdemeanor described in division (A)(1)(a) of section 109.572 of the Revised Code, of all children under eighteen years of age who have been adjudicated delinquent children for committing within this state an act that would be a felony or an offense of violence if committed by

an adult or who have been convicted of or pleaded guilty to committing within this state a felony or an offense of violence, and of all well-known and habitual criminals. The person in charge of any county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse, community-based correctional facility, halfway house, alternative residential facility, or state correctional institution and the person in charge of any state institution having custody of a person suspected of having committed a felony, any crime constituting a misdemeanor on the first offense and a felony on subsequent offenses, or any misdemeanor described in division (A)(1)(a) of section 109.572 of the Revised Code or having custody of a child under eighteen years of age with respect to whom there is probable cause to believe that the child may have committed an act that would be a felony or an offense of violence if committed by an adult shall furnish such material to the superintendent of the bureau. Fingerprints, photographs, or other descriptive information of a child who is under eighteen years of age, has not been arrested or otherwise taken into custody for committing an act that would be a felony or an offense of violence if committed by an adult, has not been adjudicated a delinquent child for committing an act that would be a felony or an offense of violence if committed by an adult, has not been convicted of or pleaded guilty to committing a felony or an offense of violence, and is not a child with respect to whom there is probable cause to believe that the child may have committed an act that would be a felony or an offense of violence if committed by an adult shall not be procured by the superintendent or furnished by any person in charge of any county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse, community-based correctional facility, halfway house, alternative residential facility, or state correctional institution, except as authorized in section 2151.313 of the Revised Code.

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



clerk. The summary shall be written on the standard forms furnished by the superintendent pursuant to division (B) of this section and shall include the following information:

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

(b) The style and number of the case;

(c) The date of arrest;

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

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

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

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

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

years of age who are confined in a county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse, community-based correctional facility, halfway house, alternative residential facility, or state correctional institution or in any facility for delinquent children for committing an act that would be a felony or an offense of violence if committed by an adult, and any other information that the superintendent may receive from law enforcement officials of the state and its political subdivisions.

(4) The superintendent shall carry out Chapter 2950. of the Revised Code with respect to the registration of persons who are convicted of or plead guilty to either a sexually oriented offense that is not a registration-exempt sexually oriented offense or a child-victim oriented offense and with respect to all other duties imposed on the bureau under that chapter.

(5) The bureau shall perform centralized recordkeeping functions for criminal history records and services in this state for purposes of the national crime prevention and privacy compact set forth in section 109.571 of the Revised Code and is the criminal history record repository as defined in that section for purposes of that compact. The superintendent or the superintendent's designee is the compact officer for purposes of that compact and shall carry out the responsibilities of the compact officer specified in that compact.

(B) The superintendent shall prepare and furnish to every county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse, community-based correctional facility, halfway house, alternative residential facility, or state correctional institution and to every clerk of a court in this state specified in division (A)(2) of this section standard forms for reporting the information required under division (A) of this section. The standard forms that the superintendent prepares pursuant to this division may be in a tangible format, in an electronic format, or in both tangible formats and electronic formats.

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

disseminate information, data, and statistics that pertain to children who are under eighteen years of age and that are gathered pursuant to sections 109.57 to 109.61 of the Revised Code together with information, data, and statistics that pertain to adults and that are gathered pursuant to those sections. In addition to any other authorized use of information, data, and statistics of that nature, the superintendent or the superintendent's designee may provide and exchange the information, data, and statistics pursuant to the national crime prevention and privacy compact as described in division (A)(5) of this section.

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

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

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

(2)(a) In addition to or in conjunction with any request that is required to be made under section 109.572, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 5104.012, 5104.013, 5123.081, 5126.28, 5126.281, or 5153.111 of the Revised Code, the board of education of any school district; the director of mental retardation and developmental disabilities; any county board of mental retardation and developmental disabilities; any entity under contract with a county board of mental retardation and developmental disabilities; the chief administrator of any chartered nonpublic school; the chief administrator of any home health agency; the chief administrator of or person operating any child day-care center, type A family day-care home, or type B family day-care home licensed or certified under Chapter 5104. of the Revised Code; the administrator of any type C family day-care home certified pursuant to Section 1 of Sub. H.B. 62 of the 121st general assembly

or Section 5 of Am. Sub. S.B. 160 of the 121st general assembly; the chief administrator of any head start agency; or the executive director of a public children services agency may request that the superintendent of the bureau investigate and determine, with respect to any individual who has applied for employment in any position after October 2, 1989, or any individual wishing to apply for employment with a board of education may request, with regard to the individual, whether the bureau has any information gathered under division (A) of this section that pertains to that individual. On receipt of the request, the superintendent shall determine whether that information exists and, upon request of the person, board, or entity requesting information, also shall request from the federal bureau of investigation any criminal records it has pertaining to that individual. The superintendent or the superintendent's designee also may request criminal history records from other states or the federal government pursuant to the national crime prevention and privacy compact set forth in section 109.571 of the Revised Code. Within thirty days of the date that the superintendent receives a request, the superintendent shall send to the board, entity, or person a report of any information that the superintendent determines exists, including information contained in records that have been sealed under section 2953.32 of the Revised Code, and, within thirty days of its receipt, shall send the board, entity, or person a report of any information received from the federal bureau of investigation, other than information the dissemination of which is prohibited by federal law.

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

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

of education under division (F)(2) of this section.

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

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

(G) In addition to or in conjunction with any request that is required to be made under section 173.41, 3701.881, 3712.09, 3721.121, or 3722.151 of the Revised Code with respect to an individual who has applied for employment in a position that involves providing direct care to an older adult, the chief administrator of a PASSPORT agency that provides services through the PASSPORT program created under section 173.40 of the Revised Code, home health agency, hospice care program, home licensed under Chapter 3721. of the Revised Code, adult day-care program operated pursuant to rules adopted under section 3721.04 of the Revised Code, or adult care facility may request that the superintendent of the bureau investigate and determine, with respect to any individual who has applied after January 27, 1997, for employment in a position that does not involve providing direct care to an older adult, whether the bureau has any information gathered under division (A) of this section that pertains to that individual. On receipt of the request, the superintendent shall determine whether that information exists and, on request of the administrator requesting information, shall also request from the federal bureau of investigation any criminal records it has pertaining to that individual. The superintendent or the superintendent's designee also may request criminal history records from other states or the federal government pursuant to the national crime prevention and privacy compact set forth in section 109.571 of the Revised Code. Within thirty days of the date a request is received, the superintendent shall send to the administrator a report of any information determined to exist, including information contained in records that have been sealed under section 2953.32 of the Revised Code, and, within thirty

days of its receipt, shall send the administrator a report of any information received from the federal bureau of investigation, other than information the dissemination of which is prohibited by federal law.

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

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

Sec. 109.579. (A) On receipt of a request pursuant to division (B) of section 4123.444 of the Revised Code, a completed form prescribed pursuant to division (C)(1) of this section, and a set of fingerprint impressions obtained in the manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request previously has been convicted of or pleaded guilty to any criminal offense involving theft, receiving stolen property, embezzlement, forgery, fraud, passing bad checks, money laundering, drug trafficking, or any criminal offense involving money or securities, as set forth in Chapters 2909., 2911., 2913., 2915., 2921., 2923., and 2925. of the Revised Code or other law of this state, or the laws of any other state or of the United States that are substantially equivalent to those offenses.

(B) The superintendent shall conduct a criminal records check pursuant to division (A) of this section as follows:

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

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

(3) The superintendent shall forward the results of a criminal records check conducted pursuant to this division to the administrator of workers' compensation.

(C)(1) The superintendent shall prescribe a form to obtain the information necessary to conduct a criminal records check from any person

for whom a criminal records check is requested pursuant to division (B) of section 4123.444 of the Revised Code. The form that the superintendent prescribes pursuant to this division may be in a tangible format, in an electronic format, or in both tangible and electronic formats.

(2) The superintendent shall prescribe standard impression sheets to obtain the fingerprint impressions of any person for whom a criminal records check is requested pursuant to section 4123.444 of the Revised Code. Any person for whom the administrator requests the superintendent to conduct a criminal records check pursuant to that section shall have the person's fingerprint impressions made at a county sheriff's office, a municipal police department, or any other entity with the ability to make fingerprint impressions on the standard impression sheets prescribed by the superintendent. The office, department, or entity may charge the person a reasonable fee for making the impressions. The standard impression sheets the superintendent prescribes pursuant to this division may be in a tangible format, in an electronic format, or in both tangible and electronic formats.

(3) The superintendent may prescribe methods of forwarding fingerprint impressions and information necessary to conduct a criminal records check. The methods shall include, but are not limited to, electronic methods.

(D) A determination whether any information exists that indicates that a person previously has been convicted of or pleaded guilty to any offense listed or described in division (A) of this section that the superintendent makes pursuant to information considered in a criminal records check under this section is valid for the person who is the subject of that criminal records check for a period of one year after the date the superintendent makes that determination.

(E) The superintendent shall prescribe and charge a reasonable fee for providing a criminal records check requested under section 4123.444 of the Revised Code. If another request for a criminal records check is made under this section for a person for whom a valid determination under division (D) of this section is available, the superintendent shall provide the determination for a reduced fee.

Sec. 109.79. (A) The Ohio peace officer training commission shall establish and conduct a training school for law enforcement officers of any political subdivision of the state or of the state public defender's office. The school shall be known as the Ohio peace officer training academy. No bailiff or deputy bailiff of a court of record of this state and no criminal investigator employed by the state public defender shall be permitted to attend the academy for training unless the employing court of the bailiff or deputy bailiff or the state public defender, whichever is applicable, has

authorized the bailiff, deputy bailiff, or investigator to attend the academy.

The Ohio peace officer training commission shall develop the training program, which shall include courses in both the civil and criminal functions of law enforcement officers, a course in crisis intervention with six or more hours of training, and training in the handling of missing children and child abuse and neglect cases, and shall establish rules governing qualifications for admission to the academy. The commission may require competitive examinations to determine fitness of prospective trainees, so long as the examinations or other criteria for admission to the academy are consistent with the provisions of Chapter 124. of the Revised Code.

The Ohio peace officer training commission shall determine tuition costs which shall be sufficient in the aggregate to pay the costs of operating the academy. The costs of acquiring and equipping the academy shall be paid from appropriations made by the general assembly to the Ohio peace officer training commission for that purpose, ~~or~~ from gifts or grants received for that purpose, or from fees for goods related to the academy.

The law enforcement officers, during the period of their training, shall receive compensation as determined by the political subdivision that sponsors them or, if the officer is a criminal investigator employed by the state public defender, as determined by the state public defender. The political subdivision may pay the tuition costs of the law enforcement officers they sponsor and the state public defender may pay the tuition costs of criminal investigators of that office who attend the academy.

If trainee vacancies exist, the academy may train and issue certificates of satisfactory completion to peace officers who are employed by a campus police department pursuant to section 1713.50 of the Revised Code, by a qualified nonprofit corporation police department pursuant to section 1702.80 of the Revised Code, or by a railroad company, who are amusement park police officers appointed and commissioned by a judge of the appropriate municipal court or county court pursuant to section 4973.17 of the Revised Code, or who are hospital police officers appointed and commissioned by the governor pursuant to sections 4973.17 to 4973.22 of the Revised Code, provided that no such officer shall be trained at the academy unless the officer meets the qualifications established for admission to the academy and the qualified nonprofit corporation police department, railroad company, hospital, or amusement park or the private college or university that established the campus police department prepays the entire cost of the training. A qualified nonprofit corporation police department, railroad company, hospital, or amusement park or a private college or university that has established a campus police department is not



entitled to reimbursement from the state for any amount paid for the cost of training the railroad company's peace officers or the peace officers of the qualified nonprofit corporation police department, campus police department, hospital, or amusement park.

The academy shall permit investigators employed by the state medical board to take selected courses that the board determines are consistent with its responsibilities for initial and continuing training of investigators as required under sections 4730.26 and 4731.05 of the Revised Code. The board shall pay the entire cost of training that investigators receive at the academy.

(B) As used in this section:

(1) "Law enforcement officers" include any undercover drug agent, any bailiff or deputy bailiff of a court of record, and any criminal investigator who is employed by the state public defender.

(2) "Undercover drug agent" means any person who:

(a) Is employed by a county, township, or municipal corporation for the purposes set forth in division (B)(2)(b) of this section but who is not an employee of a county sheriff's department, of a township constable, or of the police department of a municipal corporation or township;

(b) In the course of the person's employment by a county, township, or municipal corporation, investigates and gathers information pertaining to persons who are suspected of violating Chapter 2925. or 3719. of the Revised Code, and generally does not wear a uniform in the performance of the person's duties.

(3) "Crisis intervention training" has the same meaning as in section 109.71 of the Revised Code.

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

Sec. 109.91. (A) There is hereby established within the office of the attorney general the crime victims assistance office.

(B) There is hereby established the state victims assistance advisory committee. The committee shall consist of a chairperson, to be appointed by the attorney general, ~~four~~ three ex officio members, and fifteen members to be appointed by the attorney general as follows: one member who represents the Ohio victim-witness association; three members who represent local victim assistance programs, including one from a municipally operated program and one from a county-operated program; one member who represents the interests of elderly victims; one member who is a board member of any statewide or local organization that exists primarily to aid victims of domestic violence, or who is an employee of, or counselor for,

such an organization; one member who is an employee or officer of a county probation department or a probation department operated by the department of rehabilitation and correction; one member who is a county prosecuting attorney; one member who is a city law director; one member who is a county sheriff; one member who is a member or officer of a township or municipal police department; one member who is a court of common pleas judge; one member who is a municipal court judge or county court judge; and two members who are private citizens and are not government employees.

The committee shall include the following ex officio, nonvoting members: ~~the chief justice of the supreme court~~, the attorney general, one member of the senate to be designated by the president of the senate, and one member of the house of representatives to be designated by the speaker of the house.

Members of the committee shall serve without compensation, but shall be reimbursed for travel and other necessary expenses that are incurred in the conduct of their official duties as members of the committee. The chairperson and members of the committee appointed by the attorney general shall serve at the pleasure of the attorney general. ~~The chief justice of the supreme court and the attorney general~~ shall serve on the committee until the end of the term of office that qualified ~~them~~ the attorney general for membership on the committee. The member of the senate and the member of the house of representatives shall serve at the pleasure of the president of the senate and the speaker of the house of representatives, respectively.

(C) The victims assistance advisory committee shall perform both of the following duties:

(1) Advise the crime victims assistance office in determining crime and delinquency victim service needs, determining crime and delinquency victim policies for the state, and improving and exercising leadership in the quality of crime and delinquency victim programs in the state;

(2) Review and recommend to the crime victims assistance office the victim assistance programs that should be considered for the receipt of state financial assistance pursuant to section 109.92 of the Revised Code. The financial assistance allocation recommendations of the committee shall be based on the following priorities:

(a) Programs in existence on July 1, 1985, shall be given first priority;

(b) Programs offering or proposing to offer the broadest range of services and referrals to the community served, including medical, psychological, financial, educational, vocational, and legal services that were not in existence on July 1, 1985, shall be given second priority;

(c) Other qualified programs shall be given last priority.

(D) As used in this section and section 109.92 of the Revised Code, "victim assistance program" includes, but is not limited to a program that provides at least one of the following:

(1) Services to victims of any offense of violence or delinquent act that would be an offense of violence if committed by an adult;

(2) Financial assistance or property repair services to victims of crime or delinquent acts;

(3) Assistance to victims of crime or delinquent acts in judicial proceedings;

(4) Assistance to victims of crime or delinquent acts under the operation of any political subdivision of the state or a branch of the criminal justice system set forth in division (B)(1)(a), ~~(2)(b)~~, or ~~(3)(c)~~ of section ~~181.51~~ 5502.61 of the Revised Code;

(5) Technical assistance to persons or organizations that provide services to victims of crime or delinquent acts under the operation of a branch of the criminal justice system set forth in ~~divisions~~ division (B)(1)(a), ~~(2)(b)~~, ~~and (3)~~ or (c) of section ~~181.51~~ 5502.61 of the Revised Code.

A victim assistance program does not include the program for the reparation of crime victims established pursuant to Chapter 2743. of the Revised Code.

Sec. 109.98. As used in this section, "state retirement board" means the public employees retirement board, board of trustees of the Ohio police and fire pension fund, school employees retirement board, state teachers retirement board, and state highway patrol retirement board.

If a member of a state retirement board breaches the member's fiduciary duty to the retirement system, the attorney general may maintain a civil action against the board member for harm resulting from that breach. The Notwithstanding sections 145.10, 742.09, 3307.13, 3309.13, and 5505.23 of the Revised Code, after being informed of an allegation that the entire board has breached its fiduciary duty, the state retirement board may retain independent legal counsel, including legal counsel provided by the board's fiduciary insurance carrier, to advise the board and to represent the board.

The attorney general may recover damages or be granted injunctive relief, which shall include the enjoinder of specified activities and the removal of the member from the board. Any damages awarded shall be paid to the retirement system. The authority to maintain a civil action created by this section is in addition to any authority the attorney general possesses under any other provision of the Revised Code.

Sec. 109.981. If a voting member of workers' compensation oversight commission breaches the member's fiduciary duty to the bureau of workers' compensation, the attorney general may maintain a civil action against the board member for harm resulting from that breach. Notwithstanding section 4121.128 of the Revised Code, after being informed of an allegation that the entire oversight commission has breached its fiduciary duty, the oversight commission may retain independent legal counsel, including legal counsel provided by the oversight commission's fiduciary insurance carrier, to advise the board and to represent the board. The attorney general may recover damages or be granted injunctive relief, which shall include the enjoinder of specified activities and the removal of the member from the board. Any damages awarded shall be paid to the bureau. The authority to maintain a civil action created by this section is in addition to any authority the attorney general possesses under any other provision of the Revised Code.

Sec. 117.10. The auditor of state shall audit all public offices as provided in this chapter. The auditor of state also may audit the accounts of private institutions, associations, boards, and corporations receiving public money for their use and may require of them annual reports in such form as the auditor of state prescribes.

If the auditor of state performs or contracts for the performance of an audit, including a special audit, of the public employees retirement system, school employees retirement system, state teachers retirement system, state highway patrol retirement system, or Ohio police and fire pension fund, the auditor of state shall make a timely report of the results of the audit to the Ohio retirement study council.

The auditor of state may audit the accounts of any provider as defined in section 5111.06 of the Revised Code, ~~if requested by the department of job and family services.~~

If a public office has been audited by an agency of the United States government, the auditor of state may, if satisfied that the federal audit has been conducted according to principles and procedures not contrary to those of the auditor of state, use and adopt the federal audit and report in lieu of an audit by the auditor of state's own office.

Within thirty days after the creation or dissolution or the winding up of the affairs of any public office, that public office shall notify the auditor of state in writing that this action has occurred.

Sec. 120.06. (A)(1) The state public defender, when designated by the court or requested by a county public defender or joint county public defender, may provide legal representation in all courts throughout the state

to indigent adults and juveniles who are charged with the commission of an offense or act for which the penalty or any possible adjudication includes the potential loss of liberty.

(2) The state public defender may provide legal representation to any indigent person who, while incarcerated in any state correctional institution, is charged with a felony offense, for which the penalty or any possible adjudication that may be imposed by a court upon conviction includes the potential loss of liberty.

(3) The state public defender may provide legal representation to any person incarcerated in any correctional institution of the state, in any matter in which the person asserts the person is unlawfully imprisoned or detained.

(4) The state public defender, in any case in which the state public defender has provided legal representation or is requested to do so by a county public defender or joint county public defender, may provide legal representation on appeal.

(5) The state public defender, when designated by the court or requested by a county public defender, joint county public defender, or the director of rehabilitation and correction, shall provide legal representation in parole and probation revocation matters or matters relating to the revocation of community control or post-release control under a community control sanction or post-release control sanction, unless the state public defender finds that the alleged parole or probation violator or alleged violator of a community control sanction or post-release control sanction has the financial capacity to retain the alleged violator's own counsel.

(6) If the state public defender contracts with a county public defender commission, a joint county public defender commission, or a board of county commissioners for the provision of services, under authority of division (C)(7) of section 120.04 of the Revised Code, the state public defender shall provide legal representation in accordance with the contract.

(B) The state public defender shall not be required to prosecute any appeal, postconviction remedy, or other proceeding pursuant to division (A)(3), (4), or (5) of this section, unless the state public defender first is satisfied that there is arguable merit to the proceeding.

(C) A court may appoint counsel or allow an indigent person to select the indigent's own personal counsel to assist the state public defender as co-counsel when the interests of justice so require. When co-counsel is appointed to assist the state public defender, the co-counsel shall receive any compensation that the court may approve, not to exceed the amounts provided for in section 2941.51 of the Revised Code.

(D)(1) When the state public defender is designated by the court or

requested by a county public defender or joint county public defender to provide legal representation for an indigent person in any case, other than pursuant to a contract entered into under authority of division (C)(7) of section 120.04 of the Revised Code, the state public defender shall send to the county in which the case is filed ~~an itemized bill for fifty per cent of detailing the actual cost of the representation that separately itemizes legal fees and expenses.~~ The county, upon receipt of an itemized bill from the state public defender pursuant to this division, shall ~~pay fifty per cent of the actual cost of the legal representation as set forth in the itemized bill.~~ pay the state public defender each of the following amounts:

(a) For the amount identified as legal fees in the itemized bill, one hundred per cent of the amount identified as legal fees less the state reimbursement rate as calculated by the state public defender pursuant to section 120.34 of the Revised Code for the month the case terminated, as set forth in the itemized bill;

(b) For the amount identified as expenses in the itemized bill, one hundred per cent.

(2) Upon payment of the itemized bill under division (D)(1) of this section, the county may submit the cost of the expenses, excluding legal fees, to the state public defender for reimbursement pursuant to section 120.33 of the Revised Code.

(3) When the state public defender provides investigation or mitigation services to private appointed counsel or to a county or joint county public defender as approved by the appointing court, other than pursuant to a contract entered into under authority of division (C)(7) of section 120.04 of the Revised Code, the state public defender shall send to the county in which the case is filed a bill itemizing the actual cost of the services provided. The county, upon receipt of an itemized bill from the state public defender pursuant to this division, shall pay one hundred per cent of the amount as set forth in the itemized bill. Upon payment of the itemized bill received pursuant to this division, the county may submit the cost of the investigation and mitigation services to the state public defender for reimbursement pursuant to section 120.33 of the Revised Code.

(4) There is hereby created in the state treasury the county representation fund for the deposit of moneys received from counties under this division. All moneys credited to the fund shall be used by the state public defender to provide legal representation for indigent persons when designated by the court or requested by a county or joint county public defender or to provide investigation or mitigation services, including investigation or mitigation services to private appointed counsel or a county

or joint county public defender, as approved by the court.

(E)(1) Notwithstanding any contrary provision of sections 109.02, 109.07, 109.361 to 109.366, and 120.03 of the Revised Code that pertains to representation by the attorney general, an assistant attorney general, or special counsel of an officer or employee, as defined in section 109.36 of the Revised Code, or of an entity of state government, the state public defender may elect to contract with, and to have the state pay pursuant to division (E)(2) of this section for the services of, private legal counsel to represent the Ohio public defender commission, the state public defender, assistant state public defenders, other employees of the commission or the state public defender, and attorneys described in division (C) of section 120.41 of the Revised Code in a malpractice or other civil action or proceeding that arises from alleged actions or omissions related to responsibilities derived pursuant to this chapter, or in a civil action that is based upon alleged violations of the constitution or statutes of the United States, including section 1983 of Title 42 of the United States Code, 93 Stat. 1284 (1979), 42 U.S.C.A. 1983, as amended, and that arises from alleged actions or omissions related to responsibilities derived pursuant to this chapter, if the state public defender determines, in good faith, that the defendant in the civil action or proceeding did not act manifestly outside the scope of the defendant's employment or official responsibilities, with malicious purpose, in bad faith, or in a wanton or reckless manner. If the state public defender elects not to contract pursuant to this division for private legal counsel in a civil action or proceeding, then, in accordance with sections 109.02, 109.07, 109.361 to 109.366, and 120.03 of the Revised Code, the attorney general shall represent or provide for the representation of the Ohio public defender commission, the state public defender, assistant state public defenders, other employees of the commission or the state public defender, or attorneys described in division (C) of section 120.41 of the Revised Code in the civil action or proceeding.

(2)(a) Subject to division (E)(2)(b) of this section, payment from the state treasury for the services of private legal counsel with whom the state public defender has contracted pursuant to division (E)(1) of this section shall be accomplished only through the following procedure:

(i) The private legal counsel shall file with the attorney general a copy of the contract; a request for an award of legal fees, court costs, and expenses earned or incurred in connection with the defense of the Ohio public defender commission, the state public defender, an assistant state public defender, an employee, or an attorney in a specified civil action or proceeding; a written itemization of those fees, costs, and expenses,

including the signature of the state public defender and the state public defender's attestation that the fees, costs, and expenses were earned or incurred pursuant to division (E)(1) of this section to the best of the state public defender's knowledge and information; a written statement whether the fees, costs, and expenses are for all legal services to be rendered in connection with that defense, are only for legal services rendered to the date of the request and additional legal services likely will have to be provided in connection with that defense, or are for the final legal services rendered in connection with that defense; a written statement indicating whether the private legal counsel previously submitted a request for an award under division (E)(2) of this section in connection with that defense and, if so, the date and the amount of each award granted; and, if the fees, costs, and expenses are for all legal services to be rendered in connection with that defense or are for the final legal services rendered in connection with that defense, a certified copy of any judgment entry in the civil action or proceeding or a signed copy of any settlement agreement entered into between the parties to the civil action or proceeding.

(ii) Upon receipt of a request for an award of legal fees, court costs, and expenses and the requisite supportive documentation described in division (E)(2)(a)(i) of this section, the attorney general shall review the request and documentation; determine whether any of the limitations specified in division (E)(2)(b) of this section apply to the request; and, if an award of legal fees, court costs, or expenses is permissible after applying the limitations, prepare a document awarding legal fees, court costs, or expenses to the private legal counsel. The document shall name the private legal counsel as the recipient of the award; specify the total amount of the award as determined by the attorney general; itemize the portions of the award that represent legal fees, court costs, and expenses; specify any limitation applied pursuant to division (E)(2)(b) of this section to reduce the amount of the award sought by the private legal counsel; state that the award is payable from the state treasury pursuant to division (E)(2)(a)(iii) of this section; and be approved by the inclusion of the signatures of the attorney general, the state public defender, and the private legal counsel.

(iii) The attorney general shall forward a copy of the document prepared pursuant to division (E)(2)(a)(ii) of this section to the director of budget and management. The award of legal fees, court costs, or expenses shall be paid out of the state public defender's appropriations, to the extent there is a sufficient available balance in those appropriations. If the state public defender does not have a sufficient available balance in the state public defender's appropriations to pay the entire award of legal fees, court costs,



or expenses, the director shall make application for a transfer of appropriations out of the emergency purposes account or any other appropriation for emergencies or contingencies in an amount equal to the portion of the award that exceeds the sufficient available balance in the state public defender's appropriations. A transfer of appropriations out of the emergency purposes account or any other appropriation for emergencies or contingencies shall be authorized if there are sufficient moneys greater than the sum total of then pending emergency purposes account requests, or requests for releases from the other appropriation. If a transfer of appropriations out of the emergency purposes account or other appropriation for emergencies or contingencies is made to pay an amount equal to the portion of the award that exceeds the sufficient available balance in the state public defender's appropriations, the director shall cause the payment to be made to the private legal counsel. If sufficient moneys do not exist in the emergency purposes account or other appropriation for emergencies or contingencies to pay an amount equal to the portion of the award that exceeds the sufficient available balance in the state public defender's appropriations, the private legal counsel shall request the general assembly to make an appropriation sufficient to pay an amount equal to the portion of the award that exceeds the sufficient available balance in the state public defender's appropriations, and no payment in that amount shall be made until the appropriation has been made. The private legal counsel shall make the request during the current biennium and during each succeeding biennium until a sufficient appropriation is made.

(b) An award of legal fees, court costs, and expenses pursuant to division (E) of this section is subject to the following limitations:

(i) The maximum award or maximum aggregate of a series of awards of legal fees, court costs, and expenses to the private legal counsel in connection with the defense of the Ohio public defender commission, the state public defender, an assistant state public defender, an employee, or an attorney in a specified civil action or proceeding shall not exceed fifty thousand dollars.

(ii) The private legal counsel shall not be awarded legal fees, court costs, or expenses to the extent the fees, costs, or expenses are covered by a policy of malpractice or other insurance.

(iii) The private legal counsel shall be awarded legal fees and expenses only to the extent that the fees and expenses are reasonable in light of the legal services rendered by the private legal counsel in connection with the defense of the Ohio public defender commission, the state public defender, an assistant state public defender, an employee, or an attorney in a specified

civil action or proceeding.

(c) If, pursuant to division (E)(2)(a) of this section, the attorney general denies a request for an award of legal fees, court costs, or expenses to private legal counsel because of the application of a limitation specified in division (E)(2)(b) of this section, the attorney general shall notify the private legal counsel in writing of the denial and of the limitation applied.

(d) If, pursuant to division (E)(2)(c) of this section, a private legal counsel receives a denial of an award notification or if a private legal counsel refuses to approve a document under division (E)(2)(a)(ii) of this section because of the proposed application of a limitation specified in division (E)(2)(b) of this section, the private legal counsel may commence a civil action against the attorney general in the court of claims to prove the private legal counsel's entitlement to the award sought, to prove that division (E)(2)(b) of this section does not prohibit or otherwise limit the award sought, and to recover a judgment for the amount of the award sought. A civil action under division (E)(2)(d) of this section shall be commenced no later than two years after receipt of a denial of award notification or, if the private legal counsel refused to approve a document under division (E)(2)(a)(ii) of this section because of the proposed application of a limitation specified in division (E)(2)(b) of this section, no later than two years after the refusal. Any judgment of the court of claims in favor of the private legal counsel shall be paid from the state treasury in accordance with division (E)(2)(a) of this section.

(F) If a court appoints the office of the state public defender to represent a petitioner in a postconviction relief proceeding under section 2953.21 of the Revised Code, the petitioner has received a sentence of death, and the proceeding relates to that sentence, all of the attorneys who represent the petitioner in the proceeding pursuant to the appointment, whether an assistant state public defender, the state public defender, or another attorney, shall be certified under Rule 20 of the Rules of Superintendence for the Courts of Ohio to represent indigent defendants charged with or convicted of an offense for which the death penalty can be or has been imposed.

(G) As used in this section:

(1) "Community control sanction" has the same meaning as in section 2929.01 of the Revised Code.

(2) "Post-release control sanction" has the same meaning as in section 2967.01 of the Revised Code.

Sec. 120.07. There is hereby created in the state treasury the civil case filing fee fund to receive all funds deposited in the fund pursuant to sections 1901.26, 1907.24, and 2303.201 of the Revised Code. All money credited to

the fund shall be used by the state public defender for the purpose of appointing assistant state public defenders and for providing other personnel, equipment, and facilities necessary for the operation of the state public defender office.

Sec. 120.13. (A) The county commissioners in any county may establish a county public defender commission. The commission shall have five members, three of whom shall be appointed by the board of county commissioners, and two by the judge, or the presiding judge if there is one, of the court of common pleas of the county. At least one member appointed by each of these appointing bodies shall be an attorney admitted to the practice of law in this state.

(B) The board of county commissioners shall select a specific day for the county public defender commission to be established and on which all members' appointments shall take effect, and shall notify the Ohio public defender commission of the date.

(C) Of the initial appointments made to the county public defender commission, two appointments by the county commissioners and one appointment by the court shall be for a term of two years ending two years after the date the commission is established, and one appointment by each of the appointing bodies shall be for a term ending four years after the date the commission is established. Thereafter, terms of office shall be for four years, each term ending on the same day of the same month of the year as did the term which it succeeds. Each member shall hold office from the date of ~~his~~ appointment until the end of the term for which ~~he~~ the member was appointed. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which ~~his~~ the member's predecessor was appointed shall hold office for the remainder of such term. Any member shall continue in office subsequent to the expiration date of ~~his~~ the member's term until ~~his~~ a successor takes office, or until a period of sixty days has elapsed, whichever occurs first.

(D) The members of the commission shall choose as ~~chairman~~ chairperson one of the commission members, who shall serve as ~~chairman~~ chairperson for two years. Meetings shall be held at least quarterly and at such other times as called by the ~~chairman~~ chairperson or by request of the county public defender. Members of the commission may receive an amount fixed by the county commissioners, but not in excess of the amounts set for the members of the Ohio public defender commission pursuant to section 124.14 of the Revised Code per diem for every meeting of the board they attend, and necessary expenses including mileage for each mile necessarily traveled.

(E) The county commissioners may terminate the county public defender commission at any time if at least ninety days prior to termination, the commissioners notify the Ohio public defender commission in writing of the termination date. Upon the termination date all pending county public defender matters shall be transferred to the state public defender, a joint county public defender, or appointed counsel.

(F) ~~Fifty per cent of the~~ The cost of representation in all matters assumed by the state public defender shall be charged to the counties in accordance with division (D) of section 120.06 of the Revised Code.

Sec. 120.23. (A) The boards of county commissioners in two or more adjoining or neighboring counties may form themselves into a joint board and proceed to organize a district for the establishment of a joint county public defender commission. The commission shall have three members from each county, who shall be appointed by the board of county commissioners of the county.

(B) The boards shall agree on a specific date for the joint county public defender commission to be established, on which date the appointments of all members shall take effect. The joint board shall notify the Ohio public defender commission of the date.

(C) Of the initial appointments made by each county to the joint county public defender commission, one appointment shall be for a term of one year ending one year after the date the commission is established, one appointment shall be for a term of two years ending two years after the date the commission is established, and one appointment shall be for a period of three years, ending three years after the date the commission is established. Thereafter, terms of office shall be for three years, each term ending on the same day of the same month of the year as did the term which it succeeds. Each member shall hold office from the date of ~~his~~ appointment until the end of the term for which ~~he~~ the member was appointed. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which ~~his~~ the member's predecessor was appointed shall hold office for the remainder of the term. Any member shall continue in office subsequent to the expiration date of ~~his~~ the member's term until ~~his~~ a successor takes office, or until a period of sixty days has elapsed, whichever occurs first.

(D) The members of the commission shall choose as ~~chairman~~ chairperson one of the commission members, who shall serve as ~~chairman~~ chairperson for two years. Meetings shall be held at least quarterly and at such other times as called by the ~~chairman~~ chairperson or by request of the joint county public defender. Members of the commission may receive an amount fixed by the agreement of the boards of commissioners of the

counties in the district, but not in excess of the amount set for the members of the Ohio public defender commission pursuant to section 124.14 of the Revised Code per diem for every meeting of the commission they attend, and necessary expenses including mileage for each mile necessarily traveled.

(E) The agreement of the boards of county commissioners establishing the joint county public defender commission shall provide for the allocation of the proportion of expenses to be paid by each county, which may be based upon population, number of cases, or such other factors as the commissioners determine to be appropriate. The county commissioners may amend their agreement from time to time to provide for a different allocation of the proportion of expenses to be paid by each county.

(F) The county auditor of the county, with the greatest population is hereby designated as the fiscal officer of a joint county public defender district organized under this section. The county auditors of the several counties composing the joint county public defender commission district shall meet at the commission office not less than once in each six months, to adjust accounts and to transact such other duties in connection with the commission as pertain to the business of their office.

(G) Each member of the board of county commissioners who meets by appointment to consider the organization of a joint county public defender commission shall, upon presentation of properly certified accounts, be paid ~~his~~ the member's necessary expenses upon a warrant drawn by the county auditor of ~~his~~ the member's county.

(H) The board of county commissioners of any county within a joint county public defender commission district may withdraw from the district. Such withdrawal shall not be effective until at least ninety days after the board has notified the Ohio public defender commission, the joint county public defender commission of the district, and each board of county commissioners in the district, in writing of the termination date. The failure of a board of county commissioners to approve an annual operating budget for the office of the joint county public defender as provided in division (C)(1) of section 120.24 of the Revised Code constitutes a notice of withdrawal by the county from the district, effective on the ninetieth day after commencement of the next fiscal year. Upon the termination date, all joint county public defender matters relating to the withdrawing county shall be transferred to the state public defender, a county public defender, or appointed counsel.

(I) ~~Fifty per cent of the~~ The cost of representation in all matters assumed by the state public defender shall be charged to the counties in accordance

with division (D) of section 120.06 of the Revised Code.

Members of the joint county public defender commission who are residents of a county withdrawing from such district are deemed to have resigned their positions upon the completion of the withdrawal procedure provided by this section. Vacancies thus created shall not be filled.

If two or more counties remain within the district after the withdrawal, the boards of county commissioners of the remaining adjoining or neighboring counties may agree to continue the operation of the joint county public defender commission and to reallocate the proportionate share of expenses to be paid by each participating county.

Sec. 120.36. (A) If a person who is a defendant in a criminal case or a party in a case in juvenile court requests or is provided a state public defender, a county or joint county public defender, or any other counsel appointed by the court, the court in which the criminal case is initially filed or the juvenile court, whichever is applicable, shall assess, unless the application fee is waived or reduced, a non-refundable application fee of twenty-five dollars.

The court shall direct the person to pay the application fee to the clerk of court. The person shall pay the application fee at the time the person files an affidavit of indigency or a financial disclosure form with the court or within seven days of that date. If the person does not pay the application fee within that seven-day period, the court shall assess the application fee at sentencing or at the final disposition of the case.

If a case involving a felony that was initially filed in a municipal court or a county court is bound over to the court of common pleas and the defendant in the case failed to pay the application fee in the municipal court or county court, the court of common pleas shall assess the application fee at the initial appearance of the defendant in the court of common pleas. If a case involving an alleged delinquent child is transferred to the court of common pleas for prosecution of the involved child as an adult and if the involved child failed to pay the fee in the juvenile court, the court of common pleas shall assess the application fee at the initial appearance of the child in the court of common pleas.

The court shall assess an application fee pursuant to this section one time per case. An appeal shall not be considered a separate case for the purpose of assessing the application fee. The court may waive or reduce the fee upon a finding that the person lacks financial resources that are sufficient to pay the fee or that payment of the fee would result in an undue hardship.

(B) No court, state public defender, county or joint county public

defender, or other counsel appointed by the court shall deny a person the assistance of counsel solely due to the person's failure to pay the application fee assessed pursuant to division (A) of this section. A person's present inability, failure, or refusal to pay the application fee shall not disqualify that person from legal representation.

(C) The application fee assessed pursuant to division (A) of this section is separate from and in addition to any other amount assessed against a person who is found to be able to contribute toward the cost of the person's legal representation pursuant to division (D) of section 2941.51 of the Revised Code.

(D) The clerk of the court that assessed the fees shall forward all application fees collected pursuant to this section to the county treasurer for deposit in the county treasury. The county shall retain eighty per cent of the application fees so collected to offset the costs of providing legal representation to indigent persons. Each month, the county auditor shall remit twenty per cent of the application fees so collected to the state public defender. The state public defender shall deposit the remitted fees into the state treasury to the credit of the client payment fund created pursuant to division (B)(5) of section 120.04 of the Revised Code. The state public defender may use that money in accordance with that section.

(E) On or before the first day of March of each year beginning in the year 2007, each clerk of court shall provide to the state public defender and the state auditor a report including all of the following:

(1) The number of persons in the previous calendar year who requested or were provided a state public defender, county or joint county public defender, or other counsel appointed by the court;

(2) The number of persons in the previous calendar year for whom the court waived the application fee pursuant to division (A) of this section;

(3) The dollar value of the assessed application fees pursuant to division (A) of this section in the previous calendar year;

(4) The amount of assessed application fees collected in the previous calendar year;

(5) The balance of unpaid assessed application fees at the open and close of the previous calendar year.

(F) As used in this section:

(1) "Clerk of court" means the clerk of the court of common pleas of the county, the clerk of the juvenile court of the county, the clerk of a municipal court in the county, the clerk of a county-operated municipal court, or the clerk of a county court in the county, whichever is applicable.

(2) "County-operated municipal court" has the same meaning as in

section 1901.03 of the Revised Code.

Sec. 120.52. There is hereby established in the state treasury the legal aid fund, which shall be for the charitable public purpose of providing financial assistance to legal aid societies that provide civil legal services to indigents. The fund shall contain all funds credited to it by the treasurer of state pursuant to sections 1901.26, 1907.24, 2303.201, 3953.231, 4705.09 and 4705.10 of the Revised Code and income from investment credited to it by the treasurer of state in accordance with this section.

The treasurer of state may invest moneys contained in the legal aid fund in any manner authorized by the Revised Code for the investment of state moneys. However, no such investment shall interfere with any apportionment, allocation, or payment of moneys in January and July of each calendar year, as required by section 120.53 of the Revised Code. All income earned as a result of any such investment shall be credited to the fund.

The state public defender, through the Ohio legal assistance foundation, shall administer the payment of moneys out of the fund. Four and one-half per cent of the moneys in the fund shall be reserved for the actual, reasonable costs of administering sections 120.51 to 120.55 and sections 1901.26, 1907.24, 2303.201, 3953.231, 4705.09, and 4705.10 of the Revised Code. Moneys that are reserved for administrative costs but that are not used for actual, reasonable administrative costs shall be set aside for use in the manner described in division (A) of section 120.521 of the Revised Code. The remainder of the moneys in the legal aid fund shall be distributed in accordance with section 120.53 of the Revised Code. The Ohio legal assistance foundation shall establish, in accordance with Chapter 119. of the Revised Code, rules governing the administration of the legal aid fund, including the ~~the program~~ programs established under sections 1901.26, 1907.24, 2303.201, 4705.09, and 4705.10 of the Revised Code regarding interest on interest-bearing trust accounts of an attorney, law firm, or legal professional association.

Sec. 120.53. (A) A legal aid society that operates within the state may apply to the Ohio legal assistance foundation for financial assistance from the legal aid fund established by section 120.52 of the Revised Code to be used for the funding of the society during the calendar year following the calendar year in which application is made.

(B) An application for financial assistance made under division (A) of this section shall be submitted by the first day of November of the calendar year preceding the calendar year for which financial assistance is desired and shall include all of the following:



(1) Evidence that the applicant is incorporated in this state as a nonprofit corporation;

(2) A list of the trustees of the applicant;

(3) The proposed budget of the applicant for these funds for the following calendar year;

(4) A summary of the services to be offered by the applicant in the following calendar year;

(5) A specific description of the territory or constituency served by the applicant;

(6) An estimate of the number of persons to be served by the applicant during the following calendar year;

(7) A general description of the additional sources of the applicant's funding;

(8) The amount of the applicant's total budget for the calendar year in which the application is filed that it will expend in that calendar year for legal services in each of the counties it serves;

(9) A specific description of any services, programs, training, and legal technical assistance to be delivered by the applicant or by another person pursuant to a contract with the applicant, including, but not limited to, by private attorneys or through reduced fee plans, judicare panels, organized pro bono programs, and mediation programs.

(C) The Ohio legal assistance foundation shall determine whether each applicant that filed an application for financial assistance under division (A) of this section in a calendar year is eligible for financial assistance under this section. To be eligible for such financial assistance, an applicant shall satisfy the criteria for being a legal aid society and shall be in compliance with the provisions of sections 120.51 to 120.55 of the Revised Code and with the rules and requirements the foundation establishes pursuant to section 120.52 of the Revised Code. The Ohio legal assistance foundation then, on or before the fifteenth day of December of the calendar year in which the application is filed, shall notify each such applicant, in writing, whether it is eligible for financial assistance under this section, and if it is eligible, estimate the amount that will be available for that applicant for each six-month distribution period, as determined under division (D) of this section.

(D) The Ohio legal assistance foundation shall allocate moneys contained in the legal aid fund twice each year for distribution to applicants that filed their applications in the previous calendar year and were determined to be eligible applicants.

All moneys contained in the fund on the first day of January of a

calendar year shall be allocated, after deduction of the costs of administering sections 120.51 to 120.55 and sections 1901.26, 1907.24, 2303.201, 3953.231, 4705.09, and 4705.10 of the Revised Code that are authorized by section 120.52 of the Revised Code, according to this section and shall be distributed accordingly on the thirty-first day of January of that calendar year, and all moneys contained in the fund on the first day of July of that calendar year shall be allocated, after deduction of the costs of administering those sections that are authorized by section 120.52 of the Revised Code, according to this section and shall be distributed accordingly on the thirty-first day of July of that calendar year. In making the allocations under this section, the moneys in the fund that were generated pursuant to sections 1901.26, 1907.24, 2303.201, 3953.231, 4705.09, and 4705.10 of the Revised Code and all income generated from the investment of such moneys shall be apportioned as follows:

(1) After deduction of the amount authorized and used for actual, reasonable administrative costs under section 120.52 of the Revised Code:

(a) Five per cent of the moneys remaining in the fund, ~~plus any moneys reserved for administrative costs under that section that are not used for actual, reasonable administrative costs,~~ shall be reserved for use in the manner described in division (A) of section 120.521 of the Revised Code or for distribution to legal aid societies that provide assistance to special population groups of their eligible clients, engage in special projects that have a substantial impact on their local service area or on significant segments of the state's poverty population, or provide legal training or support to other legal aid societies in the state;

(b) After deduction of the amount described in division (D)(1)(a) of this section, one and three-quarters per cent of the moneys remaining in the fund shall be apportioned among entities that received financial assistance from the legal aid fund prior to the effective date of this amendment but that, on and after the effective date of this amendment, no longer qualify as a legal aid society that is eligible for financial assistance under this section.

(c) After deduction of the amounts described in divisions (D)(1)(a) and (b) of this section, fifteen per cent of the moneys remaining in the fund shall be placed in the legal assistance foundation fund for use in the manner described in division (A) of section 120.521 of the Revised Code.

(2) After deduction of the actual, reasonable administrative costs under section 120.52 of the Revised Code and after deduction of the amounts identified in ~~division~~ divisions (D)(1)(a) ~~and, (b), and (c)~~ of this section, the remaining moneys shall be apportioned among the counties that are served by eligible legal aid societies that have applied for financial assistance under

this section so that each such county is apportioned a portion of those moneys, based upon the ratio of the number of indigents who reside in that county to the total number of indigents who reside in all counties of this state that are served by eligible legal aid societies that have applied for financial assistance under this section. Subject to division (E) of this section, the moneys apportioned to a county under this division then shall be allocated to the eligible legal aid society that serves the county and that has applied for financial assistance under this section. For purposes of this division, the source of data identifying the number of indigent persons who reside in a county shall be the most recent decennial census figures from the United States department of commerce, division of census.

(E) If the Ohio legal assistance foundation, in attempting to make an allocation of moneys under division (D)(2) of this section, determines that a county that has been apportioned money under that division is served by more than one eligible legal aid society that has applied for financial assistance under this section, the Ohio legal assistance foundation shall allocate the moneys that have been apportioned to that county under division (D)(2) of this section among all eligible legal aid societies that serve that county and that have applied for financial assistance under this section on a pro rata basis, so that each such eligible society is allocated a portion based upon the amount of its total budget expended in the prior calendar year for legal services in that county as compared to the total amount expended in the prior calendar year for legal services in that county by all eligible legal aid societies that serve that county and that have applied for financial assistance under this section.

(F) Moneys allocated to eligible applicants under this section shall be paid twice annually, on the thirty-first day of January and on the thirty-first day of July of the calendar year following the calendar year in which the application is filed.

(G)(1) A legal aid society that receives financial assistance in any calendar year under this section shall file an annual report with the Ohio legal assistance foundation detailing the number and types of cases handled, and the amount and types of legal training, legal technical assistance, and other service provided, by means of that financial assistance. No information contained in the report shall identify or enable the identification of any person served by the legal aid society or in any way breach client confidentiality.

(2) The Ohio legal assistance foundation shall make an annual report to the governor, the general assembly, and the supreme court on the distribution and use of the legal aid fund. The foundation also shall include

in the annual report an audited financial statement of all gifts, bequests, donations, contributions, and other moneys the foundation receives. No information contained in the report shall identify or enable the identification of any person served by a legal aid society, or in any way breach confidentiality.

(H) A legal aid society may enter into agreements for the provision of services, programs, training, or legal technical assistance for the legal aid society or to indigent persons.

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

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

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

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

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

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

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

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

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

(g) Enter into interagency agreements to encourage coordinated efforts

at the state and local level to improve the state's social service delivery system. The agreements may include provisions regarding the receipt, transfer, and expenditure of funds;

(h) Identify public and private funding sources for services provided to alleged or adjudicated unruly children and children who are at risk of being alleged or adjudicated unruly children, including regulations governing access to and use of the services;

(i) Collect information provided by local communities regarding successful programs for prevention, intervention, and treatment of unruly behavior, including evaluations of the programs;

(j) Identify and disseminate publications regarding alleged or adjudicated unruly children and children who are at risk of being alleged or adjudicated unruly children and regarding programs serving those types of children;

(k) Maintain an inventory of strategic planning facilitators for use by government or nonprofit entities that serve alleged or adjudicated unruly children or children who are at risk of being alleged or adjudicated unruly children.

(3) The cabinet council shall provide for the following:

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

(b) Assistance as the council determines to be necessary to meet the needs of children referred by county family and children first councils;

(c) Monitoring and supervision of a statewide, comprehensive, coordinated, multi-disciplinary, interagency system for infants and toddlers with developmental disabilities or delays and their families, as established pursuant to federal grants received and administered by the department of health for early intervention services under the "~~Education of the Handicapped Act Amendments of 1986,~~" 100 Stat. 1145 (1986), 20 U.S.C.A. 1471 Individuals with Disabilities Education Act of 2004," 20 U.S.C.A. 1400, as amended.

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

(a) At least three individuals who are not employed by an agency represented on the council and whose families are or have received services from an agency represented on the council or another county's council.

Where possible, the number of members representing families shall be equal to twenty per cent of the council's membership.

(b) The director of the board of alcohol, drug addiction, and mental health services that serves the county, or, in the case of a county that has a board of alcohol and drug addiction services and a community mental health board, the directors of both boards. If a board of alcohol, drug addiction, and mental health services covers more than one county, the director may designate a person to participate on the county's council.

(c) The health commissioner, or the commissioner's designee, of the board of health of each city and general health district in the county. If the county has two or more health districts, the health commissioner membership may be limited to the commissioners of the two districts with the largest populations.

(d) The director of the county department of job and family services;

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

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

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

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

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

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

(k) The president of the board of county commissioners; or an individual designated by the board;

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

(m) A representative of the county's head start agencies, as defined in section ~~3301.31~~ 3301.32 of the Revised Code;

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

(o) A representative of a local nonprofit entity that funds, advocates, or provides services to children and families.

Notwithstanding any other provision of law, the public members of a county council are not prohibited from serving on the council and making decisions regarding the duties of the council, including those involving the funding of joint projects and those outlined in the county's service coordination mechanism implemented pursuant to division (C) of this section.

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

(2) A The purpose of the county council is to streamline and coordinate existing government services for families seeking services for their children. In seeking to fulfill its purpose, a county council shall provide for the following:

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

(b) Development and implementation of a process that annually evaluates and prioritizes services, fills service gaps where possible, and invents new approaches to achieve better results for families and children;

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

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

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

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

(b) On application of a county council, the cabinet council may grant an exemption from any rules or interagency agreements of a state department participating on the council if an exemption is necessary for the council to implement an alternative program or approach for service delivery to families and children. The application shall describe the proposed program or approach and specify the rules or interagency agreements from which an exemption is necessary. The cabinet council shall approve or disapprove the application in accordance with standards and procedures it shall adopt. If an application is approved, the exemption is effective only while the program or approach is being implemented, including a reasonable period during which the program or approach is being evaluated for effectiveness.

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

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

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

(i) Enter into agreements or administer contracts with public or private entities to fulfill specific council business. Such agreements and contracts are exempt from the competitive bidding requirements of section 307.86 of the Revised Code if they have been approved by the county council and they are for the purchase of family and child welfare or child protection services



or other social or job and family services for families and children. The approval of the county council is not required to exempt agreements or contracts entered into under section 5139.34, 5139.41, or 5139.43 of the Revised Code from the competitive bidding requirements of section 307.86 of the Revised Code.

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

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

(b)(i) If the county council designates the board of county commissioners as its administrative agent, the board may, by resolution, delegate any of its powers and duties as administrative agent to an executive committee the board establishes from the membership of the county council. The board shall name to the executive committee at least the individuals described in divisions (B)(1)~~(b) through (h)~~(a) to (i) of this section and may appoint the president of the board or another individual as the chair of the executive committee. The executive committee must include at least one family county council representative who does not have a family member employed by an agency represented on the council.

(ii) The executive committee may, with the approval of the board, hire an executive director to assist the county council in administering its powers and duties. The executive director shall serve in the unclassified civil service at the pleasure of the executive committee. The executive director may, with the approval of the executive committee, hire other employees as necessary to properly conduct the county council's business.

(iii) The board may require the executive committee to submit an annual budget to the board for approval and may amend or repeal the resolution that delegated to the executive committee its authority as the county council's administrative agent.

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

to be part of the regional council shall meet to determine whether all or part of the members of each county council will serve as members of the regional council.

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

Not later than fifteen days after the board receives the statement, it shall, by resolution approved by a majority of its members, approve or disapprove the agreement, plan, or decision. Failure of the board to pass a resolution during that time period shall be considered approval of the agreement, plan, or decision.

An agreement, plan, or decision for which a statement is required to be submitted to the board shall be implemented only if it is approved by the board.

(C) Each county shall develop a county service coordination mechanism. The county service coordination mechanism shall serve as the guiding document for coordination of services in the county. For children who also receive services under the help me grow program, the service coordination mechanism shall be consistent with rules adopted by the department of health under section 3701.61 of the Revised Code. All family service coordination plans shall be developed in accordance with the county service coordination mechanism. The mechanism shall be developed and approved with the participation of the county entities representing child welfare; mental retardation and developmental disabilities; alcohol, drug addiction, and mental health services; health; juvenile judges; education; the county family and children first council; and the county early intervention collaborative established pursuant to the federal early intervention program operated under the "Education of the Handicapped Act Amendments of 1986." The county shall establish an implementation schedule for the mechanism. The cabinet council may monitor the implementation and administration of each county's service coordination mechanism.

Each mechanism shall include all of the following:

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

court, or a family voluntarily seeking service coordination, to refer the child and family to the county council for service coordination in accordance with the county service coordination mechanism;

(2) A procedure ensuring that a family and all appropriate staff from involved agencies, including a representative from the appropriate school district, are notified of and invited to participate in all family service coordination plan meetings;

(3) A procedure that permits a family to initiate a meeting to develop or review the family's service coordination plan and allows the family to invite a family advocate, mentor, or support person of the family's choice to participate in any such meeting;

(4) A procedure for ensuring that a family service coordination plan meeting is conducted before a non-emergency out-of-home placement for all multi-need children, or within ten days of a placement for emergency placements of multi-need children. The family service coordination plan shall outline how the county council members will jointly pay for services, where applicable, and provide services in the least restrictive environment.

(5) A procedure for monitoring the progress and tracking the outcomes of each service coordination plan requested in the county including monitoring and tracking children in out-of-home placements to assure continued progress, appropriateness of placement, and continuity of care after discharge from placement with appropriate arrangements for housing, treatment, and education.

(6) A procedure for protecting the confidentiality of all personal family information disclosed during service coordination meetings or contained in the comprehensive family service coordination plan.

(7) A procedure for assessing the service needs and strengths of the family of any child or family that has been referred to the council for service coordination, including a child who is an abused, neglected, dependent, unruly, or delinquent child and under the jurisdiction of the juvenile court or a child whose parent or custodian is voluntarily seeking services, and for ensuring that parents and custodians are afforded the opportunity to participate;

(3)(8) A procedure for development of a comprehensive joint family service coordination plan described in division (D) of this section;

(4)(9) A local dispute resolution process to serve as the process that must be used first to resolve disputes among the agencies represented on the county council concerning the provision of services to children, including children who are abused, neglected, dependent, unruly, alleged unruly, or delinquent children and under the jurisdiction of the juvenile court and

children whose parents or custodians are voluntarily seeking services. The local dispute resolution process shall comply with section 121.38 of the Revised Code. ~~The~~ The local dispute resolution process shall be used to resolve disputes between a child's parents or custodians and the county council regarding service coordination. The county council shall inform the parents or custodians of their right to use the dispute resolution process. Parents or custodians shall use existing local agency grievance procedures to address disputes not involving service coordination. The dispute resolution process is in addition to and does not replace other rights or procedures that parents or custodians may have under other sections of the Revised Code.

The cabinet council shall adopt rules in accordance with Chapter 119. of the Revised Code establishing an administrative review process to address problems that arise concerning the operation of a local dispute resolution process.

Nothing in division (C)(4) of this section shall be interpreted as overriding or affecting decisions of a juvenile court regarding an out-of-home placement, long-term placement, or emergency out-of-home placement.

(D) Each county shall develop a comprehensive ~~joint~~ family service coordination plan that does ~~both~~ all of the following:

(1) Designates service responsibilities among the various state and local agencies that provide services to children and their families, including children who are abused, neglected, dependent, unruly, or delinquent children and under the jurisdiction of the juvenile court and children whose parents or custodians are voluntarily seeking services;

(2) Designates an individual, approved by the family, to track the progress of the family service coordination plan, schedule reviews as necessary, and facilitate the family service coordination plan meeting process;

(3) Ensures that assistance and services to be provided are responsive to the strengths and needs of the family, as well as the family's culture, race, and ethnic group, by allowing the family to offer information and suggestions and participate in decisions. Identified assistance and services shall be provided in the least restrictive environment possible.

(4) Includes a ~~service coordination~~ process for dealing with a child who is alleged to be an unruly child. The ~~service coordination~~ process shall include methods to divert the child from the juvenile court system;

(5) Includes timelines for completion of goals specified in the plan with regular reviews scheduled to monitor progress toward those goals;

(6) Includes a plan for dealing with short-term crisis situations and

safety concerns.

(E)(1) The ~~service coordination~~ process provided for under division (D)~~(2)~~(4) of this section may include, but is not limited to, the following:

(a) ~~An assessment of the needs and strengths of the child and the child's family and the services the child and the child's family need;~~

~~(b)~~ Designation of the person or agency to conduct the assessment of the child and the child's family as described in division ~~(E)(1)(a)(C)(7)~~ of this section and designation of the instrument or instruments to be used to conduct the assessment;

~~(c)~~ Designation of the agency to provide case management services to the child and to the child's family;

~~(d)~~(b) An emphasis on the personal responsibilities of the child and the parental responsibilities of the parents, guardian, or custodian of the child;

~~(e)~~(c) Involvement of local law enforcement agencies and officials.

(2) The method to divert a child from the juvenile court system that must be included in the service coordination process may include, but is not limited to, the following:

(a) The preparation of a complaint under section 2151.27 of the Revised Code alleging that the child is an unruly child and notifying the child and the parents, guardian, or custodian that the complaint has been prepared to encourage the child and the parents, guardian, or custodian to comply with other methods to divert the child from the juvenile court system;

(b) Conducting a meeting with the child, the parents, guardian, or custodian, and other interested parties to determine the appropriate methods to divert the child from the juvenile court system;

~~(c) A method for dealing with short-term crisis situations involving a confrontation between the child and the parents, guardian, or custodian;~~

~~(d)~~ A method to provide to the child and the child's family a short-term respite from a short-term crisis situation involving a confrontation between the child and the parents, guardian, or custodian;

~~(e)~~(d) A program to provide a mentor to the child or the parents, guardian, or custodian;

~~(f)~~(e) A program to provide parenting education to the parents, guardian, or custodian;

~~(g)~~(f) An alternative school program for children who are truant from school, repeatedly disruptive in school, or suspended or expelled from school;

~~(h)~~(g) Other appropriate measures, including, but not limited to, any alternative methods to divert a child from the juvenile court system that are identified by the Ohio family and children first cabinet council.

(F) Each county may review and revise the service coordination process described in division (D)(2) of this section based on the availability of funds under Title IV-A of the "Social Security Act," 110 Stat. 2113 (1996), 42 U.S.C.A. 601, as amended, or to the extent resources are available from any other federal, state, or local funds.

Sec. 121.373. There is hereby created in the state treasury the family and children first administration fund. The fund shall consist of money that the director of budget and management transfers from one or more funds of one or more agencies represented on the Ohio family and children first cabinet council. The director may transfer only money that state or federal law permits to be used for the cabinet council's administrative costs. Money in the fund shall be used to pay the cabinet council's administrative costs.

Sec. 121.38. (A) An agency represented on a county family and children first council that disagrees with the council's decision concerning the services or funding for services a child is to receive from agencies represented on the council may initiate the local dispute resolution process established in the county service coordination mechanism applicable to the council. On completion of the process, the decision maker designated in the mechanism shall issue a written determination that directs one or more agencies represented on the council to provide services or funding for services to the child. The determination shall include a plan of care governing the manner in which the services or funding are to be provided. The decision maker shall base the plan of care on the ~~comprehensive joint~~ family service coordination plan developed as part of the county's service coordination mechanism and on evidence presented during the local dispute resolution process. The decision maker may require an agency to provide services or funding only if the child's condition or needs qualify the child for services under the laws governing the agency.

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

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

(2) If the child is not a child described in division (B)(1) of this section, filing in the juvenile court of the county served by the county council a

complaint objecting to the determination.

The court shall hold a hearing as soon as possible, but not later than ninety days after the motion or complaint is filed. At least five days before the date on which the court hearing is to be held, the court shall send each agency subject to the determination written notice by first class mail of the date, time, place, and purpose of the court hearing. In the case of a motion filed under division (B)(1) of this section, the court may conduct the hearing as part of the adjudicatory or dispositional hearing concerning the child, if appropriate, and shall provide notice as required for those hearings.

Except in cases in which the hearing is conducted as part of the adjudicatory or dispositional hearing, a hearing held pursuant to this division shall be limited to a determination of which agencies are to provide services or funding for services to the child. At the conclusion of the hearing, the court shall issue an order directing one or more agencies represented on the county council to provide services or funding for services to the child. The order shall include a plan of care governing the manner in which the services or funding are to be provided. The court shall base the plan of care on the ~~comprehensive joint~~ family service coordination plan developed as part of the county's service coordination plan and on evidence presented during the hearing. An agency required by the order to provide services or funding shall be a party to any juvenile court proceeding concerning the child. The court may require an agency to provide services or funding for a child only if the child's condition or needs qualify the child for services under the laws governing the agency.

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

Sec. 121.381. A parent or custodian who disagrees with a decision rendered by a county family and children first council regarding services for a child may initiate the dispute resolution process established in the county service coordination mechanism pursuant to division (C)(10) of section 121.37 of the Revised Code.

Not later than sixty days after the parent or custodian initiates the dispute resolution process, the council shall make findings regarding the dispute and issue a written determination of its findings.

Sec. 121.382. Each agency represented on a county family and children first council that is providing services or funding for services that are the subject of the dispute resolution process initiated by a parent or custodian under section 121.381 of the Revised Code shall continue to provide those services and the funding for those services during the dispute resolution process.

Sec. 121.403. (A) The Ohio community service council may do any of the following:

(1) Accept monetary gifts or donations;

(2) Sponsor conferences, meetings, or events in furtherance of the council's purpose described in section 121.40 of the Revised Code and charge fees for participation or involvement in the conferences, meetings, or events;

(3) Sell promotional items in furtherance of the council's purpose described in section 121.40 of the Revised Code.

(B) All monetary gifts and donations, funds from the sale of promotional items, and any fees paid to the council for conferences, meetings, or events sponsored by the council shall be deposited into the Ohio community service council gifts and donations fund, which is hereby created in the state treasury. Moneys in the fund may be used only as follows:

(1) To pay operating expenses of the council, including payroll, personal services, maintenance, equipment, and subsidy payments;

(2) To support council programs promoting volunteerism and community service in the state;

(3) As matching funds for federal grants.

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

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

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

(3) Assist and cooperate with federal, state, and local governments and agencies of federal, state, and local governments in the coordination of



programs to carry out the functions and duties of the department;

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

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

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

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

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

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

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

(11) Until October 15, ~~2005~~ 2007, establish fees and charges, in consultation with the director of agriculture, for purchasing loans from financial institutions and providing loan guarantees under the family farm loan program created under sections 901.80 to 901.83 of the Revised Code;

(12) Provide loan servicing for the loans purchased and loan guarantees provided under section 901.80 of the Revised Code as that section existed prior to October 15, ~~2005~~ 2007;

(13) Until October 15, ~~2005~~ 2007, and upon approval by the controlling board under division (A)(3) of section 901.82 of the Revised Code of the release of money to be used for purchasing a loan or providing a loan

guarantee, request the release of that money in accordance with division (B) of section 166.03 of the Revised Code for use for the purposes of the fund created by section 166.031 of the Revised Code.

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

Sec. 122.075. (A) As used in this section:

(1) "Alternative fuel" means blended biodiesel or blended gasoline.

(2) "Biodiesel" means a mono-alkyl ester combustible liquid fuel that is derived from vegetable oils or animal fats, or any combination of those reagents, and that meets American society for testing and materials specification D6751-03a for biodiesel fuel (B100) blend stock distillate fuels.

(3) "Diesel fuel" and "gasoline" have the same meanings as in section 5735.01 of the Revised Code.

(4) "Ethanol" has the same meaning as in section 5733.46 of the Revised Code.

(5) "Blended biodiesel" means diesel fuel containing at least twenty per cent biodiesel by volume.

(6) "Blended gasoline" means gasoline containing at least eighty-five per cent ethanol by volume.

(7) "Incremental cost" means either of the following:

(a) The difference in cost between blended gasoline and gasoline containing ten per cent or less ethanol at the time that the blended gasoline is purchased;

(b) The difference in cost between blended biodiesel and diesel fuel containing two per cent or less biodiesel at the time that the blended biodiesel is purchased.

(B) For the purpose of improving the air quality in this state, the director of development shall establish an alternative fuel transportation grant program under which the director may make grants to businesses, nonprofit organizations, public school systems, or local governments for the purchase and installation of alternative fuel refueling facilities and for the purchase and use of alternative fuel.

(C) The director shall adopt rules in accordance with Chapter 119. of the Revised Code that are necessary for the administration of the alternative fuel transportation grant program. The rules shall establish at least all of the following:

(1) An application form and procedures governing the application process for a grant under the program;

(2) A procedure for prioritizing the award of grants under the program;

(3) A requirement that the maximum grant for the purchase and installation of an alternative fuel refueling facility be no more than fifty per cent of the cost of the facility;

(4) A requirement that the maximum grant for the purchase of alternative fuel be no more than fifty per cent of the incremental cost of the fuel;

(5) Any other criteria, procedures, or guidelines that the director determines are necessary to administer the program.

(D) There is hereby created in the state treasury the alternative fuel transportation grant fund. The fund shall consist of money as may be specified by the general assembly from the energy efficiency revolving loan fund created by section 4928.61 of the Revised Code. Money in the fund shall be used to make grants under the alternative fuel transportation grant program and by the director in the administration of that program.

Sec. 122.083. (A) The director of development shall administer a shovel ready sites program to provide grants for projects to port authorities and development entities approved by the director. Grants may be used to pay the costs of any or all of the following:

(1) Acquisition of property, including options;

(2) Preparation of sites, including brownfield clean-up activities;

(3) Construction of road, water, telecommunication, and utility infrastructure;

(4) Payment of professional fees the amount of which shall not exceed twenty per cent of the grant amount for a project.

(B) The director shall adopt rules in accordance with Chapter 119. of the Revised Code that establish procedures and requirements necessary for the administration of the program, including a requirement that a recipient of a grant enter into an agreement with the director governing the use of the grant.

(C) There is hereby created in the state treasury the shovel ready sites fund consisting of money appropriated to it. Money in the fund shall be used solely for the purposes of this section.

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

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

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

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

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

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

ownership interest shall be determined in accordance with section 1563 of the Internal Revenue Code and regulations prescribed thereunder.

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

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

(B) The tax credit authority may make grants under this section to foster job creation in this state. Such a grant shall take the form of a refundable credit allowed against the tax imposed by section 5725.18, 5729.03, 5733.06, or 5747.02 or levied under Chapter 5751. of the Revised Code. The credit shall be claimed for the taxable years or tax periods specified in the taxpayer's agreement with the tax credit authority under division (D) of this section. The With respect to taxes imposed under section 5733.06 or 5747.02 or Chapter 5751. of the Revised Code, the credit shall be claimed after the allowance of all other credits provided by Chapter 5733. or 5747. in the order required under section 5733.98, 5747.98, or 5751.98 of the Revised Code. The amount of the credit available for a taxable year or for a calendar year that includes a tax period equals the new income tax revenue for the taxable that year multiplied by the percentage specified in the agreement with the tax credit authority. Any credit granted under this section against the tax imposed by section 5733.06 or 5747.02 of the Revised Code, to the extent not fully utilized against such tax for taxable years ending prior to 2008, shall automatically be converted without any action taken by the tax credit authority to a credit against the tax levied under Chapter 5751. of the Revised Code for tax periods beginning on or after July 1, 2008, provided that the person to whom the credit was granted is subject to such tax. The converted credit shall apply to those calendar years in which the remaining taxable years specified in the agreement end.

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

- (1) The taxpayer's project will create new jobs in this state;
- (2) The taxpayer's project is economically sound and will benefit the

people of this state by increasing opportunities for employment and strengthening the economy of this state;

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

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

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

(2) The term of the tax credit, which shall not exceed fifteen years, and the first taxable year, or first calendar year that includes a tax period, for which the credit may be claimed;

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

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

(5) A specific method for determining how many new employees are employed during a taxable year or during a calendar year that includes a tax period;

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

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

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

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

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

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

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

(E) If a taxpayer fails to meet or comply with any condition or requirement set forth in a tax credit agreement, the tax credit authority may amend the agreement to reduce the percentage or term of the tax credit. The reduction of the percentage or term shall take effect in the taxable year immediately following the taxable year in which the authority amends the agreement or in the first tax period beginning in the calendar year immediately following the calendar year in which the authority amends the agreement. If the taxpayer relocates employment positions in violation of the provision required under division (D)(8)(a) of this section, the taxpayer shall not claim the tax credit under section 5733.0610 of the Revised Code for any tax years following the calendar year in which the relocation occurs, or shall not claim the tax credit under section 5725.32, 5729.032, or 5747.058 of the Revised Code for the taxable year in which the relocation occurs and any subsequent taxable years, and shall not claim the tax credit under division (A) of section 5751.50 of the Revised Code for any tax period in the calendar year in which the relocation occurs and any subsequent tax periods.

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

(G) Financial statements and other information submitted to the department of development or the tax credit authority by an applicant or

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

(H) A taxpayer claiming a credit under this section shall submit to the tax commissioner or, if the taxpayer is an insurance company, to the superintendent of insurance, a copy of the director of development's certificate of verification under division (D)(7) of this section for the taxable year or for the calendar year that includes the tax period. However, failure to submit a copy of the certificate does not invalidate a claim for a credit.

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

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

(K) If the director of development determines that a taxpayer who has received a credit under this section is not complying with the requirement under division (D)(3) of this section, the director shall notify the tax credit



authority of the noncompliance. After receiving such a notice, and after giving the taxpayer an opportunity to explain the noncompliance, the tax credit authority may require the taxpayer to refund to this state a portion of the credit in accordance with the following:

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

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

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

In determining the portion of the tax credit to be refunded to this state, the tax credit authority shall consider the effect of market conditions on the taxpayer's project and whether the taxpayer continues to maintain other operations in this state. After making the determination, the authority shall certify the amount to be refunded to the tax commissioner or superintendent of insurance, as appropriate. ~~The~~ If the amount is certified to the commissioner, the commissioner shall make an assessment for that amount against the taxpayer under Chapter 5733. ~~or, 5747., or 5751.~~ of the Revised Code. If the amount is certified to the superintendent, the superintendent shall make an assessment for that amount against the taxpayer under Chapter 5725. or 5729. of the Revised Code. The time limitations on assessments under ~~Chapter 5733. or 5747. of the Revised Code~~ those chapters do not apply to an assessment under this division, but the commissioner or superintendent, as appropriate, shall make the assessment within one year after the date the authority certifies to the commissioner or superintendent the amount to be refunded.

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

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

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

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

(N) For purposes of the credits granted by this section against the taxes

imposed under sections 5725.18 and 5729.03 of the Revised Code, "taxable year" means the period covered by the taxpayer's annual statement to the superintendent of insurance.

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

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

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

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

(c) Payments made to a related member as defined in section 5733.042 of the Revised Code or to an elected consolidated taxpayer or a combined taxpayer as defined in section 5751.01 of the Revised Code.

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

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

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

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

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

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

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

(3) "Full-time employment position" means a position of employment for consideration for at least thirty-five hours a week that has been filled for at least one hundred eighty days immediately preceding the filing of an

application under this section and for at least one hundred eighty days during each taxable year or each calendar year that includes a tax period with respect to which the credit is granted.

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

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

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

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

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

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

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

(7) "Related member" has the same meaning as in section 5733.042 of the Revised Code as that section existed on the effective date of its amendment by Am. Sub. H.B. 215 of the 122nd general assembly, September 29, 1997.

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

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

satellite.

(10)(a) "Applicable difference" means the difference between the tax for the tax year under Chapter 5733. of the Revised Code applying the law in effect for that tax year, and the tax for that tax year if section 5733.042 of the Revised Code applied as that section existed on the effective date of its amendment by Am. Sub. H.B. 215 of the 122nd general assembly, September 29, 1997, subject to division (A)(10)(b) of this section.

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

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

(B) The tax credit authority created under section 122.17 of the Revised Code may grant tax credits under this section for the purpose of fostering job retention in this state. Upon application by an eligible business and upon consideration of the recommendation of the director of budget and management, tax commissioner, and director of development under division (C) of this section, the tax credit authority may grant to an eligible business a nonrefundable credit against the tax imposed by section 5733.06 or 5747.02 or levied under Chapter 5751. of the Revised Code for a period up to fifteen taxable years and against the tax levied by Chapter 5751. of the Revised Code for a period of up to fifteen calendar years. The credit shall be in an amount not exceeding seventy-five per cent of the Ohio income tax withheld from the employees of the eligible business occupying full-time employment positions at the project site during the calendar year that includes the last day of such business' taxable year or tax period with respect to which the credit is granted. The amount of the credit shall not be based on the Ohio income tax withheld from full-time employees for a calendar year prior to the calendar year in which the minimum investment requirement referred to in division (A)(2)(b) of this section is completed. The credit shall be claimed only for the taxable years or tax periods specified in the eligible business' agreement with the tax credit authority under division (E) of this section, but in no event shall the credit be claimed for a taxable year or tax period terminating before the date specified in the agreement. Any credit granted under this section against the tax imposed by section 5733.06 or 5747.02 of the Revised Code, to the extent not fully utilized against such tax for taxable years ending prior to 2008, shall automatically be converted without any action taken by the tax credit authority to a credit against the tax

levied under Chapter 5751. of the Revised Code for tax periods beginning on or after July 1, 2008, provided that the person to whom the credit was granted is subject to such tax. The converted credit shall apply to those calendar years in which the remaining taxable years specified in the agreement end.

The credit computed under this division is in addition to any credit allowed under division (M) of this section which the tax credit authority may also include in the agreement.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

of development determines both of the following:

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

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

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

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

(F) If a taxpayer fails to meet or comply with any condition or requirement set forth in a tax credit agreement, the tax credit authority may amend the agreement to reduce the percentage or term of the credit. The reduction of the percentage or term shall take effect in the taxable year immediately following the taxable year in which the authority amends the agreement or in the first tax period beginning in the calendar year immediately following the calendar year in which the authority amends the agreement. If the taxpayer relocates employment positions in violation of the provision required under division (D)(8)(a) of this section, the taxpayer shall not claim the tax credit under section 5733.0610 of the Revised Code for any tax years following the calendar year in which the relocation occurs, ~~or~~ shall not claim the tax credit under section 5747.058 of the Revised Code for the taxable year in which the relocation occurs and any subsequent taxable years, and shall not claim the tax credit under division (A) of section 5751.50 of the Revised Code for the tax period in which the relocation occurs and any subsequent tax periods.

(G) Financial statements and other information submitted to the department of development or the tax credit authority by an applicant for or recipient of a tax credit under this section, and any information taken for any purpose from such statements or information, are not public records subject to section 149.43 of the Revised Code. However, the chairperson of the authority may make use of the statements and other information for



purposes of issuing public reports or in connection with court proceedings concerning tax credit agreements under this section. Upon the request of the tax commissioner, the chairperson of the authority shall provide to the commissioner any statement or other information submitted by an applicant for or recipient of a tax credit in connection with the credit. The commissioner shall preserve the confidentiality of the statement or other information.

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

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

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

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

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

(3) If the taxpayer maintained operations at the project site for at least one and one-half times the term of the credit but less than twice the term of the credit, the amount required to be refunded shall not exceed twenty-five

per cent of the sum of any tax credits previously allowed and received under this section.

In determining the portion of the credit to be refunded to this state, the authority shall consider the effect of market conditions on the taxpayer's project and whether the taxpayer continues to maintain other operations in this state. After making the determination, the authority shall certify the amount to be refunded to the tax commissioner. The commissioner shall make an assessment for that amount against the taxpayer under Chapter 5733. ~~or, 5747., or 5751.~~ of the Revised Code. The time limitations on assessments under ~~Chapter 5733. or 5747. of the Revised Code~~ those chapters do not apply to an assessment under this division, but the commissioner shall make the assessment within one year after the date the authority certifies to the commissioner the amount to be refunded.

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

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

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

(M)(1) A nonrefundable credit shall be allowed to an applicable

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

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

Sec. 122.172. (A) As used in this section, "tax liability" means the tax owed under section 5733.06 or 5747.02 of the Revised Code after allowance of all nonrefundable credits and prior to the allowance of all refundable credits. The tax owed under section 5733.06 of the Revised Code shall take into account any adjustments to such tax required by division (G) of section 5733.01 of the Revised Code that apply prior to allowance of refundable credits.

(B)(1) The director of development shall administer the manufacturing equipment grant program to provide grants for new manufacturing machinery and equipment qualifying for the grant under section 122.173 of the Revised Code. Except as provided in division (C) of this section, the grants apply to the taxes imposed by sections 5733.06 and 5747.02 of the Revised Code for taxable years ending on or after July 1, 2005.

(2) To claim a grant, a taxpayer satisfying the requirements of section 122.173 of the Revised Code shall complete a grant request form, as prescribed by the director in consultation with the tax commissioner, and shall file the form with the tax return for the taxable year for which the grant is claimed. In no event shall the grant reduce a taxpayer's tax liability below the minimum tax owed for the taxable year. The grant request form shall provide the information required to allow the grant for the taxable year and is subject to audit by the director and the commissioner. Any portion of the grant in excess of the taxpayer's tax liability shall not be refundable but may be carried forward as provided in section 122.173 of the Revised Code. Upon the director's request, the commissioner shall provide completed grant request forms filed under this section to the director in a mutually agreed upon format.

(C) If a taxpayer is required to repay any credit allowed under section

5733.33 or 5747.31 of the Revised Code for a taxable year ending prior to July 1, 2005, for a reason not specified in Chapter 5733. or 5747. of the Revised Code, a grant shall be available for that taxable year under section 122.173 of the Revised Code to the extent provided in that section.

(D) Any tax liability under section 5733.06 or 5747.02 of the Revised Code that is underpaid as the result of an improper claim for a grant under this section may be assessed by the tax commissioner in the manner provided by section 5733.11 or 5747.11 of the Revised Code.

Sec. 122.173. (A) As used in this section:

(1) "Manufacturing machinery and equipment" means engines and machinery, and tools and implements, of every kind used, or designed to be used, in refining and manufacturing. "Manufacturing machinery and equipment" does not include property acquired after December 31, 1999, that is used:

(a) For the transmission and distribution of electricity;

(b) For the generation of electricity, if fifty per cent or more of the electricity that the property generates is consumed, during the one-hundred-twenty-month period commencing with the date the property is placed in service, by persons that are not related members to the person who generates the electricity.

(2) "New manufacturing machinery and equipment" means manufacturing machinery and equipment, the original use in this state of which commences with the taxpayer or with a partnership of which the taxpayer is a partner. "New manufacturing machinery and equipment" does not include property acquired after December 31, 1999, that is used:

(a) For the transmission and distribution of electricity;

(b) For the generation of electricity, if fifty per cent or more of the electricity that the property generates is consumed, during the one-hundred-twenty-month period commencing with the date the property is placed in service, by persons that are not related members to the person who generates the electricity.

(3)(a) "Purchase" has the same meaning as in section 179(d)(2) of the Internal Revenue Code.

(b) For purposes of this section, any property that is not manufactured or assembled primarily by the taxpayer is considered purchased at the time the agreement to acquire the property becomes binding. Any property that is manufactured or assembled primarily by the taxpayer is considered purchased at the time the taxpayer places the property in service in the county for which the taxpayer will calculate the county excess amount.

(c) Notwithstanding section 179(d) of the Internal Revenue Code, a

taxpayer's direct or indirect acquisition of new manufacturing machinery and equipment is not purchased on or after July 1, 1995, if the taxpayer, or a person whose relationship to the taxpayer is described in subparagraphs (A), (B), or (C) of section 179(d)(2) of the Internal Revenue Code, had directly or indirectly entered into a binding agreement to acquire the property at any time prior to July 1, 1995.

(4) "Qualifying period" means the period that begins July 1, 1995, and ends June 30, 2005.

(5) "County average new manufacturing machinery and equipment investment" means either of the following:

(a) The average annual cost of new manufacturing machinery and equipment purchased for use in the county during baseline years, in the case of a taxpayer that was in existence for more than one year during baseline years.

(b) Zero, in the case of a taxpayer that was not in existence for more than one year during baseline years.

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

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

(8) "Distressed area" means either a municipal corporation that has a population of at least fifty thousand or a county that meets two of the following criteria of economic distress, or a municipal corporation the majority of the population of which is situated in such a county:

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

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

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

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

twenty-five per cent.

(9) "Eligible area" means a distressed area, a labor surplus area, an inner city area, or a situational distress area.

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

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

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

(13) "Situational distress area" means a county or a municipal corporation that has experienced or is experiencing a closing or downsizing of a major employer that will adversely affect the county's or municipal corporation's economy. In order to be designated as a situational distress area, for a period not to exceed thirty-six months, the county or municipal corporation may petition the director of development. The petition shall include written documentation that demonstrates all of the following adverse effects on the local economy:

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

(b) The impact that the job loss has on the county's or municipal corporation's unemployment rate as measured by the state director of job and family services;

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

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

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

(14) "Cost" has the same meaning and limitation as in section 179(d)(3) of the Internal Revenue Code.

(15) "Baseline years" means:

(a) Calendar years 1992, 1993, and 1994, with regard to a grant claimed for the purchase during calendar year 1995, 1996, 1997, or 1998 of new manufacturing machinery and equipment;

(b) Calendar years 1993, 1994, and 1995, with regard to a grant claimed for the purchase during calendar year 1999 of new manufacturing machinery and equipment;

(c) Calendar years 1994, 1995, and 1996, with regard to a grant claimed

for the purchase during calendar year 2000 of new manufacturing machinery and equipment;

(d) Calendar years 1995, 1996, and 1997, with regard to a grant claimed for the purchase during calendar year 2001 of new manufacturing machinery and equipment;

(e) Calendar years 1996, 1997, and 1998, with regard to a grant claimed for the purchase during calendar year 2002 of new manufacturing machinery and equipment;

(f) Calendar years 1997, 1998, and 1999, with regard to a grant claimed for the purchase during calendar year 2003 of new manufacturing machinery and equipment;

(g) Calendar years 1998, 1999, and 2000, with regard to a grant claimed for the purchase during calendar year 2004 of new manufacturing machinery and equipment;

(h) Calendar years 1999, 2000, and 2001, with regard to a grant claimed for the purchase on or after January 1, 2005, and on or before June 30, 2005, of new manufacturing machinery and equipment.

(16) "Related member" has the same meaning as in section 5733.042 of the Revised Code.

(17) "Qualifying controlled group" has the same meaning as in section 5733.04 of the Revised Code.

(18) "Tax liability" has the same meaning as in section 122.172 of the Revised Code.

(B)(1) Subject to divisions (I) and (J) of this section, a grant is allowed against the tax imposed by section 5733.06 or 5747.02 of the Revised Code for a taxpayer that purchases new manufacturing machinery and equipment during the qualifying period, provided that the new manufacturing machinery and equipment are installed in this state not later than June 30, 2006. The taxpayer need not be a manufacturer.

(2)(a) Except as otherwise provided in division (B)(2)(b) of this section, a grant may be claimed under this section in excess of one million dollars only if the cost of all manufacturing machinery and equipment owned in this state by the taxpayer claiming the grant on the last day of the calendar year exceeds the cost of all manufacturing machinery and equipment owned in this state by the taxpayer on the first day of that calendar year.

As used in division (B)(2)(a) of this section, "calendar year" means the calendar year in which the machinery and equipment for which the grant is claimed was purchased.

(b) Division (B)(2)(a) of this section does not apply if the taxpayer claiming the grant applies for and is issued a waiver of the requirement of

that division. A taxpayer may apply to the director of development for such a waiver in the manner prescribed by the director, and the director may issue such a waiver if the director determines that granting the grant is necessary to increase or retain employees in this state, and that the grant has not caused relocation of manufacturing machinery and equipment among counties within this state for the primary purpose of qualifying for the grant.

(C)(1) Except as otherwise provided in division (C)(2) and division (I) of this section, the grant amount is equal to seven and one-half per cent of the excess of the cost of the new manufacturing machinery and equipment purchased during the calendar year for use in a county over the county average new manufacturing machinery and equipment investment for that county.

(2) Subject to division (I) of this section, as used in division (C)(2) of this section, "county excess" means the taxpayer's excess cost for a county as computed under division (C)(1) of this section.

Subject to division (I) of this section, a taxpayer with a county excess, whose purchases included purchases for use in any eligible area in the county, the grant amount is equal to thirteen and one-half per cent of the cost of the new manufacturing machinery and equipment purchased during the calendar year for use in the eligible areas in the county, provided that the cost subject to the thirteen and one-half per cent rate shall not exceed the county excess. If the county excess is greater than the cost of the new manufacturing machinery and equipment purchased during the calendar year for use in eligible areas in the county, the grant amount also shall include an amount equal to seven and one-half per cent of the amount of the difference.

(3) If a taxpayer is allowed a grant for purchases of new manufacturing machinery and equipment in more than one county or eligible area, it shall aggregate the amount of those grants each year.

(4) Except as provided in division (J) of this section, the taxpayer shall claim one-seventh of the grant amount for the taxable year ending in the calendar year in which the new manufacturing machinery and equipment is purchased for use in the county by the taxpayer or partnership. One-seventh of the taxpayer grant amount is allowed for each of the six ensuing taxable years. Except for carried-forward amounts, the taxpayer is not allowed any grant amount remaining if the new manufacturing machinery and equipment is sold by the taxpayer or partnership or is transferred by the taxpayer or partnership out of the county before the end of the seven-year period unless, at the time of the sale or transfer, the new manufacturing machinery and equipment has been fully depreciated for federal income tax purposes.

(5)(a) A taxpayer that acquires manufacturing machinery and equipment



as a result of a merger with the taxpayer with whom commenced the original use in this state of the manufacturing machinery and equipment, or with a taxpayer that was a partner in a partnership with whom commenced the original use in this state of the manufacturing machinery and equipment, is entitled to any remaining or carried-forward grant amounts to which the taxpayer was entitled.

(b) A taxpayer that enters into an agreement under division (C)(3) of section 5709.62 of the Revised Code and that acquires manufacturing machinery or equipment as a result of purchasing a large manufacturing facility, as defined in section 5709.61 of the Revised Code, from another taxpayer with whom commenced the original use in this state of the manufacturing machinery or equipment, and that operates the large manufacturing facility so purchased, is entitled to any remaining or carried-forward grant amounts to which the other taxpayer who sold the facility would have been entitled under this section had the other taxpayer not sold the manufacturing facility or equipment.

(c) New manufacturing machinery and equipment is not considered sold if a pass-through entity transfers to another pass-through entity substantially all of its assets as part of a plan of reorganization under which substantially all gain and loss is not recognized by the pass-through entity that is transferring the new manufacturing machinery and equipment to the transferee and under which the transferee's basis in the new manufacturing machinery and equipment is determined, in whole or in part, by reference to the basis of the pass-through entity that transferred the new manufacturing machinery and equipment to the transferee.

(d) Division (C)(5) of this section applies only if the acquiring taxpayer or transferee does not sell the new manufacturing machinery and equipment or transfer the new manufacturing machinery and equipment out of the county before the end of the seven-year period to which division (C)(4) of this section refers.

(e) Division (C)(5)(b) of this section applies only to the extent that the taxpayer that sold the manufacturing machinery or equipment, upon request, timely provides to the tax commissioner any information that the tax commissioner considers to be necessary to ascertain any remaining or carried-forward amounts to which the taxpayer that sold the facility would have been entitled under this section had the taxpayer not sold the manufacturing machinery or equipment. Nothing in division (C)(5)(b) or (e) of this section shall be construed to allow a taxpayer to claim any grant amount with respect to the acquired manufacturing machinery or equipment that is greater than the amount that would have been available to the other

taxpayer that sold the manufacturing machinery or equipment had the other taxpayer not sold the manufacturing machinery or equipment.

(D) The taxpayer shall claim the grant allowed by this section in the manner provided by section 122.172 of the Revised Code. Any portion of the grant in excess of the taxpayer's tax liability for the taxable year shall not be refundable but may be carried forward for the next three consecutive taxable years.

(E) A taxpayer purchasing new manufacturing machinery and equipment and intending to claim the grant shall file, with the director of development, a notice of intent to claim the grant on a form prescribed by the director of development. The director of development shall inform the tax commissioner of the notice of intent to claim the grant. No grant may be claimed under this section for any manufacturing machinery and equipment with respect to which a notice was not filed by the date of a timely filed return, including extensions, for the taxable year that includes September 30, 2005, but a notice filed on or before such date under division (E) of section 5733.33 of the Revised Code of the intent to claim the credit under that section or section 5747.31 of the Revised Code also shall be considered a notice of the intent to claim a grant under this section.

(F) The director of development shall annually certify, by the first day of January of each year during the qualifying period, the eligible areas for the tax grant for the calendar year that includes that first day of January. The director shall send a copy of the certification to the tax commissioner.

(G) New manufacturing machinery and equipment for which a taxpayer claims the credit under section 5733.31, 5733.311, 5747.26, or 5747.261 of the Revised Code shall not be considered new manufacturing machinery and equipment for purposes of the grant under this section.

(H)(1) Notwithstanding sections 5733.11 and 5747.13 of the Revised Code, but subject to division (H)(2) of this section, the tax commissioner may issue an assessment against a person with respect to a grant claimed under this section for new manufacturing machinery and equipment described in division (A)(1)(b) or (2)(b) of this section, if the machinery or equipment subsequently does not qualify for the grant.

(2) Division (H)(1) of this section shall not apply after the twenty-fourth month following the last day of the period described in divisions (A)(1)(b) and (2)(b) of this section.

(I) Notwithstanding any other provision of this section to the contrary, in the case of a qualifying controlled group, the grant available under this section to a taxpayer or taxpayers in the qualifying controlled group shall be computed as if all corporations in the group were a single corporation. The

grant shall be allocated to such a taxpayer or taxpayers in the group in any amount elected for the taxable year by the group. The election shall be revocable and amendable during the period described in division (B) of section 5733.12 of the Revised Code.

This division applies to all purchases of new manufacturing machinery and equipment made on or after January 1, 2001, and to all baseline years used to compute any grant attributable to such purchases; provided, that this division may be applied solely at the election of the qualifying controlled group with respect to all purchases of new manufacturing machinery and equipment made before that date, and to all baseline years used to compute any grant attributable to such purchases. The qualifying controlled group at any time may elect to apply this division to purchases made prior to January 1, 2001, subject to the following:

(1) The election is irrevocable;

(2) The election need not accompany a timely filed report, but the election may accompany a subsequently filed but timely application for refund, a subsequently filed but timely amended report, or a subsequently filed but timely petition for reassessment.

(J) Except as provided in division (B) of section 122.172 of the Revised Code, no grant under this section may be claimed for any taxable year for which a credit is allowed under section 5733.33 or 5747.31 of the Revised Code. If the tax imposed by section 5733.06 of the Revised Code for which a grant is allowed under this section has been prorated under division (G)(2) of section 5733.01 of the Revised Code, the grant shall be prorated by the same percentage as the tax.

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

(1) "Facility" means all real property and interests in real property owned by a either of the following:

(a) A landlord and leased to a tenant pursuant to a project that is the subject of an agreement under this section;

(b) The United States or any department, agency, or instrumentality of the United States.

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

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

(4) "New employee" means a full-time employee first employed by, or under or pursuant to a contract with, the tenant in the project that is the

subject of the agreement after a landlord enters into an agreement with the tax credit authority under this section;.

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

(6) "Retained income tax revenue" means the total amount withheld under section 5747.06 of the Revised Code from employees retained at an existing facility recommended for closure to the base realignment and closure commission in the United States department of defense.

(7) "Tenant" means the United States, any department, agency, or instrumentality of the United States, or any person under contract with the United States or any department, agency, or instrumentality of the United States.

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

(C) A landlord that proposes a project to create new jobs in this state or retain jobs in this state at an existing facility recommended for closure or realignment to the base realignment and closure commission in the United States department of defense may apply to the tax credit authority to enter into an agreement for annual payments under this section. The director of development shall prescribe the form of the application. After receipt of an application, the authority may enter into an agreement with the landlord for annual payments under this section if it determines all of the following:

(1) The project will create new jobs in this state; or retain jobs at a facility recommended for closure or realignment to the base realignment and closure commission in the United States department of defense.

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

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

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

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

(2) The term of the agreement, which shall not exceed twenty years;

(3) Based on the estimated new income tax revenue or retained income tax revenue, as applicable, to be derived from the facility at the time the agreement is entered into, provision for a guaranteed payment to the landlord commencing with the issuance by the landlord of any bonds or other forms of financing for the construction of the facility and continuing for the term approved by the authority;

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

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

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

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

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

Sec. 122.40. (A) There is hereby created the development financing advisory council to assist in carrying out the programs created pursuant to sections 122.39 to 122.62 and Chapter 166. of the Revised Code.

(B) The council shall consist of seven members appointed by the governor, with the advice and consent of the senate, who are selected for their knowledge of and experience in economic development financing, one member of the senate appointed by the president of the senate, one member of the house of representatives appointed by the speaker of the house of representatives, and the director of development or the director's designee. With respect to the council:

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

(2) Each member shall hold office from the date of the member's

appointment until the end of the term for which the member was appointed.

(3) The terms of office for the seven members appointed by the governor shall be for five years commencing on the first day of January and ending on the thirty-first day of December. The seven members appointed by the governor who are serving terms of office of seven years on ~~the effective date of this amendment~~ December 30, 2004, shall continue to serve those terms, but their successors in office, including the filling of a vacancy occurring prior to the expiration of those terms, shall be appointed for terms of five years in accordance with this division.

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

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

(6) Except as otherwise provided in division (B)(3) of this section, any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of the predecessor's term.

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

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

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

(10) Members of the council, notwithstanding section 101.26 of the Revised Code with respect to members who are members of the general assembly, shall receive their necessary and actual expenses while engaged in the business of the council and shall be paid at the per diem rate of step 1, pay range 31, of section 124.15 of the Revised Code.

(11) ~~Four~~ Six members of the council constitute a quorum and the affirmative vote of six members is necessary for any action taken by the council.

(12) In the event of the absence of a member appointed by the president of the senate or by the speaker of the house of representatives, the following persons may serve in the member's absence: the president of the senate or the speaker of the house, as the case may be, or a member of the senate or of the house of representatives, of the same political party as the development financing advisory council member, designated by the president of the senate or the speaker of the house.

Sec. 122.603. (A)(1) Upon approval by the director of development and after entering into a participation agreement with the department of development, a participating financial institution making a capital access loan shall establish a program reserve account. The account shall be an interest-bearing account and shall contain only moneys deposited into it under the program and the interest payable on the moneys in the account.

(2) All interest payable on the moneys in the program reserve account shall be added to the moneys and held as an additional loss reserve. The director may require that a portion or all of the accrued interest so held in the account be released to the department. If the director causes a release of accrued interest, the director shall deposit the released amount into the capital access loan program fund created in section 122.601 of the Revised Code. The director shall not require the release of that accrued interest more than twice in a fiscal year.

(B) When a participating financial institution makes a capital access loan, it shall require the eligible business to pay to the participating financial institution a fee in an amount that is not less than one and one-half per cent, and not more than three per cent, of the principal amount of the loan. The participating financial institution shall deposit the fee into its program reserve account, and it also shall deposit into the account an amount of its own funds equal to the amount of the fee. The participating financial institution may recover from the eligible business all or part of the amount that the participating financial institution is required to deposit into the account under this division in any manner agreed to by the participating financial institution and the eligible business.

(C) For each capital access loan made by a participating financial institution, the participating financial institution shall certify to the director, within a period specified by the director, that the participating financial institution has made the loan. The certification shall include the amount of the loan, the amount of the fee received from the eligible business, the amount of its own funds that the participating financial institution deposited into its program reserve account to reflect that fee, and any other information specified by the director.

(D) ~~On~~ Upon receipt of each of the first three certifications from a participating financial institution made under division (C) of this section and subject to section 122.602 of the Revised Code, the director shall disburse to the participating financial institution from the capital access loan program fund an amount equal to fifty per cent of the principal amount of the particular capital access loan for deposit into the participating financial institution's program reserve account. Thereafter, upon receipt of a

certification from that participating financial institution made under division (C) of this section and subject to section 122.602 of the Revised Code, the director shall disburse to the participating financial institution from the capital access loan program fund an amount equal to ten per cent of the principal amount of the particular capital access loan for deposit into the participating financial institution's program reserve account. The disbursement of moneys from the fund to a participating financial institution does not require approval from the controlling board.

(E) If the amount in a program reserve account exceeds an amount equal to thirty-three per cent of a participating financial institution's outstanding capital access loans, the department may cause the withdrawal of the excess amount and the deposit of the withdrawn amount into the capital access loan program fund.

(F)(1) The department may cause the withdrawal of the total amount in a participating financial institution's program reserve account if any of the following applies:

(a) The financial institution is no longer eligible to participate in the program.

(b) The participation agreement expires without renewal by the department or the financial institution.

(c) The financial institution has no outstanding capital access loans.

(d) The financial institution has not made a capital access loan within the preceding twenty-four months.

(2) If the department causes a withdrawal under division (F)(1) of this section, the department shall deposit the withdrawn amount into the capital access loan program fund.

Sec. 122.71. As used in sections 122.71 to 122.83 of the Revised Code:

(A) "Financial institution" means any banking corporation, trust company, insurance company, savings and loan association, building and loan association, or corporation, partnership, federal lending agency, foundation, or other institution engaged in lending or investing funds for industrial or business purposes.

(B) "Project" means any real or personal property connected with or being a part of an industrial, distribution, commercial, or research facility to be acquired, constructed, reconstructed, enlarged, improved, furnished, or equipped, or any combination thereof, with the aid provided under sections 122.71 to 122.83 of the Revised Code, for industrial, commercial, distribution, and research development of the state.

(C) "Mortgage" means the lien imposed on a project by a mortgage on real property, or by financing statements on personal property, or a



combination of a mortgage and financing statements when a project consists of both real and personal property.

(D) "Mortgagor" means the principal user of a project or the person, corporation, partnership, or association unconditionally guaranteeing performance by the principal user of its obligations under the mortgage.

(E)(1) "Minority business enterprise" means an individual who is a United States citizen and owns and controls a business, or a partnership, corporation, or joint venture of any kind that is owned and controlled by United States citizens, which citizen or citizens are residents of this state and are members of one of the following economically disadvantaged groups: Blacks or African Americans, American Indians, Hispanics or Latinos, and ~~Orientals~~ Asians.

(2) "Owned and controlled" means that at least fifty-one per cent of the business, including corporate stock if a corporation, is owned by persons who belong to one or more of the groups set forth in division (E)(1) of this section, and that those owners have control over the management and day-to-day operations of the business and an interest in the capital, assets, and profits and losses of the business proportionate to their percentage of ownership. In order to qualify as a minority business enterprise, a business shall have been owned and controlled by those persons at least one year prior to being awarded a contract pursuant to this section.

(F) "Community improvement corporation" means a corporation organized under Chapter 1724. of the Revised Code.

(G) "Ohio development corporation" means a corporation organized under Chapter 1726. of the Revised Code.

(H) "Minority contractors business assistance organization" means an entity engaged in the provision of management and technical business assistance to minority business enterprise entrepreneurs.

(I) "Minority business supplier development council" means a nonprofit organization established as an affiliate of the national minority supplier development council.

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

Sec. 122.72. (A) There is hereby created the minority development financing advisory board to assist in carrying out the programs created pursuant to sections 122.71 to ~~122.89~~ 122.90 of the Revised Code.

(B) The board shall consist of seven ~~ten~~ members. The director of development or the director's designee shall be a voting member on the board. Seven members shall be appointed by the governor with the advice

and consent of the senate and selected because of their knowledge of and experience in industrial, business, and commercial financing, suretyship, construction, and their understanding of the problems of minority business enterprises; one member also shall be a member of the senate and appointed by the president of the senate, and one member also shall be a member of the house of representatives and appointed by the speaker of the house of representatives. With respect to the board, all of the following apply:

(1) Not more than four of the members of the board appointed by the governor shall be of the same political party.

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

(3) The terms of office for the seven members appointed by the governor shall be for seven years, commencing on the first day of October and ending on the thirtieth day of September of the seventh year, except that of the original seven members, three shall be appointed for three years and two shall be appointed for five years.

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

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

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

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

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

(9) Notwithstanding section 101.26 of the Revised Code, members shall receive their necessary and actual expenses while engaged in the business of the board and shall be paid at the per diem rate of step 1 of pay range 31 of section 124.15 of the Revised Code.

(10) ~~Five~~ Six members of the board constitute a quorum and the affirmative vote of ~~five~~ six members is necessary for any action taken by the board.

(11) In the event of the absence of a member appointed by the president of the senate or by the speaker of the house of representatives, either of the following persons may serve in the member's absence:

(a) The president of the senate or the speaker of the house of representatives, whoever appointed the absent member;

(b) A member of the senate or of the house of representatives of the same political party as the absent member, as designated by the president of the senate or the speaker of the house of representatives, whoever appointed the absent member.

(12) The board shall annually elect one of its members as ~~chairman~~ chairperson and another as ~~vice-chairman~~ vice-chairperson.

Sec. 122.73. (A) The minority development financing advisory board and the director of development are invested with the powers and duties provided in sections 122.71 to ~~122.89~~ 122.90 of the Revised Code, in order to promote the welfare of the people of the state by encouraging the establishment and expansion of minority business enterprises; to stabilize the economy; to provide employment; to assist in the development within the state of industrial, commercial, distribution, and research activities required for the people of the state, and for their gainful employment; or otherwise to create or preserve jobs and employment opportunities, or improve the economic welfare of the people of the state. It is hereby determined that the accomplishment of those purposes is essential so that the people of the state may maintain their present high standards of living in comparison with the people of other states and so that opportunities for employment and for favorable markets for the products of the state's natural resources, agriculture, and manufacturing shall be improved ~~and. It further is determined~~ that it is necessary for the state to establish the programs authorized under sections 122.71 to ~~122.89~~ 122.90 of the Revised Code to establish the minority development financing advisory board, and to invest it and the director of development with the powers and duties provided in sections 122.71 to ~~122.89~~ 122.90 of the Revised Code.

(B) The minority development financing advisory board shall do all of the following:

(1) Make recommendations to the director as to applications for assistance pursuant to sections 122.71 to ~~122.89~~ 122.90 of the Revised Code. The board may revise its recommendations to reflect any changes in the proposed assistance made by the director.

(2) Advise the director in the administration of sections 122.71 to ~~122.89~~ 122.90 of the Revised Code.

(3) Adopt bylaws to govern the conduct of the business of the board.

Sec. 122.74. (A)(1) The director of development shall do all of the following:

~~(1)(a)~~ Receive applications for assistance under sections 122.71 to ~~122.89~~ 122.90 of the Revised Code, and, after processing but subject to division (A)(2) of this section, forward them to the minority development

financing advisory board together with necessary supporting information;

~~(2)(b)~~ Receive the recommendations of the board and make a final determination whether to approve the application for assistance;

~~(3)(c)~~ Receive recommendations from a regional economic development entity for loans made under section 122.76 of the Revised Code and make a final determination, notwithstanding divisions (A)(1) and (2) of this section, whether to approve the proposed loan;

~~(d)~~ Transmit the director's determinations to approve assistance to the controlling board together with any information the controlling board requires for its review and decision as to whether to approve the assistance.

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

(B) The director may do all of the following:

(1) Fix the rate of interest and charges to be made upon or with respect to moneys loaned or guaranteed by the director and the terms upon which mortgages and lease rentals may be guaranteed and the rates of charges to be made for them and make provisions for the operation of the funds established by the director in accordance with this section and sections 122.80 ~~and~~ 122.88, ~~and~~ 122.90 of the Revised Code;

(2) Loan and guarantee moneys from the fund established in accordance with section 122.80 of the Revised Code pursuant to and in compliance with sections 122.71 to ~~122.89~~ 122.90 of the Revised Code.

(3) Acquire in the name of the director any property of any kind or character in accordance with sections 122.71 to ~~122.89~~ 122.90 of the Revised Code, by purchase, purchase at foreclosure, or exchange on such terms and in such manner as the director considers proper;

(4) Make and enter into all contracts and agreements necessary or incidental to the performance of the director's duties and the exercise of the director's powers under sections 122.71 to ~~122.89~~ 122.90 of the Revised Code;

(5) Maintain, protect, repair, improve, and insure any property that the director has acquired and dispose of it by sale, exchange, or lease for the consideration and on the terms and in the manner as the director considers proper, but the director shall not operate any such property as a business except as the lessor of it;

(6)(a) When the cost of any contract for the maintenance, protection, repair, or improvement of any property held by the director, other than

compensation for personal services, involves an expenditure of more than fifty thousand dollars, the director shall make a written contract with the lowest responsive and responsible bidder in accordance with section 9.312 of the Revised Code after advertisement for not less than two consecutive weeks in a newspaper of general circulation in the county where such contract, or some substantial part of it, is to be performed, and in such other publications as the director determines, which notice shall state the general character of the work and the general character of the materials to be furnished, the place where plans and specifications therefor may be examined, and the time and place of receiving bids.

(b) Each bid for a contract for the construction, demolition, alteration, repair, or reconstruction of an improvement shall contain the full name of every person interested in it and meet the requirements of section 153.54 of the Revised Code.

(c) Each bid for a contract, except as provided in division (B)(6)(b) of this section, shall contain the full name of every person interested in it and shall be accompanied by bond or certified check on a solvent bank, in such amount as the director considers sufficient, that if the bid is accepted a contract will be entered into and the performance of the proposal secured.

(d) The director may reject any and all bids.

(e) A bond with good and sufficient surety, approved by the director, shall be required of every contractor awarded a contract except as provided in division (B)(6)(b) of this section, in an amount equal to at least fifty per cent of the contract price, conditioned upon faithful performance of the contract.

(7) Employ or contract with financial consultants, appraisers, consulting engineers, superintendents, managers, construction and accounting experts, attorneys, and other employees and agents as are necessary in the director's judgment and fix their compensation;

(8) Receive and accept grants, gifts, and contributions of money, property, labor, and other things of value to be held, used, and applied only for the purpose for which ~~such~~ the grants, gifts, and contributions are made, from individuals, private and public corporations, from the United States or any agency thereof, from the state or any agency thereof, and from any political subdivision of the state, and may agree to repay any contribution of money or to return any property contributed or the value thereof at such times, in ~~such~~ amounts, and on ~~such~~ terms and conditions, excluding the payment of interest, as the director determines at the time ~~such~~ the contribution is made, and may evidence ~~such~~ the obligations by notes, bonds, or other written instruments;

(9) Establish with the treasurer of state the funds provided in sections 122.80 and 122.88 of the Revised Code in addition to such funds as the director determines are necessary or proper;

(10) Adopt rules under Chapter 119. of the Revised Code necessary to implement sections 122.71 to ~~122.83~~ 122.90 of the Revised Code.

(11) Do all acts and things necessary or proper to carry out the powers expressly granted and the duties imposed in sections 122.71 to ~~122.89~~ 122.90 of the Revised Code.

(C)(1) All expenses and obligations incurred by the director in carrying out the director's powers and in exercising the director's duties under sections 122.71 to ~~122.89~~ 122.90 of the Revised Code shall be payable solely from revenues or other receipts or income of the director, from grants, gifts, and contributions, or funds established in accordance with such sections. Such sections do not authorize the director to incur indebtedness or to impose liability on the state or any political subdivision of the state.

(2) Financial statements and other data submitted to the director by any corporation, partnership, or person in connection with financial assistance provided under sections 122.71 to ~~122.89~~ 122.90 of the Revised Code, or any information taken from such statements or data for any purpose, shall not be open to public inspection.

Sec. 122.75. The director of development shall, for the minority business development loan program ~~and~~ the minority business bonding program, and the minority business bond guarantee program under sections 122.87 to ~~122.89~~ 122.90 of the Revised Code, do all of the following:

(A) Hire employees, consultants, and agents and fix their compensation;

(B) Adopt bylaws and rules for the regulation of the business of the minority development financing advisory board;

(C) Receive and accept grants, gifts, and contributions of money, property, labor, and other things of value, to be held, used, and applied only for the purpose for which the grants, gifts, and contributions are made, from individuals, private and public corporations, the United States or any agency of the United States, the state or any agency of the state, and any political subdivision of the state. The director may agree to repay any contribution of money or to return any property contributed or its value at such times, in ~~such~~ amounts, and on ~~such~~ terms and conditions, excluding the payment of interest, as the director determines at the time the contribution is made. The director may evidence the obligations by written contracts, subject to section 122.76 of the Revised Code; provided, that the director shall not thereby incur indebtedness of or impose liability upon the state or any political subdivision.

(D) Establish funds with the treasurer of state in addition to the minority business bonding fund created under section 122.88 of the Revised Code;

(E) Invest money in the funds the director establishes pursuant to division (D) of this section that is in excess of current needs, in notes, bonds, or other obligations that are direct obligations of or are guaranteed by the United States, or in certificates of deposit or withdrawable accounts of banks, trust companies, ~~and~~ or savings and loan associations organized under the laws of this state or the United States, and may credit the income or sell the investments at the director's discretion;

(F) Acquire any property of any kind or character in accordance with sections 122.71 to 122.83 of the Revised Code, by purchase, purchase at foreclosure, or exchange on terms and in a manner the director considers proper;

(G)(1) Maintain, protect, repair, improve, and insure any property the director has acquired and dispose of it by sale, exchange, or lease for the consideration and on terms and in a manner the director considers proper. The director may not operate any property as a business except as a lessor of the property. When the cost of any contract for the maintenance, protection, repair, or improvement of any property of the advisory board connected with the minority business development loan program, other than compensation for personal services, involves an expenditure of more than one thousand dollars, the director shall enter into a written contract with the lowest and best bidder after advertisement for not less than four consecutive weeks in a newspaper of general circulation in the county where the contract, or some substantial part of it, is to be performed, and in other publications as the director determines. The notice shall state the general character of the work and the general character of the materials to be furnished, the place where plans and specifications for the work and materials may be examined, and the time and place of receiving bids.

(2) Each bid for a contract for the construction, demolition, alteration, repair, or reconstruction of an improvement shall contain the full name of every person interested in it and meet the requirements of section 153.54 of the Revised Code.

(3) Each bid for a contract, except as provided in division (G)(2) of this section, shall contain the full name of every person interested in it and shall be accompanied by a bond or certified check on a solvent bank, in the amount of ten per cent of the bid, that if the bid is accepted a contract will be entered into and the performance of its proposal secured. The director may reject any or all bids. A bond with good and sufficient surety, approved by the director, shall be required of all contractors in an amount equal to at

least one hundred per cent of the contract price, conditioned upon faithful performance of the contract.

(H) Expend money appropriated to the department of development by the general assembly for the purposes of sections 122.71 to 122.83 and 122.87 to ~~122.89~~ 122.90 of the Revised Code;

(I) Do all acts and things necessary or proper to carry out the powers expressly granted and the duties imposed in sections 122.71 to 122.83 and 122.87 to ~~122.89~~ 122.90 of the Revised Code.

Sec. 122.751. The minority development financing advisory board or a regional economic development entity shall only consider an application for a loan from any applicant after a certification by the equal employment opportunity coordinator of the department of administrative services under division (B)(1) of section 123.151 of the Revised Code that the applicant is a minority business enterprise, or after a certification by the minority business supplier development council that the applicant is a minority business, and that the applicant satisfies all criteria regarding eligibility for assistance pursuant to section 122.76 of the Revised Code.

Sec. 122.76. (A) The director of development, with controlling board approval, may lend funds to minority business enterprises and to community improvement corporations, Ohio development corporations, minority contractors business assistance organizations, and minority business supplier development councils for the purpose of loaning funds to minority business enterprises and for the purpose of procuring or improving real or personal property, or both, for the establishment, location, or expansion of industrial, distribution, commercial, or research facilities in the state, if the director determines, in the director's sole discretion, that all of the following apply:

(1) The project is economically sound and will benefit the people of the state by increasing opportunities for employment, by strengthening the economy of the state, or expanding minority business enterprises.

(2) The proposed minority business enterprise borrower is unable to finance the proposed project through ordinary financial channels at comparable terms.

(3) The value of the project is or, upon completion, will be at least equal to the total amount of the money expended in the procurement or improvement of the project, and one or more financial institutions or other governmental entities have loaned not less than thirty per cent of that amount.

(4) The amount to be loaned by the director will not exceed sixty per cent of the total amount expended in the procurement or improvement of the project.



(5) The amount to be loaned by the director will be adequately secured by a first or second mortgage upon the project or by mortgages, leases, liens, assignments, or pledges on or of other property or contracts as the director requires, and such mortgage will not be subordinate to any other liens or mortgages except the liens securing loans or investments made by financial institutions referred to in division (A)(3) of this section, and the liens securing loans previously made by any financial institution in connection with the procurement or expansion of all or part of a project.

(B) Any proposed minority business enterprise borrower submitting an application for assistance under this section shall not have defaulted on a previous loan from the director, and no full or limited partner, major shareholder, or holder of an equity interest of the proposed minority business enterprise borrower shall have defaulted on a loan from the director.

(C) The proposed minority business enterprise borrower shall demonstrate to the satisfaction of the director that it is able to successfully compete in the private sector if it obtains the necessary financial, technical, or managerial support and that support is available through the director, the minority business development office of the department of development, or other identified and acceptable sources. In determining whether a minority business enterprise borrower will be able to successfully compete, the director may give consideration to such factors as the successful completion of or participation in courses of study, recognized by the board of regents as providing financial, technical, or managerial skills related to the operation of the business, by the economically disadvantaged individual, owner, or partner, and the prior success of the individual, owner, or partner in personal, career, or business activities, as well as to other factors identified by the director.

(D) The director shall not lend funds for the purpose of procuring or improving motor vehicles, ~~power-driven vehicles, office equipment, raw materials, small tools, supplies, inventories,~~ or accounts receivable.

Sec. 122.77. (A) The director of development with controlling board approval may make loan guarantees to small businesses and corporations for the purpose of guaranteeing loans made to small businesses by financial institutions for the purpose of procuring or improving real or personal property, or both, for the establishment, location, or expansion of industrial, distribution, commercial, or research facilities in the state, if the director determines, in ~~his~~ the director's sole discretion, that all of the following apply:

(1) The project is economically sound and will benefit the people of the

state by increasing opportunities for employment, by strengthening the economy of the state, or expanding minority business enterprises;.

(2) The proposed small business borrower is unable to finance the proposed project through ordinary financial channels at comparable terms;.

(3) The value of the project is, or upon completion of it will be, at least equal to the total amount of the money expended in the procurement or improvement of the project and of which amount one or more financial institutions or other governmental entities have loaned not less than thirty per cent;.

(4) The amount to be guaranteed by the director will not exceed ~~fifty~~ eighty per cent of the total amount expended in the procurement or improvement of the project;.

(5) The amount to be guaranteed by the director will be adequately secured by a first or second mortgage upon the project, or by mortgages, leases, liens, assignments, or pledges on or of other property or contracts as the director shall require and that such mortgage will not be subordinate to any other liens or mortgages except the liens securing loans or investments made by financial institutions referred to in division (A)(3) of this section, and the liens securing loans previously made by any financial institution in connection with the procurement or expansion of all or part of a project.

(B) The proposed small business borrower shall not have defaulted on a previous loan or guarantee from the director, and no full or limited partner, or major shareholder, or holder of any equity interest of the proposed minority business enterprise borrower shall have defaulted on a loan or guarantee from the director.

(C) The proposed small business borrower shall demonstrate to the satisfaction of the director that it is able to successfully compete in the private sector if it obtains the necessary financial, technical, or managerial support and that support is available through the director, the minority business development office of the department of development, or other identified and acceptable sources. In determining whether a small business borrower will be able to successfully compete, the director may give consideration to such factors as the successful completion of or participation in courses of study, recognized by the board of regents as providing financial, technical, or managerial skills related to the operation of the business, by the economically disadvantaged individual, owner, or partner, and the prior success of the individual, owner, or partner in personal, career, or business activities, as well as to other factors identified by the director.

(D) The director shall not guarantee funds for the purpose of procuring or improving motor vehicles, ~~power driven vehicles, office equipment, raw~~

~~materials, small tools, supplies, inventories,~~ or accounts receivable.

Sec. 122.78. Fees, charges, rates of interest, times of payment of interest and principal, and other terms, conditions, and provisions of the loans and guarantees made by the director of development pursuant to sections 122.71 to ~~122.89~~ 122.90 of the Revised Code shall be such as the director determines to be appropriate and in furtherance of the purpose for which the loans and guarantees are made, but the mortgage lien securing any money loaned or guaranteed by the director may be subordinate to the mortgage lien securing any money loaned or invested by a financial institution, but shall be superior to that securing any money loaned or expended by any other corporation or person. The funds used in making these loans or guarantees shall be disbursed upon order of the director.

Sec. 122.79. The exercise of the powers granted by sections 122.71 to ~~122.89~~ 122.90 of the Revised Code, will be in all respects for the benefit of the people of the state, for the increase of their commerce and prosperity, for the increase and expansion of minority business enterprises, and for the improvement of conditions of employment, and will constitute the performance of essential governmental functions; therefore, the director of development shall not be required to pay any taxes upon any property or assets held by ~~him~~ the director, or upon any property acquired or used by ~~him~~ the director under sections 122.71 to ~~122.89~~ 122.90 of the Revised Code, or upon the income from it, provided that this exemption shall not apply to any property held by the director while it is in the possession of a private person, partnership, or corporation and used for private purposes for profit, in which case such tax liability shall accrue to ~~such~~ the private person, partnership, or corporation.

Sec. 122.82. All moneys, funds, properties, and assets acquired by the director of development shall be held by ~~him~~ the director in trust to carry out ~~his~~ the director's powers and duties, shall be used as provided in sections 122.71 to ~~122.89~~ 122.90 of the Revised Code, and shall at no time be part of other public funds.

Sec. 122.83. Any person who intentionally misrepresents that person's self as owning, controlling, operating, or participating in a minority business enterprise for the purpose of obtaining funds, contracts, subcontracts, services, or any other benefits under sections 122.71 to 122.85 or 122.87 to ~~122.89~~ 122.90 of the Revised Code is guilty of theft by deception, pursuant to section 2913.02 of the Revised Code.

Sec. 122.95. As used in sections 122.95 to 122.952 of the Revised Code:

(A) "Commercial or industrial areas" means areas ~~established by a state, county, municipal, or other~~ zoned either commercial or industrial by the

local zoning authority as ~~being most appropriate for business, commerce, industry, or trade~~ or an area not zoned ~~by state or local law, regulation, or ordinance~~, but in which there is located one or more commercial or industrial activities.

(B) "Eligible county" means any of the following:

(1) A county designated as being in the "Appalachian region" under the "Appalachian Regional Development Act of 1965," 79 Stat. 5, 40 U.S.C. App. 403;

(2) A county that is a "distressed area" as defined in section 122.16 of the Revised Code;

(3) A county that within the previous calendar year has had a population of less than one hundred thousand according to the most recent federal decennial census and in which three hundred fifty or more residents of the county were, during the most recently completed calendar year, permanently or temporarily terminated from a private sector employment position for any reason not reflecting discredit on the employee;

(4) ~~A county that has a population of one hundred thousand or more according to the most recent federal decennial census and in which one thousand or more residents of the county were, during the most recently completed calendar year, permanently or temporarily terminated from a private sector employment position for any reason not reflecting discredit on the employee~~ job loss numbering two hundred or more of which one hundred or more are manufacturing-related as reported in the notices prepared by the department of job and family services pursuant to the "Worker Adjustment and Retraining Notification Act," 102 Stat. 890 (1988), 29 U.S.C. 2101 et seq., as amended.

Sec. 122.951. (A) If the director of development determines that a grant from the industrial site improvement fund ~~will~~ may create new jobs or preserve existing jobs and employment opportunities in an eligible county, the director may grant up to ~~one million~~ five hundred thousand dollars from the fund to the eligible county for the purpose of acquiring commercial or industrial land or buildings and making improvements to commercial or industrial areas within the eligible county, including, but not limited to:

(1) Expanding, remodeling, renovating, and modernizing buildings, structures, and other improvements;

(2) Remediating environmentally contaminated property on which hazardous substances exist under conditions that have caused or would cause the property to be identified as contaminated by the Ohio or United States environmental protection agency; and

(3) Infrastructure improvements, including, but not limited to, site

preparation, including building demolition and removal; streets, roads, bridges, and traffic control devices; parking lots and facilities; water and sewer lines and treatment plants; gas, electric, and telecommunications, including broadband, hook-ups; and water and railway access improvements.

A grant awarded under this section shall provide not more than seventy-five per cent of the estimated total cost of the project for which an application is submitted under this section. In addition, not more than ten per cent of the amount of the grant shall be used to pay the costs of professional services related to the project.

(B) An eligible county may apply to the director for a grant under this section in the form and manner prescribed by the director. The eligible county shall include on the application all information required by the director. The application shall require the eligible county to provide a detailed description of how the eligible county would use a grant to improve commercial or industrial areas within the eligible county, and to specify how a grant will lead to the creation of new jobs or the preservation of existing jobs and employment opportunities in the eligible county. The eligible county shall specify in the application the amount of the grant for which the eligible county is applying.

(C) An eligible county that receives a grant under this section is not eligible for any additional grants from the industrial site improvement fund in the fiscal year in which the grant is received and in the subsequent fiscal year.

(D) An eligible county may designate a port authority, community improvement corporation as defined in section 122.71 of the Revised Code, or other economic development entity that is located in the county to apply for a grant under this section. If a port authority, community improvement corporation, or other economic development entity is so designated, references to an eligible county in this section include references to the authority, corporation, or other entity.

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

(1) To prepare, or contract to be prepared, by licensed engineers or architects, surveys, general and detailed plans, specifications, bills of materials, and estimates of cost for any projects, improvements, or public buildings to be constructed by state agencies that may be authorized by legislative appropriations or any other funds made available therefor, provided that the construction of the projects, improvements, or public

buildings is a statutory duty of the department. This section does not require the independent employment of an architect or engineer as provided by section 153.01 of the Revised Code in the cases to which that section applies nor affect or alter the existing powers of the director of transportation.

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

(3) To make contracts for and supervise the construction of any projects and improvements or the construction and repair of buildings under the control of a state agency, except contracts for the repair of buildings under the management and control of the departments of public safety, job and family services, mental health, mental retardation and developmental disabilities, rehabilitation and correction, and youth services, the bureau of workers' compensation, the rehabilitation services commission, and boards of trustees of educational and benevolent institutions and except contracts for the construction of projects that do not require the issuance of a building permit or the issuance of a certificate of occupancy and that are necessary to remediate conditions at a hazardous waste facility, solid waste facility, or other location at which the director of environmental protection has reason to believe there is a substantial threat to public health or safety or the environment. These contracts shall be made and entered into by the directors of public safety, job and family services, mental health, mental retardation and developmental disabilities, rehabilitation and correction, and youth services, the administrator of workers' compensation, the rehabilitation services commission, ~~and~~ the boards of trustees of such institutions, and the director of environmental protection, respectively. All such contracts may be in whole or in part on unit price basis of maximum estimated cost, with payment computed and made upon actual quantities or units.

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

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

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

(7) To erect, supervise, and maintain all public monuments and

memorials erected by the state, except where the supervision and maintenance is otherwise provided by law;

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

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

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

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

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

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

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

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

to afford bidders all needed information or, alternatively, all of the following plans, details, bills of materials, and specifications:

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

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

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

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

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

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

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



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

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

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

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

The department may employ, as employees or consultants, persons needed to assist in reviewing the development plans. Those persons may

include attorneys, financial experts, engineers, and other necessary experts. The department shall review the development plans and may enter into a lease if it finds all of the following:

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

(b) The development plans are satisfactory;

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

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

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

(18) To manage the use of space owned and controlled by the department, including space in property under the jurisdiction of the Ohio building authority, by doing all of the following:

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

(b) Periodically in the discretion of the director of administrative services:

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

(ii) Creating and updating a master space utilization plan for all space allotted to state agencies. The plan shall incorporate space utilization metrics.

(iii) Conducting a cost-benefit analysis to determine the effectiveness of state-owned buildings;

(iv) Assessing the alternatives associated with consolidating the commercial leases for buildings located in Columbus.

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

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

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

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

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

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

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

(6) The power of the director of environmental protection to enter into environmental covenants, to grant and accept easements, or to sell property pursuant to division (G) of section 3745.01 of the Revised Code.

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

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

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

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

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

(2) ~~Establish~~ Except as provided in division (B)(14) of this section, establish agency procurement goals for contracting with EDGE business enterprises in the award of contracts under Chapters 123., 125., and 153. of the Revised Code based on the availability of eligible program participants by region or geographic area, as determined by the director, and by standard industrial code or equivalent code classification.

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

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

services; and information technology services.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(12) Establish a waiver mechanism to waive program goals or

participation requirements for those companies that, despite their best-documented efforts, are unable to contract with certified EDGE business enterprises;

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

(14) Establish guidelines for state universities as defined in section 3345.011 of the Revised Code and the Ohio school facilities commission created in section 3318.30 of the Revised Code for awarding contracts pursuant to Chapters 153., 3318., and 3345. of the Revised Code to allow the universities and commission to establish agency procurement goals for contracting with EDGE business enterprises.

~~(C) Not later than December 31, 2003, the director of administrative services shall prepare a detailed report to the governor outlining and evaluating the progress made in implementing the Business and personal financial information and trade secrets submitted by encouraging diversity, growth, and equity program applicants to the director pursuant to this section are not public records for purposes of section 149.43 of the Revised Code, unless the director presents the financial information or trade secrets at a public hearing or public proceeding regarding the applicant's eligibility to participate in the program.~~

Sec. 123.17. (A) As used in this section, "institution of higher education" means a state university or college, as defined in section 3345.12 of the Revised Code, or a state community college.

(B) ~~The~~ Not later than December 30, 2005, the state architect shall establish a local administration competency certification program to certify institutions of higher education to administer capital facilities projects pursuant to section 3345.51 of the Revised Code without the supervision, control, or approval of the department of administrative services. The program shall offer instruction in the administration of capital facilities projects for employees of institutions of higher education who are responsible for such administration and who are selected by their employing institutions to participate in the program.

(C) The program shall provide instruction about the provisions of Chapters 9., 123., and 153. of the Revised Code and any rules or policies adopted by the department regarding the planning, design, and construction of capital facilities, including all of the following:

- (1) The planning, design, and construction process;
- (2) Contract requirements;
- (3) Construction management;

(4) Project management.

(D) The state architect shall award local administration competency certification to any institution of higher education if all of the following apply:

(1) The institution applied for certification on a form and in a manner prescribed by the state architect.

(2) The state architect determines that a sufficient number of the institution's employees, representing a sufficient number of employee classifications, responsible for the administration of capital facilities projects ~~has~~ have successfully completed the certification program to ensure that any capital facilities project undertaken by the institution will be administered successfully and in accordance with all provisions of the Revised Code, and the board of trustees of the institution provides written assurance to the state architect that the institution will select new employees to participate in the certification program as necessary to compensate for employee turnover.

(3) The state architect determines that the employees of the institution enrolled in the program demonstrate successful completion of the competency certification training and a satisfactory level of knowledge of and competency in the requirements for administering capital facilities projects.

(4) The institution pays the fee prescribed by division ~~(E)~~(F) of this section.

(5) The board of trustees of the institution provides written assurance to the state architect that the institution will conduct biennial audits of the institution's administration of capital facilities projects in accordance with division (C) of section 3345.51 of the Revised Code.

(6) The board of trustees of the institution agrees in writing to indemnify and hold harmless the state and the department for any claim of injury, loss, or damage that results from the institution's administration of a capital facilities project.

(E) Local administration competency certification granted under this section shall remain in effect for as long as the state architect determines that both of the following apply:

(1) The institution of higher education maintains a sufficient number of employees responsible for the administration of capital facilities projects who have successfully completed the certification program and have demonstrated a satisfactory level of knowledge of and competency in the requirements for administering capital facilities projects;

(2) The institution is performing the biennial audits prescribed in division (C) of section 3345.51 of the Revised Code.

If the state architect determines that an institution of higher education has failed to comply with the conditions of division (E)(1) or (2) of this section, the state architect shall revoke the institution's certification and shall notify the board of trustees of the institution in writing of the revocation.

(F) The state architect shall establish, subject to the approval of the director of budget and management, the amount of the fee required to be paid by any institution of higher education that seeks certification under this section. The amount of the fees shall be set to cover the costs to implement this section, including the costs for materials and the competency certification training sessions. Any fees received under this section shall be paid into the state treasury to the credit of the state architect's fund established under section 123.10 of the Revised Code.

~~(F)~~(G) Nothing in this section shall prohibit an institution that administers a capital facilities project under section 3345.51 of the Revised Code from requesting guidance or other services from the department of administrative services.

Sec. 124.07. (A) The director of administrative services shall appoint ~~such~~ examiners, inspectors, clerks, and other assistants as ~~are~~ necessary to carry out sections 124.01 to 124.64 of the Revised Code. The director may designate persons in or out of the official service of the state to serve as examiners or assistants under the director's direction. An examiner or assistant shall receive ~~such~~ the compensation for each day actually and necessarily spent in the discharge of duties as an examiner or assistant ~~as is determined by that~~ the director determines; provided, that, if ~~any such~~ the examiner or assistant is in the official service of the state or any political subdivision of the state, it shall be a part of the examiner's or assistant's official duties to render ~~such~~ those services in connection with ~~such~~ an examination without extra compensation.

(B) Each state agency and each state-supported college ~~and~~ or university shall pay the cost of the services and facilities furnished to it by the department of administrative services that are necessary to provide and maintain payroll services as prescribed in section 125.21 of the Revised Code and state merit standards as prescribed in sections 124.01 to 124.64 of the Revised Code for the agency; or state-supported college; or university. If a municipal corporation chooses to use the services and facilities furnished by the department that are necessary to provide and maintain the standards so prescribed, the municipal corporation shall pay the cost of the services and facilities that the department furnishes to it. ~~Such~~The charges against a state agency, a state-supported college or university, or a municipal corporation shall be computed on a reasonable cost basis in accordance with



procedures prescribed by the director of budget and management. Any moneys the department of ~~administrative services~~ receives from ~~any such a~~ state agency, a state-supported college, or university, or a municipal corporation ~~which under this division that~~ are in excess of the amount necessary to pay the cost of furnishing ~~such the department's~~ services and facilities during any fiscal year shall be either refunded to or credited for the ensuing fiscal year to the state agency, the state-supported college, or university, or the municipal corporation that contributed the excess moneys.

(C) The director of administrative services may enter into an agreement with any municipal corporation or other political subdivision to furnish services and facilities of the department of ~~administrative services~~ in the administration of ~~its a~~ merit program. ~~Such~~ The agreement shall provide that the department shall be reimbursed for the reasonable costs of ~~such those~~ services and facilities as determined by the director.

(D) All moneys received by the department of ~~administrative services~~ as reimbursement for payroll and merit program services performed and facilities furnished under this section shall be paid into the state treasury to the credit of the human resources services fund, which is hereby created.

(E) In counties of the state in which are located cities having municipal civil service commissions, the director of administrative services may designate the municipal civil service commission of the largest city within ~~such the~~ county as the director's agent for the purpose of carrying out ~~such the~~ provisions of sections 124.01 to 124.64 of the Revised Code, within ~~such counties the county~~, as that the director designates. Each municipal civil service commission designated as an agent of the director shall render to the director, at the end of each month, ~~render~~ an itemized statement ~~to the director~~ of the cost incurred by ~~such the~~ commission for work done as the agent of the director, and the director ~~shall~~, after approving ~~such that~~ statement, shall pay the total amount of it to the treasurer of ~~such the~~ municipal corporation in the same manner as other expenses of the department of administrative services.

(F) The director, of administrative services and the examiners, inspectors, clerks, and assistants referred to in this section shall receive, in addition to their salaries, ~~receive~~ reimbursement for ~~such~~ necessary traveling and other expenses ~~as are~~ incurred in the actual discharge of their official duties. The director may also incur the necessary expenses for stationery, printing, and other supplies incident to the business of the department of ~~administrative services~~.

Sec. 124.321. (A) Whenever it becomes necessary for an appointing authority to reduce its work force, the appointing authority shall lay off

employees or abolish their positions in accordance with sections 124.321 to 124.327 of the Revised Code and the rules of the director of administrative services.

(B)(1) Employees may be laid off as a result of a lack of funds within an appointing authority. For appointing authorities ~~which~~ that employ persons whose salary or wage is paid by warrant of the auditor of state, the director of budget and management shall be responsible for determining whether a lack of funds exists. For ~~all other~~ appointing authorities ~~which~~ that employ persons whose salary or wage is paid other than by warrant of the auditor of state, the appointing authority ~~shall~~ itself shall determine whether a lack of funds exists and shall file a statement of rationale and supporting documentation with the director of administrative services prior to sending the layoff notice.

A (2) As used in this division, a "lack of funds" means an appointing authority has a current or projected deficiency of funding to maintain current, or to sustain projected, levels of staffing and operations. This section does not require any transfer of money between funds in order to offset a deficiency or projected deficiency of federal funding for a program.

(3) The director of budget and management shall ~~promulgate~~ adopt rules, under Chapter 119. of the Revised Code, for agencies whose employees are paid by warrant of the auditor of state, for determining whether a lack of funds exists.

(C)(1) Employees may be laid off as a result of lack of work within an appointing authority. For appointing authorities whose employees are paid by warrant of the auditor of state, the director of administrative services shall determine whether a lack of work exists. All other appointing authorities shall themselves determine whether a lack of work exists and shall file a statement of rationale and supporting documentation with the director of administrative services prior to sending the layoff notice ~~of layoff~~.

A (2) As used in this division, a "lack of work, for purposes of layoff," means an appointing authority has a current or projected temporary decrease in the workload, expected to last less than one year, ~~which~~ that requires a reduction of current or projected staffing levels. The determination of a lack of work shall indicate the current or projected temporary decrease in the workload of an appointing authority and whether the current or projected staffing levels of the appointing authority will be excessive.

(D)(1) Employees may be laid off as a result of abolishment of positions. ~~Abolishment~~ As used in this division, "abolishment" means the permanent deletion of a position or positions from the organization or

structure of an appointing authority ~~due to lack of continued need for the position. An~~

For purposes of this division, an appointing authority may abolish positions for any one or any combination of the following reasons: as a result of a reorganization for the efficient operation of the appointing authority, for reasons of economy, or for lack of work. The determination of the need to abolish positions shall indicate the lack of continued need for positions within an appointing authority

(2)(a) Reasons of economy permitting an appointing authority to abolish a position and to lay off the holder of that position under this division shall be determined at the time the appointing authority proposes to abolish the position. The reasons of economy shall be based on the appointing authority's estimated amount of savings with respect to salary, benefits, and other matters associated with the abolishment of the position, except that the reasons of economy associated with the position's abolishment instead may be based on the appointing authority's estimated amount of savings with respect to salary and benefits only, if:

(i) Either the appointing authority's operating appropriation has been reduced by an executive or legislative action, or the appointing authority has a current or projected deficiency in funding to maintain current or projected levels of staffing and operations; and

(ii) It files a notice of the position's abolishment with the director of administrative services within one year of the occurrence of the applicable circumstance described in division (D)(2)(a)(i) of this section.

(b) The following principles apply when a circumstance described in division (D)(2)(a)(i) of this section would serve to authorize an appointing authority to abolish a position and to lay off the holder of the position under this division based on the appointing authority's estimated amount of savings with respect to salary and benefits only:

(i) The position's abolishment shall be done in good faith and not as a subterfuge for discipline.

(ii) If a circumstance affects a specific program only, the appointing authority only may abolish a position within that program.

(iii) If a circumstance does not affect a specific program only, the appointing authority may identify a position that it considers appropriate for abolishment based on the reasons of economy. Appointing authorities

(3) Each appointing authority shall themselves determine itself whether any position should be abolished and shall file a statement of rationale and supporting documentation with the director of administrative services prior to sending the notice of abolishment. If

If an abolishment results in a reduction of the work force, the appointing authority shall follow the procedures for laying off employees, subject to the following modifications:

~~(1)~~(a) The employee whose position has been abolished shall have the right to fill an available vacancy within the employee's classification;

~~(2)~~(b) If the employee whose position has been abolished has more retention points than any other employee serving in the same classification, ~~then~~ the employee with the fewest retention points shall be displaced;

~~(3)~~(c) If the employee whose position has been abolished has the fewest retention points in the classification, the employee shall have the right to fill an available vacancy in a lower classification in the classification series;

~~(4)~~(d) If the employee whose position has been abolished has the fewest retention points in the classification, the employee shall displace the employee with the fewest retention points in the next or successively lower classification in the classification series.

(E) The director of administrative services shall ~~promulgate~~ adopt rules; under Chapter 119. of the Revised Code; for the determination of lack of work within an appointing authority, for the abolishment of positions by an appointing authority, and for the implementation of this section.

Sec. 124.328. A classified employee may appeal a layoff, or a displacement ~~which that~~ is the result of a layoff, to the state personnel board of review. The appeal shall be filed or ~~post-marked~~ postmarked no later than ten days after receipt of the layoff notice ~~of lay-off~~ or after the date the employee is displaced. In cases involving the laying off of classified employees, the affected employee or appointing authority may appeal the decision of the state personnel board of review to the court of common pleas court. ~~The appeal from the state personnel board of review shall be made in accordance with section 119.12 of the Revised Code.~~

Sec. 125.041. Nothing in sections 125.02, 125.03 to 125.08, 125.12 to 125.16, 125.18, 125.31 to 125.76, or 125.831 of the Revised Code shall be construed as limiting the attorney general, auditor of state, secretary of state, or treasurer of state in any of the following:

(A) Purchases for less than the dollar amounts for the purchase of supplies or services determined pursuant to division (D) of section 125.05 of the Revised Code;

(B) Purchases that equal or exceed the dollar amounts for the purchase of supplies or services determined pursuant to division (D) of section 125.05 of the Revised Code with the approval of the controlling board, if that approval is required by section 127.16 of the Revised Code;

(C) The final determination of the nature or quantity making any

purchase of supplies or services to be purchased pursuant to section 125.06 of the Revised Code;

(D) The final determination and disposal of excess and surplus supplies;

(E) The inventory of state property;

(F) The purchase of printing;

(G) ~~The~~ Activities related to information technology development and use;

(H) The fleet management program.

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

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

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

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

(1) Be exceeded and the controlling board approves the purchase;

(2) Not be exceeded and the department of administrative services approves the purchase.

(D) Not later than January 31, 1997, the amounts specified in divisions (A) and (B) of this section and, not later than the thirty-first day of January

of each second year thereafter, any amounts computed by adjustments made under this division, shall be increased or decreased by the average percentage increase or decrease in the consumer price index prepared by the United States bureau of labor statistics (U.S. City Average for Urban Wage Earners and Clerical Workers: "All Items 1982-1984=100") for the twenty-four calendar month period prior to the immediately preceding first day of January over the immediately preceding twenty-four calendar month period, as reported by the bureau. The director of administrative services shall make this determination and adjust the appropriate amounts accordingly.

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

Sec. 125.11. (A) Subject to division (B) of this section, contracts awarded pursuant to a reverse auction under section 125.072 of the Revised Code or pursuant to competitive sealed bidding, including contracts awarded under section 125.081 of the Revised Code, shall be awarded to the lowest responsive and responsible bidder on each item in accordance with section 9.312 of the Revised Code. When the contract is for meat products as defined in section 918.01 of the Revised Code or poultry products as defined in section 918.21 of the Revised Code, only those bids received from vendors offering products from establishments on the current list of meat and poultry vendors established and maintained by the director of administrative services under section 125.17 of the Revised Code shall be eligible for acceptance. The department of administrative services may accept or reject any or all bids in whole or by items, except that when the contract is for services or products available from a qualified nonprofit agency pursuant to sections 125.60 to 125.6012 or 4115.31 to 4115.35 of the Revised Code, the contract shall be awarded to that agency.

(B) Prior to awarding a contract under division (A) of this section, the department of administrative services or the state agency responsible for evaluating a contract for the purchase of products shall evaluate the bids received according to the criteria and procedures established pursuant to divisions (C)(1) and (2) of section 125.09 of the Revised Code for

determining if a product is produced or mined in the United States and if a product is produced or mined in this state. The department or other state agency shall first remove bids that offer products that have not been or that will not be produced or mined in the United States. From among the remaining bids, the department or other state agency shall select the lowest responsive and responsible bid, in accordance with section 9.312 of the Revised Code, from among the bids that offer products that have been produced or mined in this state where sufficient competition can be generated within this state to ensure that compliance with these requirements will not result in an excessive price for the product or acquiring a disproportionately inferior product. If there are two or more qualified bids that offer products that have been produced or mined in this state, it shall be deemed that there is sufficient competition to prevent an excessive price for the product or the acquiring of a disproportionately inferior product.

(C) Division (B) of this section applies to contracts for which competitive bidding is waived by the controlling board.

(D) Division (B) of this section does not apply to the purchase by the division of liquor control of spirituous liquor.

(E) The director of administrative services shall publish in the form of a model act for use by counties, townships, municipal corporations, or any other political subdivision described in division (B) of section 125.04 of the Revised Code, a system of preferences for products mined and produced in this state and in the United States and for Ohio-based contractors. The model act shall reflect substantial equivalence to the system of preferences in purchasing and public improvement contracting procedures under which the state operates pursuant to this chapter and section 153.012 of the Revised Code. To the maximum extent possible, consistent with the Ohio system of preferences in purchasing and public improvement contracting procedures, the model act shall incorporate all of the requirements of the federal "Buy America Act," 47 Stat. 1520 (1933), 41 U.S.C. 10a to 10d, as amended, and the rules adopted under that act.

Before and during the development and promulgation of the model act, the director shall consult with appropriate statewide organizations representing counties, townships, and municipal corporations so as to identify the special requirements and concerns these political subdivisions have in their purchasing and public improvement contracting procedures. The director shall promulgate the model act by rule adopted pursuant to Chapter 119. of the Revised Code and shall revise the act as necessary to reflect changes in this chapter or section 153.012 of the Revised Code.

The director shall make available copies of the model act, supporting information, and technical assistance to any township, county, or municipal corporation wishing to incorporate the provisions of the act into its purchasing or public improvement contracting procedure.

Sec. 125.18. (A) There is hereby established the office of information technology housed within the department of administrative services. The office shall be under the supervision of a chief information officer to be appointed by the governor and subject to removal at the pleasure of the governor. The chief information officer shall serve as the director of the office.

(B) The director of the office of information technology shall advise the governor regarding the superintendence and implementation of statewide information technology policy.

(C) The director of the office of information technology shall lead, oversee, and direct state agency activities related to information technology development and use. In that regard, the director shall do all of the following:

(1) Coordinate and superintend statewide efforts to promote common use and development of technology by state agencies. The office of information technology shall establish policies and standards that govern and direct state agency participation in statewide programs and initiatives.

(2) Establish policies and standards for the acquisition and use of information technology by state agencies, including, but not limited to, hardware, software, technology services, and security, with which state agencies shall comply;

(3) Establish criteria and review processes to identify state agency information technology projects that require alignment or oversight. As appropriate, the office of information technology shall provide the governor and the director of budget and management with notice and advice regarding the appropriate allocation of resources for those projects. The director of the office of information technology may require state agencies to provide, and may prescribe the form and manner by which they must provide, information to fulfill the director's alignment and oversight role.

(D) The office of information technology shall have the same authority given to the department of administrative services under sections 125.01, 125.02, 125.023, 125.04, 125.05, 125.06, 125.07, 125.071, 125.072, 125.081, 125.09, 125.10, 125.11, and 125.25 of the Revised Code for the purchase of information technology supplies and services for state agencies.

(E) The office of information technology may make contracts for, operate, and superintend technology supplies and services for state agencies



in accordance with this chapter.

(F) The office of information technology may establish cooperative agreements with federal and local government agencies and state agencies that are not under the authority of the governor for the provision of technology services and the development of technology projects.

(G) As used in this section, "state agency" means every organized body, office, or agency established by the laws of the state for the exercise of any function of state government, other than any state-supported institution of higher education, the office of the auditor of state, treasurer of state, secretary of state, or attorney general, the public employees retirement system, the Ohio police and fire pension fund, the state teachers retirement system, the school employees retirement system, the state highway patrol retirement system, the general assembly or any legislative agency, or the courts or any judicial agency.

Sec. 125.25. (A) The director of administrative services may debar a vendor from consideration for contract awards upon a finding based upon a reasonable belief that the vendor has done any of the following:

(1) Abused the selection process by repeatedly withdrawing bids or proposals before purchase orders or contracts are issued or failing to accept orders based upon firm bids;

(2) Failed to substantially perform a contract according to its terms, conditions, and specifications within specified time limits;

(3) Failed to cooperate in monitoring contract performance by refusing to provide information or documents required in a contract, failed to respond to complaints to the vendor, or accumulated repeated justified complaints regarding performance of a contract;

(4) Attempted to influence a public employee to breach ethical conduct standards or to influence a contract award;

(5) Colluded to restrain competition by any means;

(6) Been convicted of a criminal offense related to the application for or performance of any public or private contract, including, but not limited to, embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, and any other offense that directly reflects on the vendor's business integrity;

(7) Been convicted under state or federal antitrust laws;

(8) Deliberately or willfully submitted false or misleading information in connection with the application for or performance of a public contract;

(9) Violated any other responsible business practice or performed in an unsatisfactory manner as determined by the director;

(10) Through the default of a contract or through other means had a

determination of unresolved finding for recovery by the auditor of state under section 9.24 of the Revised Code;

(11) Acted in such a manner as to be debarred from participating in a contract with any governmental agency.

(B) When the director reasonably believes that grounds for debarment exist, the director shall send the vendor a notice of proposed debarment indicating the grounds for the proposed debarment and the procedure for requesting a hearing on the proposed debarment. The hearing shall be conducted in accordance with Chapter 119. of the Revised Code. If the vendor does not respond with a request for a hearing in the manner specified in Chapter 119. of the Revised Code, the director shall issue the debarment decision without a hearing and shall notify the vendor of the decision by certified mail, return receipt requested.

(C) The director shall determine the length of the debarment period and may rescind the debarment at any time upon notification to the vendor. During the period of debarment, the vendor is not eligible to participate in any state contract. After the debarment period expires, the vendor shall be eligible to be awarded contracts by state agencies. (D) The director, through the office of information technology and the office of procurement services, shall maintain a list of all vendors currently debarred under this section.

Sec. 125.60. As used in sections 125.60 to 125.6012 of the Revised Code:

(A) "Community rehabilitation program" means an agency that:

(1) Is organized under the laws of the United States or this state such that no part of its net income inures to the benefit of any shareholder or other individual;

(2) Is certified as a sheltered workshop, if applicable, by the wage and hour division of the United States department of labor;

(3) Is registered and in good standing with the secretary of state as a domestic nonprofit or not-for-profit corporation;

(4) Complies with applicable occupational health and safety standards required by the laws of the United States or of this state;

(5) Operates in the interest of persons with work-limiting disabilities, provides vocational or other employment-related training to persons with work-limiting disabilities, and employs persons with work-limiting disabilities in the manufacture of products or the provision of services;

(6) Is a nonprofit corporation for federal tax purposes.

(B) "Government ordering office" means any of the following:

(1) Any state agency, including the general assembly, the supreme court, and the office of a state elected official, or any state authority, board,

bureau, commission, institution, or instrumentality that is funded in total or in part by state money;

(2) A county, township, or village.

(C) "Person with a work-limiting disability" means an individual who has a disability as defined in the "Americans with Disabilities Act of 1990," 104 Stat. 327, 42 U.S.C. 12101, and who:

(1) Because of that disability is substantially limited in the type or quantity of work the individual can perform or is prevented from working regularly;

(2) Meets criteria established by the office of procurement from community rehabilitation programs.

Sec. 125.601. (A) Not later than July 1, 2007, the director of administrative services shall establish the office of procurement from community rehabilitation programs within the department of administrative services. The director shall designate an employee of the department to serve as administrator of the office.

(B) Not later than July 1, 2007, the director shall abolish the state committee for the purchase of products and services provided by persons with severe disabilities in accordance with section 4115.36 of the Revised Code.

Sec. 125.602. (A) The department of mental retardation and developmental disabilities, the department of mental health, the department of job and family services, the rehabilitation services commission, and any other state or governmental agency or community rehabilitation program responsible for the provision of rehabilitation and vocational educational services to persons with work-limiting disabilities may, through written agreement, cooperate in providing resources to the department of administrative services for the operation of the office of procurement from community rehabilitation programs. These resources may include, but are not limited to, leadership and assistance in dealing with the societal aspects of meeting the needs of persons with work-limiting disabilities.

(B) The office and all governmental entities that administer socioeconomic programs may enter into contractual agreements, cooperative working relationships, or other arrangements that are necessary for effective coordination and realization of the objectives of these entities.

Sec. 125.603. (A) The office of procurement from community rehabilitation programs shall do the following in addition to other duties specified in sections 125.60 to 125.6012 of the Revised Code:

(1) Establish, maintain, and periodically update a procurement list of approved supplies and services available from qualified nonprofit agencies;

(2) Monitor the procurement practices of government ordering offices to ensure compliance with sections 125.60 to 125.6012 of the Revised Code;

(3) In cooperation with qualified nonprofit agencies, government ordering offices, the department of mental retardation and developmental disabilities, the department of mental health, the department of job and family services, and the rehabilitation services commission, develop and recommend to the director of administrative services rules the director shall adopt in accordance with Chapter 119. of the Revised Code for the effective and efficient administration of sections 125.60 to 125.6012 of the Revised Code;

(4) Prepare a report of its activities by the last day of December of each year. The report shall be posted electronically on the office's web site.

(B) The office of procurement from community rehabilitation programs may enter into contractual agreements and establish pilot programs to further the objectives of sections 125.60 to 125.6012 of the Revised Code.

Sec. 125.604. A community rehabilitation program may apply to the office of procurement from community rehabilitation programs to be certified as qualified to provide its supplies and services for procurement by government ordering offices. The office shall prescribe the form of the application. If the office is satisfied the program is qualified, it shall certify the program as a qualified nonprofit agency for the purposes of sections 125.60 to 125.6012 of the Revised Code.

Sec. 125.605. The office of procurement from community rehabilitation programs may certify any entity to serve as an approved agent of a qualified nonprofit agency for the purposes of sections 125.60 to 125.6012 of the Revised Code. The office shall prescribe procedures under which an entity can apply and be considered for such certification. An approved agent may do any of the following:

(A) Contract with the office of procurement from community rehabilitation programs to provide centralized business facilitation or other assistance to qualified nonprofit agencies. The office shall consult with qualified nonprofit agencies before agreeing to such a contract.

(B) Act as a distributor of supplies and services registered on the procurement list maintained by the office under section 125.603 of the Revised Code;

(C) Provide marketing, administrative, and other services related to sales.

Sec. 125.606. Prior to purchases by government ordering offices, the office of procurement from community rehabilitation programs shall attempt to establish for each item on the procurement list a fair market price that is

representative of the range of prices that a government ordering office would expect to pay to purchase the item in the marketplace. When establishing a fair market price for an item, the office of procurement from community rehabilitation programs shall consider the costs of doing business with respect to that item, including sales, marketing, and research and development costs and agent fees. If the office of procurement from community rehabilitation programs cannot establish a fair market price for a particular supply or service, the government ordering office shall attempt to establish the fair market price pursuant to division (B) of section 125.607 of the Revised Code for each purchase of such supply or service.

Sec. 125.607. (A) Before purchasing any supply or service, a governmental ordering office shall determine whether the supply or service is on the procurement list maintained by the office of procurement from community rehabilitation programs. If the supply or service is on the list at an established fair market price, the government ordering office shall purchase it from the qualified nonprofit agency or approved agent at that price.

(B) If the supply or service is on the procurement list but a fair market price has not been established, the government ordering office shall attempt to negotiate an agreement with one or more of the listed qualified nonprofit agencies or approved agents. The office of procurement from community rehabilitation programs may accept as fair market price an agreement negotiated between the government ordering office and a qualified nonprofit agency or approved agent.

(C) If an agreement is not successfully negotiated, the office may establish a fair market price, or it may release a government ordering office from the requirements of this section.

(D) A purchase under divisions (A) to (C) of this section is not subject to any competitive selection or competitive bidding requirements, notwithstanding any other provision of law.

(E) The department of administrative services has the authority to structure or regulate competition among qualified nonprofit agencies for the overall benefit of the program.

Sec. 125.608. All government ordering offices purchasing supplies and services from qualified non-profit agencies or their approved agents shall reimburse the department of administrative services a reasonable sum to cover the department's costs of administering sections 125.60 to 125.6012 of the Revised Code. The department may bill administrative costs to government ordering offices directly, or allow qualified non-profit agencies or approved agents to collect and remit department administrative fees, at

the department's discretion. Any department administrative fees collected and remitted by qualified nonprofit agencies or their approved agents shall be considered allowable expenses in addition to the fair market price approved under section 125.606 or 125.607 of the Revised Code. The money so paid shall be deposited in the state treasury to the credit of the general services fund created under section 125.15 of the Revised Code.

Sec. 125.609. The office of procurement from community rehabilitation programs, on its own or pursuant to a request from a government ordering office, may release a government ordering office from compliance with sections 125.60 to 125.6012 of the Revised Code. If the office determines that compliance is not possible or not advantageous, or if conditions prescribed in rules as may be adopted under section 125.603 of the Revised Code for granting a release are met, the office may grant a release. The release shall be in writing, and shall specify the supplies or services to which it applies, the period of time during which it is effective, and the reason for which it is granted.

Sec. 125.6010. Section 125.607 of the Revised Code does not apply to the purchase of a product or service available from a state agency, state instrumentality, or political subdivision under any law in effect on July 1, 2005.

Sec. 125.6011. (A) Nothing in sections 125.60 to 125.6012 of the Revised Code shall be construed to prohibit the purchase of a supply or service from a qualified nonprofit agency by a political subdivision that is not a government ordering office.

(B) Purchases made under this section by a political subdivision, as defined in section 125.04 of the Revised Code, are exempt from any competitive selection procedures otherwise required by law. Purchases under this section shall be made from qualified nonprofit agencies or their approved agents.

(C) A political subdivision, as defined in section 125.04 of the Revised Code, may not purchase under division (C) of that section a supply or service on the procurement list established under section 125.603 of the Revised Code.

Sec. 125.6012. A government ordering office and qualified nonprofit agency shall provide the necessary information and documentation requested by the office of procurement from community rehabilitation programs to enable the office to effectively administer sections 125.60 to 125.6012 of the Revised Code.

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

(A) "Law enforcement officer" means an officer, agent, or employee of a state agency upon whom, by statute, a duty to conserve the peace or to enforce all or certain laws is imposed and the authority to arrest violators is conferred, within the limits of that statutory duty and authority, but does not include such an officer, agent, or employee if that duty and authority is location specific.

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

(2) "Motor vehicle" does not include, except for the purposes of division (C) of section 125.832 of the Revised Code, any vehicle described in division (B)(1) of this section that is used by a law enforcement officer and law enforcement agency or any vehicle that is so described and that is equipped with specialized equipment that is not normally found in such a vehicle and that is used to carry out a state agency's specific and specialized duties and responsibilities.

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

(D) "State agency" means every organized body, office, board, authority, commission, or agency established by the laws of the state for the exercise of any governmental or quasi-governmental function of state government regardless of the funding source for that entity, other than any ~~state-supported~~ state institution of higher education, the office of the governor, lieutenant governor, auditor of state, treasurer of state, secretary of state, or attorney general, the general assembly or any legislative agency, ~~or the courts or any judicial agency, or any state retirement system or retirement program established by or referenced in the Revised Code.~~

(E) "State institution of higher education" has the same meaning as in section 3345.011 of the Revised Code.

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

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

Except as otherwise provided in division (A)(1) of this section, on and after July 1, 2005, each state agency shall acquire all passenger motor vehicles under the department's master leasing program. If the department

determines that acquisition under that program is not the most economical method and if the department and the state agency acquiring the passenger motor vehicle can provide economic justification for doing so, the department may approve the purchase, rather than the lease, of a passenger motor vehicle for the acquiring state agency.

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

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

(C) The director shall establish and maintain a fleet reporting system and shall require state agencies to submit to the department information relative to state motor vehicles, including motor vehicles described in division (B)(2) of section 125.831 of the Revised Code, to be used in operating the fleet management program. State agencies shall provide to the department fleet data and other information, including, but not limited to, mileage and costs. The data and other information shall be submitted in formats and in a manner determined by the department.

(D) All state agency purchases or leases of motor vehicles are subject to the prior approval of the director under division (A)(1) of this section.

(E) State agencies that utilize state motor vehicles or pay mileage reimbursements to employees shall provide a fleet plan to the department as directed by the department.

(F)(1) The fleets of state agencies that consist of one hundred or less vehicles on July 1, 2004, shall be managed by the department's fleet management program on a time schedule determined by the department, unless the state agency has received delegated authority as described in division (G) of this section.

(2) The fleets of state agencies that consist of greater than one hundred motor vehicles, but less than five hundred motor vehicles, on July 1, 2005, also shall be managed by the department's fleet management program on a time schedule determined by the department, unless the state agency has received delegated authority as described in division (G) of this section.



(G)(1) The department may delegate any or all of its duties regarding fleet management to a state agency, if the state agency demonstrates to the satisfaction of the department both of the following:

(a) Capabilities to institute and manage a fleet management program, including, but not limited to, the presence of a certified fleet manager;

(b) Fleet management performance, as demonstrated by fleet data and other information submitted pursuant to annual reporting requirements and any other criteria the department considers necessary in evaluating the performance.

(2) The department may determine that a state agency is not in compliance with this section and direct that the agency's fleet management duties be transferred to the department.

(H) The proceeds derived from the disposition of any motor vehicles under this section shall be paid to whichever of the following applies:

(1) The fund that originally provided moneys for the purchase or lease of the motor vehicles;

(2) If the motor vehicles were originally purchased with moneys derived from the general revenue fund, the proceeds shall be deposited, in the director's discretion, into the state treasury for to the credit to of either the fleet management fund created by section 125.83 of the Revised Code or the investment recovery fund created by section 125.14 of the Revised Code.

(I)(1) The department shall create and maintain a certified fleet manager program.

(2) State agencies that have received delegated authority as described in division (G) of this section shall have a certified fleet manager.

(J) The department annually shall prepare and submit a statewide fleet report to the governor, the speaker of the house of representatives, and the president of the senate. The report shall be submitted not later than the thirty-first day of January following the end of each fiscal year. It may include, but is not limited to, the numbers and types of motor vehicles, their mileage, miles per gallon, and cost per mile, mileage reimbursements, accident and insurance data, and information regarding compliance by state agencies having delegated authority under division (G) of this section with applicable fleet management requirements.

(K) The director shall adopt rules for implementing the fleet management program that are consistent with recognized best practices. The program shall be supported by reasonable fee charges for the services provided. The director shall collect these fees and deposit them into the state treasury to the credit for the fleet management fund created by section 125.83 of the Revised Code. The setting and collection of fees under this

division is not subject to any restriction imposed by law upon the director's or the department's authority to set or collect fees.

(L) The director also shall adopt rules that prohibit, except in very limited circumstances, the exclusive assignment of state-owned, leased, or pooled motor vehicles to state employees and that prohibit the reimbursement under section 126.31 of the Revised Code of state employees who use their own motor vehicles for any mileage they incur above an amount that the department shall determine annually unless reimbursement for the excess mileage is approved by the department in accordance with standards for that approval the director shall establish in those rules. Beginning on ~~the effective date of this section~~ September 26, 2003, no ~~such~~ state-owned, leased, or pooled motor vehicle shall be personally assigned as any form of compensation or benefit of state employment, and no ~~such~~ state-owned, leased, or pooled motor vehicle shall be assigned to an employee solely for commuting to and from home and work.

(M) The director shall do both of the following:

(1) Implement to the greatest extent possible the recommendations from the 2002 report entitled "Administrative Analysis of the Ohio Fleet Management Program" in connection with the authority granted to the department by this section;

(2) Attempt to reduce the number of passenger vehicles used by state agencies during the fiscal years ending on June 30, 2004, and June 30, 2005.

(N) Each state agency shall reimburse the department for all costs incurred in the assignment of motor vehicles to the state agency.

(O) The director shall do all of the following in managing the fleet management program:

(1) Determine how motor vehicles will be maintained, insured, operated, financed, and licensed;

(2) Pursuant to the formula in division (O)(3) of this section, annually establish the minimum number of business miles per year an employee of a state agency must drive in order to qualify for approval by the department to receive a motor vehicle for business use;

(3) Establish the minimum number of business miles per year at an amount that results when the annual motor vehicle cost is divided by the amount that is the reimbursement rate per mile minus the amount that is the sum of the fuel cost, the operating cost, and the insurance cost. As used in this division:

(a) "Annual motor vehicle cost" means the price of a motor vehicle divided by the number of years an average motor vehicle is used.

(b) "Fuel cost" means the average price per gallon of motor fuel divided

by the miles per gallon fuel efficiency of a motor vehicle.

(c) "Insurance cost" means the cost of insuring a motor vehicle per year divided by the number of miles an average motor vehicle is driven per year.

(d) "Operating cost" means the maintenance cost of a motor vehicle per year divided by the product resulting when the number of miles an average motor vehicle is driven per year is multiplied by the number of years an average motor vehicle is used.

(e) "Reimbursement rate per mile" means the reimbursement per mile rate for travel expenses as provided by rule of the director of budget and management adopted under division (B) of section 126.31 of the Revised Code.

(P)(1) Not later than the fifteenth day of September of each year, each state institution of higher education shall report to the department on all of the following topics relating to motor vehicles that the institution acquires and manages:

(a) The methods it uses to track the motor vehicles;

(b) Whether or not it uses a fuel card program to purchase fuel for, or to pay for the maintenance of, the motor vehicles;

(c) Whether or not it makes bulk purchases of fuel for the motor vehicles.

(2) Assuming it does not use the fleet management tracking, fuel card program, and bulk fuel purchases tools and services that the department provides, the report of a state institution of higher education required by division (P)(1) of this section also shall include both of the following:

(a) An analysis of the amount the institution would save, if any, if it were to use the fleet management tracking, fuel card program, and bulk fuel purchases tools and services that the department provides instead of the fleet management system the institution regularly uses;

(b) A rationale for either continuing with the fleet management system that the institution regularly uses or changing to the use of those tools and services that the department provides.

(3) The department shall certify within ninety days after receipt of all reports under division (P)(1) of this section a list of those state institutions of higher education that the department determines would save amounts if they were to use the fleet management tracking, fuel card program, and bulk fuel purchases tools and services that the department provides. The institutions so certified then shall use those tools and services that the department provides until the department next certifies institutions under division (P)(3) of this section.

Sec. 126.25. The accounting and budgeting services provided by the

director of budget and management shall be supported by user charges. The director shall determine a rate that is sufficient to defray the expense of those services and the manner by which those charges shall be collected. All money collected from user charges shall be deposited in the state treasury to the credit of the ~~state~~ accounting and budgeting fund, which is hereby created. Rebates or revenue shares received from any state payment card program established under division (B) of section 126.21 of the Revised Code and miscellaneous payments that reimburse expenses paid from the ~~state~~ accounting and budgeting fund may be deposited into the ~~state~~ accounting and budgeting fund and used to support accounting and budgeting services.

Sec. 127.16. (A) Upon the request of either a state agency or the director of budget and management and after the controlling board determines that an emergency or a sufficient economic reason exists, the controlling board may approve the making of a purchase without competitive selection as provided in division (B) of this section.

(B) Except as otherwise provided in this section, no state agency, using money that has been appropriated to it directly, shall:

(1) Make any purchase from a particular supplier, that would amount to fifty thousand dollars or more when combined with both the amount of all disbursements to the supplier during the fiscal year for purchases made by the agency and the amount of all outstanding encumbrances for purchases made by the agency from the supplier, unless the purchase is made by competitive selection or with the approval of the controlling board;

(2) Lease real estate from a particular supplier, if the lease would amount to seventy-five thousand dollars or more when combined with both the amount of all disbursements to the supplier during the fiscal year for real estate leases made by the agency and the amount of all outstanding encumbrances for real estate leases made by the agency from the supplier, unless the lease is made by competitive selection or with the approval of the controlling board.

(C) Any person who authorizes a purchase in violation of division (B) of this section shall be liable to the state for any state funds spent on the purchase, and the attorney general shall collect the amount from the person.

(D) Nothing in division (B) of this section shall be construed as:

(1) A limitation upon the authority of the director of transportation as granted in sections 5501.17, 5517.02, and 5525.14 of the Revised Code;

(2) Applying to medicaid provider agreements under Chapter 5111. of the Revised Code ~~or payments or provider agreements under the disability medical assistance program established under Chapter 5115. of the Revised~~

Code;

(3) Applying to the purchase of examinations from a sole supplier by a state licensing board under Title XLVII of the Revised Code;

(4) Applying to entertainment contracts for the Ohio state fair entered into by the Ohio expositions commission, provided that the controlling board has given its approval to the commission to enter into such contracts and has approved a total budget amount for such contracts as agreed upon by commission action, and that the commission causes to be kept itemized records of the amounts of money spent under each contract and annually files those records with the clerk of the house of representatives and the clerk of the senate following the close of the fair;

(5) Limiting the authority of the chief of the division of mineral resources management to contract for reclamation work with an operator mining adjacent land as provided in section 1513.27 of the Revised Code;

(6) Applying to investment transactions and procedures of any state agency, except that the agency shall file with the board the name of any person with whom the agency contracts to make, broker, service, or otherwise manage its investments, as well as the commission, rate, or schedule of charges of such person with respect to any investment transactions to be undertaken on behalf of the agency. The filing shall be in a form and at such times as the board considers appropriate.

(7) Applying to purchases made with money for the per cent for arts program established by section 3379.10 of the Revised Code;

(8) Applying to purchases made by the rehabilitation services commission of services, or supplies, that are provided to persons with disabilities, or to purchases made by the commission in connection with the eligibility determinations it makes for applicants of programs administered by the social security administration;

(9) Applying to payments by the department of job and family services under section 5111.13 of the Revised Code for group health plan premiums, deductibles, coinsurance, and other cost-sharing expenses;

(10) Applying to any agency of the legislative branch of the state government;

(11) Applying to agreements or contracts entered into under section 5101.11, 5101.20, 5101.201, 5101.21, or 5101.214 of the Revised Code;

(12) Applying to purchases of services by the adult parole authority under section 2967.14 of the Revised Code or by the department of youth services under section 5139.08 of the Revised Code;

(13) Applying to dues or fees paid for membership in an organization or association;

(14) Applying to purchases of utility services pursuant to section 9.30 of the Revised Code;

(15) Applying to purchases made in accordance with rules adopted by the department of administrative services of motor vehicle, aviation, or watercraft fuel, or emergency repairs of such vehicles;

(16) Applying to purchases of tickets for passenger air transportation;

(17) Applying to purchases necessary to provide public notifications required by law or to provide notifications of job openings;

(18) Applying to the judicial branch of state government;

(19) Applying to purchases of liquor for resale by the division of liquor control;

(20) Applying to purchases of motor courier and freight services made in accordance with department of administrative services rules;

(21) Applying to purchases from the United States postal service and purchases of stamps and postal meter replenishment from vendors at rates established by the United States postal service;

(22) Applying to purchases of books, periodicals, pamphlets, newspapers, maintenance subscriptions, and other published materials;

(23) Applying to purchases from other state agencies, including state-assisted institutions of higher education;

(24) Limiting the authority of the director of environmental protection to enter into contracts under division (D) of section 3745.14 of the Revised Code to conduct compliance reviews, as defined in division (A) of that section;

(25) Applying to purchases from a qualified nonprofit agency pursuant to sections 125.60 to 125.6012 or 4115.31 to 4115.35 of the Revised Code;

(26) Applying to payments by the department of job and family services to the United States department of health and human services for printing and mailing notices pertaining to the tax refund offset program of the internal revenue service of the United States department of the treasury;

(27) Applying to contracts entered into by the department of mental retardation and developmental disabilities under sections 5123.18, 5123.182, and 5123.199 of the Revised Code;

(28) Applying to payments made by the department of mental health under a physician recruitment program authorized by section 5119.101 of the Revised Code;

(29) Applying to contracts entered into with persons by the director of commerce for unclaimed funds collection and remittance efforts as provided in division (F) of section 169.03 of the Revised Code. The director shall keep an itemized accounting of unclaimed funds collected by those persons

and amounts paid to them for their services.

(30) Applying to purchases made by a state institution of higher education in accordance with the terms of a contract between the vendor and an inter-university purchasing group comprised of purchasing officers of state institutions of higher education;

(31) Applying to the department of job and family services' purchases of health assistance services under the children's health insurance program part I provided for under section 5101.50 of the Revised Code or the children's health insurance program part II provided for under section 5101.51 of the Revised Code;

(32) Applying to payments by the attorney general from the reparations fund to hospitals and other emergency medical facilities for performing medical examinations to collect physical evidence pursuant to section 2907.28 of the Revised Code;

(33) Applying to contracts with a contracting authority or administrative receiver under division ~~(G)(2)(B)~~ of section ~~5126.055~~ 5126.056 of the Revised Code;

(34) Applying to reimbursements paid to the United States department of veterans affairs for pharmaceutical and patient supply purchases made on behalf of the Ohio veterans' home agency;

(35) Applying to agreements the department of job and family services enters into with terminal distributors of dangerous drugs under section 5110.12 of the Revised Code.

(E) Notwithstanding division (B)(1) of this section, the cumulative purchase threshold shall be seventy-five thousand dollars for the departments of mental retardation and developmental disabilities, mental health, rehabilitation and correction, and youth services.

(F) When determining whether a state agency has reached the cumulative purchase thresholds established in divisions (B)(1), (B)(2), and (E) of this section, all of the following purchases by such agency shall not be considered:

(1) Purchases made through competitive selection or with controlling board approval;

(2) Purchases listed in division (D) of this section;

(3) For the purposes of the thresholds of divisions (B)(1) and (E) of this section only, leases of real estate.

(G) As used in this section, "competitive selection," "purchase," "supplies," and "services" have the same meanings as in section 125.01 of the Revised Code.

Sec. 131.02. (A) Whenever any amount is payable to the state, the

officer, employee, or agent responsible for administering the law under which the amount is payable shall immediately proceed to collect the amount or cause the amount to be collected and shall pay the amount into the state treasury or into the appropriate custodial fund in the manner set forth pursuant to section 113.08 of the Revised Code. If Except as otherwise provided in this division, if the amount is not paid within forty-five days after payment is due, the officer, employee, or agent shall certify the amount due to the attorney general, in the form and manner prescribed by the attorney general, and notify the director of budget and management thereof. In the case of an amount payable by a student enrolled in a state institution of higher education, the amount shall be certified within the later of forty-five days after the amount is due or the tenth day after the beginning of the next academic semester, quarter, or other session following the session for which the payment is payable. The attorney general may assess the collection cost to the amount certified in such manner and amount as prescribed by the attorney general.

For the purposes of this section, a payment is due at the time provided in divisions (A)(1) to (9) of this section. If more than one division applies to a payment, the payment is due at the earliest of the applicable times.

(1) If a law, including an administrative rule, of this state prescribes the time a payment is required to be made or reported, when the payment is required by that law to be paid or reported.

(2) If the payment is for services rendered, when the rendering of the services is completed.

(3) If the payment is reimbursement for a loss, when the loss is incurred.

(4) In the case of a fine or penalty for which a law or administrative rule does not prescribe a time for payment, when the fine or penalty is first assessed.

(5) If the payment arises from a legal finding, judgment, or adjudication order, when the finding, judgment, or order is rendered or issued.

(6) If the payment arises from an overpayment of money by the state to another person, when the overpayment is discovered.

(7) The date on which the amount for which an individual is personally liable under section 5735.35, section 5739.33, or division (G) of section 5747.07 of the Revised Code is determined.

(8) Upon proof of claim being filed in a bankruptcy case.

(9) Any other appropriate time determined by the officer, employee, or agent responsible for administering the law under which the amount is payable on the basis of statutory requirements or ordinary business processes of the state agency to which the payment is owed.



(B)(1) The attorney general shall give immediate notice by mail or otherwise to the party indebted of the nature and amount of the indebtedness.

(2) If the amount payable to this state arises from a tax levied under Chapter 5733., 5739., 5741., or 5747. of the Revised Code, the notice also shall specify all of the following:

- (a) The assessment or case number;
- (b) The tax pursuant to which the assessment is made;
- (c) The reason for the liability, including, if applicable, that a penalty or interest is due;
- (d) An explanation of how and when interest will be added to the amount assessed;
- (e) That the attorney general and tax commissioner, acting together, have the authority, but are not required, to compromise the claim and accept payment over a reasonable time, if such actions are in the best interest of the state.

(C) The attorney general shall collect the claim or secure a judgment and issue an execution for its collection.

(D) Each claim shall bear interest, from the day on which the claim became due, at the rate per annum required by section 5703.47 of the Revised Code.

(E) The attorney general and the chief officer of the agency reporting a claim, acting together, may do any of the following if such action is in the best interests of the state:

- (1) Compromise the claim;
- (2) Extend for a reasonable period the time for payment of the claim by agreeing to accept monthly or other periodic payments. The agreement may require security for payment of the claim.
- (3) Add fees to recover the cost of processing checks or other draft instruments returned for insufficient funds and the cost of providing electronic payment options.

(F)(1) Except as provided in division (F)(2) of this section, if the attorney general finds, after investigation, that any claim due and owing to the state is uncollectible, the attorney general, with the consent of the chief officer of the agency reporting the claim, may do the following:

- (a) Sell, convey, or otherwise transfer the claim to one or more private entities for collection;
- (b) Cancel the claim or cause it to be cancelled.

(2) The attorney general shall cancel or cause to be cancelled an unsatisfied claim on the date that is forty years after the date the claim is

certified.

(3) If information contained in a claim that is sold, conveyed, or transferred to a private entity pursuant to this section is confidential pursuant to federal law or a section of the Revised Code that implements a federal law governing confidentiality, such information remains subject to that law during and following the sale, conveyance, or transfer.

Sec. 131.022. (A) As used in this section:

(1) "Final overdue claim" means a claim that has been certified to the attorney general under section 131.02 of the Revised Code, that has been final for at least one year, and for which no arrangements have been made for the payment thereof or, if such arrangements have been made, the person owing the claim has failed to comply with the terms of the arrangement for more than thirty days.

"Final overdue claim" includes collection costs incurred with respect to such a claim and assessed by the attorney general under division (A) of section 131.02 of the Revised Code, interest accreting to the claim under division (D) of that section, and fees added under division (E)(3) of that section.

(2) "Final" means a claim has been finalized under the law providing for the imposition or determination of the amount due, and any time provided for appeal of the amount, legality, or validity of the claim has expired without an appeal having been filed in the manner provided by law. "Final" includes, but is not limited to, a final determination of the tax commissioner for which the time for appeal has expired without a notice of appeal having been filed.

(B) If a claim is certified to the attorney general under section 131.02 of the Revised Code, at any time after the claim is a final overdue claim, the attorney general may sell or otherwise transfer the claim to any person. If the claim is to be sold, it may be sold by private negotiated sale or at public auction conducted by the attorney general or a designee, as is most likely, in the opinion of the attorney general, to yield the most favorable return on the sale. For the purposes of this division, a public auction includes an auction conducted electronically whereby bids are solicited and received via the internet and the solicitation is open to the public.

(C) The attorney general may consolidate any number of final overdue claims for sale under this section.

(D) Not less than sixty days before first offering a final overdue claim for sale, the attorney general shall provide written notice, by ordinary mail, to the person owing the claim at that person's last known mailing address. The notice shall state the following:

(1) The nature and amount of the claim;

(2) The manner in which the person may contact the office of the attorney general to arrange terms for payment of the claim;

(3) That if the person does not contact the office of the attorney general within sixty days after the date the notice is issued and arrange terms for payment of the claim all of the following apply:

(a) The claim will be offered for sale to a private party for collection by that party by any legal means;

(b) The person is deemed to be denied any right to seek and obtain a refund of any amount from which the claim arises if the applicable law otherwise allows for such a refund;

(c) The person is deemed to waive any right the person may have to confidentiality of information regarding the claim to the extent confidentiality is provided under any other section of the Revised Code.

(E) Upon the sale or transfer of a final overdue claim under this section, the claim becomes the property of the purchaser or transferee, and may be sold or otherwise transferred by that person to any other person or otherwise disposed of. The owner of the claim is entitled to all proceeds from the collection of the claim. Purchasers or transferees of a final overdue claim are subject to any applicable laws governing collection of debts of the kind represented by the claim.

(F) Upon the sale or transfer of a final overdue claim under this section, no refund shall be issued or paid to the person owing the claim for any part of the amount from which the claim arises.

(G) Notwithstanding any other section of the Revised Code, the attorney general, solely for the purpose of effecting the sale or transfer of a final overdue claim under this section, may disclose information about the person owing the claim that otherwise would be confidential under a section of the Revised Code, and the person shall have no right of action against such disclosure to the extent such a right is available under that section.

(H) The authority granted under this section is supplemental to the authority granted under section 131.02 of the Revised Code.

Sec. 131.23. The various political subdivisions of this state may issue bonds, and any indebtedness created by such issuance shall not be subject to the limitations or included in the calculation of indebtedness prescribed by sections 133.05, 133.06, 133.07, and 133.09 of the Revised Code, but such bonds may be issued only under the following conditions:

(A) The subdivision desiring to issue such bonds shall obtain from the county auditor a certificate showing the total amount of delinquent taxes due and unpayable to such subdivision at the last semiannual tax settlement.

(B) The fiscal officer of that subdivision shall prepare a statement, from the books of the subdivision, verified by the fiscal officer under oath, which shall contain the following facts of such subdivision:

- (1) The total bonded indebtedness;
- (2) The aggregate amount of notes payable or outstanding accounts of the subdivision, incurred prior to the commencement of the current fiscal year, which shall include all evidences of indebtedness issued by the subdivision except notes issued in anticipation of bond issues and the indebtedness of any nontax-supported public utility;
- (3) Except in the case of school districts, the aggregate current year's requirement for disability financial assistance ~~and disability medical assistance~~ provided under Chapter 5115. of the Revised Code that the subdivision is unable to finance except by the issue of bonds;
- (4) The indebtedness outstanding through the issuance of any bonds or notes pledged or obligated to be paid by any delinquent taxes;
- (5) The total of any other indebtedness;
- (6) The net amount of delinquent taxes unpledged to pay any bonds, notes, or certificates, including delinquent assessments on improvements on which the bonds have been paid;
- (7) The budget requirements for the fiscal year for bond and note retirement;
- (8) The estimated revenue for the fiscal year.

(C) The certificate and statement provided for in divisions (A) and (B) of this section shall be forwarded to the tax commissioner together with a request for authority to issue bonds of such subdivision in an amount not to exceed seventy per cent of the net unobligated delinquent taxes and assessments due and owing to such subdivision, as set forth in division (B)(6) of this section.

(D) No subdivision may issue bonds under this section in excess of a sufficient amount to pay the indebtedness of the subdivision as shown by division (B)(2) of this section and, except in the case of school districts, to provide funds for disability financial assistance ~~and disability medical assistance~~, as shown by division (B)(3) of this section.

(E) The tax commissioner shall grant to such subdivision authority requested by such subdivision as restricted by divisions (C) and (D) of this section and shall make a record of the certificate, statement, and grant in a record book devoted solely to such recording and which shall be open to inspection by the public.

(F) The commissioner shall immediately upon issuing the authority provided in division (E) of this section notify the proper authority having

charge of the retirement of bonds of such subdivision by forwarding a copy of such grant of authority and of the statement provided for in division (B) of this section.

(G) Upon receipt of authority, the subdivision shall proceed according to law to issue the amount of bonds authorized by the commissioner, and authorized by the taxing authority, provided the taxing authority of that subdivision may by resolution submit to the electors of that subdivision the question of issuing such bonds. Such resolution shall make the declarations and statements required by section 133.18 of the Revised Code. The county auditor and taxing authority shall thereupon proceed as set forth in divisions (C) and (D) of such section. The election on the question of issuing such bonds shall be held under divisions (E), (F), and (G) of such section, except that publication of the notice of such election shall be made on four separate days prior to such election in one or more newspapers of general circulation in the subdivisions. Such bonds may be exchanged at their face value with creditors of the subdivision in liquidating the indebtedness described and enumerated in division (B)(2) of this section or may be sold as provided in Chapter 133. of the Revised Code, and in either event shall be uncontestable.

(H) The per cent of delinquent taxes and assessments collected for and to the credit of the subdivision after the exchange or sale of bonds as certified by the commissioner shall be paid to the authority having charge of the sinking fund of the subdivision, which money shall be placed in a separate fund for the purpose of retiring the bonds so issued. The proper authority of the subdivisions shall provide for the levying of a tax sufficient in amount to pay the debt charges on all such bonds issued under this section.

(I) This section is for the sole purpose of assisting the various subdivisions in paying their unsecured indebtedness, and providing funds for disability financial assistance ~~and disability medical assistance~~. The bonds issued under authority of this section shall not be used for any other purpose and any exchange for other purposes, or the use of the money derived from the sale of such bonds by the subdivision for any other purpose, is misapplication of funds.

(J) The bonds authorized by this section shall be redeemable or payable in not to exceed ten years from date of issue and shall not be subject to or considered in calculating the net indebtedness of the subdivision. The budget commission of the county in which the subdivision is located shall annually allocate such portion of the then delinquent levy due such subdivision which is unpledged for other purposes to the payment of debt

charges on the bonds issued under authority of this section.

(K) The issue of bonds under this section shall be governed by Chapter 133. of the Revised Code, respecting the terms used, forms, manner of sale, and redemption except as otherwise provided in this section.

The board of county commissioners of any county may issue bonds authorized by this section and distribute the proceeds of such bond issues to any or all of the cities and townships of such counties, according to their relative needs for disability financial assistance ~~and disability medical assistance~~ as determined by such county.

All sections of the Revised Code inconsistent with or prohibiting the exercise of the authority conferred by this section are inoperative respecting bonds issued under this section.

Sec. 133.08. (A) In addition to any power to issue securities under other provisions of the Revised Code for the purposes, a county may issue revenue securities as authorized in this section.

(B) A county may issue revenue securities to fund or refund revenue securities previously issued, or for any purposes for which it could issue self-supporting securities and, without limitation, any of the following general purposes:

(1) For one or more established sewer districts, any of the purposes provided in divisions (C)(2)(a) and (b) of section 133.07 of the Revised Code;

(2) Hospital facilities as defined in division (E) of section 140.01 of the Revised Code;

(3) Facilities described in division (C)(10) of section 133.07 of the Revised Code;

(4) Off-street parking facilities pursuant to section 307.02 of the Revised Code.

(C) The county shall establish rates or charges for the use, availability, or rental of the facilities to which the financing relates, being the improvement, enterprise, system, project, or categories of improvements or the operation or function that the facilities serve, which rates or charges shall be designed to provide revenues to the county sufficient to pay the costs of all current expenses of the facilities payable by the county and to pay the debt charges on the securities and to establish and maintain any contractually required special funds relating to the securities or the facilities.

(D) Revenue securities issued under this section shall not be general obligations of the county. Revenue securities issued under this section shall be secured only by a pledge of and lien upon the revenues of the county, derived from its ownership or operation of the facilities, including those

rates or charges or rents and any interest subsidies or debt charges, grants, or other payments by federal or state agencies available therefor, and the covenants of the county to maintain sufficient rentals, rates, and charges to produce revenues sufficient to pay all current expenses of the facilities payable by the county and to pay the debt charges on the securities and to establish and maintain any contractually required special funds relating to the securities or the facilities, and, if the securities are anticipatory securities, to issue the revenue securities in anticipation of the issuance of which the revenue securities are issued. Revenue securities may also be secured by a pledge of and lien on the proceeds of any securities issued to fund or refund those revenue securities.

(E) The county officers authorized by the county taxing authority shall execute the necessary documents, including but not limited to trust agreements and leases, to provide for the pledge, protection, and disposition of the pledged revenues from which debt charges and any special fund deposits are to be paid.

(F) As long as any of these revenue securities, in either original or refunded form, remain outstanding, except as otherwise provided in those documents, all parts of the facilities the revenues from which are pledged, shall remain under the control of the county taxing authority, whether any parts of the facilities are leased to or operated by others or are in or thereafter come within the boundaries of any municipal corporation, and the facilities shall remain subject to the power and duty of the taxing authority to fix and collect rates or charges or rents for the use of facilities.

(G) The authority to issue securities of the county under this section for permanent improvements described in division (B)(2) of this section or division (C)(2)(d) of section 133.07 of the Revised Code may separately and independently be exercised by a board of county hospital trustees established under section 339.02 of the Revised Code for those permanent improvements and related operations under the control of that board.

(H) Sections 9.98 to 9.983 of the Revised Code apply to securities issued under this section, notwithstanding any other provision in this chapter.

Sec. 133.081. (A) As used in this section:

(1) "Anticipation notes" means notes issued in anticipation of the sales tax supported bonds authorized by this section;

(2) "Authorizing proceedings" means the resolution, legislation, trust agreement, certification, and other agreements, instruments, and documents, as amended and supplemented, authorizing, or providing for the security or sale or award of, sales tax supported bonds, and includes the provisions set

forth or incorporated in those bonds and proceedings;

(3) "County sales tax" means any sales tax levied by the taxing authority of a county pursuant to section 5739.021 or 5739.026 of the Revised Code, and any tax levied by that taxing authority upon storage, use, or consumption under section 5741.021 or 5741.023 of the Revised Code. However, "county sales tax" does not include a sales tax subject to referendum or a sales tax that was adopted as an emergency measure and is subject to initiative petition under section 5739.022 of the Revised Code.

(4) "Sales tax supported bonds" means the sales tax supported bonds authorized by this section, including anticipation notes;

(5) "Refunding bonds" means sales tax supported bonds issued to provide for the refunding of the sales tax supported bonds referred to in this section as refunded obligations.

(B) The taxing authority of a county which has levied a county sales tax for the purpose of providing additional general revenues of the county pursuant to Chapter 5739. of the Revised Code may anticipate the receipts of such tax and issue sales tax supported bonds of the county in the principal amount necessary to pay the costs of financing any permanent improvement as defined in division (CC) of section 133.01 of the Revised Code, or to refund any refunded obligations, provided that the taxing authority certifies that the annual debt charges on the sales tax supported bonds, or on the sales tax supported bonds being anticipated by anticipation notes, do not exceed the estimated annual county sales tax. The maximum aggregate amount of sales tax supported bonds that may be outstanding at any time in accordance with their terms shall not exceed an amount which requires or is estimated to require payments from sales tax receipts of debt charges on the sales tax supported bonds, or, in the case of anticipation notes, projected debt charges on the sales tax supported bonds anticipated, in any calendar year in an amount exceeding the county sales tax in anticipation of which the bonds or anticipation notes are issued as estimated by the fiscal officer based on general sales tax receipts averaged for the prior two calendar years prior to the year in which the sales tax supported bonds are issued, and annualized for any increase in the county sales tax which may have been levied in part during such period or levied after such period. A taxing authority may at any time issue renewal anticipation notes, issue sales tax supported bonds to pay renewal anticipation notes, and, if it considers refunding expedient, issue refunding sales tax supported bonds whether the refunded obligations have or have not matured. The refunding sales tax supported bonds shall be sold and the proceeds needed for such purpose applied in the manner provided in the authorizing proceedings of the taxing authority. The maximum maturity



of sales tax supported bonds shall be calculated by the fiscal officer in accordance with section 133.20 of the Revised Code, and such calculation shall be filed with the taxing authority of the county prior to passage of a bond authorizing resolution. If the county sales tax pledged to the payment of the sales tax supported bonds has a stated expiration date, the final principal maturity date of the sales tax supported bonds shall not extend beyond the final year of collection of the county sales tax pledged to the payment of the sales tax supported bonds.

(C) Every issue of sales tax supported bonds outstanding in accordance with their terms shall be payable out of the sales tax receipts received by the county or proceeds of sales tax supported bonds, renewal anticipation notes, or refunding sales tax supported bonds which may be pledged for such payment in the authorizing proceedings. The pledge shall be valid and binding from the time the pledge is made, and the county sales tax receipts and proceeds so pledged and thereafter received by the county shall immediately be subject to the lien of that pledge without any physical delivery of the county sales tax receipts or proceeds or further act. The lien of any pledge is valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the county, whether or not such parties have notice of the lien. Neither the resolution nor any trust agreement by which a pledge is created or further evidenced need be filed or recorded except in the records of the taxing authority.

(D) Sales tax supported bonds issued under this section do not constitute a debt, or a pledge of the faith and credit, of the state, the county, or any other political subdivision of the state, and the holders or owners of the notes have no right to have taxes levied by the general assembly or by the taxing authority of any political subdivision of the state, including the taxing authority of the county, for the payment of debt charges. Unless paid from other sources, sales tax supported bonds are payable from the sales tax receipts pledged for their payment as authorized by this section. All sales tax supported bonds shall contain on their face a statement to the effect that the sales tax supported bonds, as to debt charges, are not debts or obligations of the state and are not debts of any political subdivision of the state, but, unless paid from other sources, are payable from the sales tax receipts pledged for their payment. The utilization and pledge of the sales tax receipts and proceeds of sales tax supported bonds, renewal anticipation notes, or refunding sales tax supported bonds for the payment of debt charges is determined by the general assembly to create a special obligation which is not a bonded indebtedness subject to Section 11 of Article XII, Ohio Constitution.

(E) The sales tax supported bonds shall bear such date or dates, shall be executed in the manner, and shall mature at such time or times, in the case of any anticipation notes not exceeding ten years from the date of issue of the original anticipation notes and in the case of any sales tax supported bonds or of any refunding sales tax supported bonds, not exceeding the maximum maturity certified to the taxing authority pursuant to division (B) of this section, all as the authorizing proceedings may provide. The sales tax supported bonds shall bear interest at such rates, or at variable rate or rates changing from time to time, in accordance with provisions in the authorizing proceedings, be in such denominations and form, either coupon or registered, carry such registration privileges, be payable in such medium of payment and at such place or places, and be subject to such terms of redemption, as the taxing authority may authorize or provide. The sales tax supported bonds may be sold at public or private sale, and at, or at not less than, the price or prices as the taxing authority determines. If any officer whose signature or a facsimile of whose signature appears on any sales tax supported bonds or coupons ceases to be such officer before delivery of the sales tax supported bonds or anticipation notes, the signature or facsimile shall nevertheless be sufficient for all purposes as if that officer had remained in office until delivery of the sales tax supported bonds. Whether or not the sales tax supported bonds are of such form and character as to be negotiable instruments under Title XIII of the Revised Code, the sales tax supported bonds shall have all the qualities and incidents of negotiable instruments, subject only to any provisions for registration. Neither the members of the board of the taxing authority nor any person executing the sales tax supported bonds shall be liable personally on the sales tax supported bonds or be subject to any personal liability or accountability by reason of their issuance.

(F) Notwithstanding any other provision of this section, sections 9.98 to 9.983, 133.02, 133.70, and 5709.76, and division (A) of section 133.03 of the Revised Code apply to the sales tax supported bonds. Sales tax supported bonds issued under this section need not comply with any other law applicable to notes or bonds but the authorizing proceedings may provide that divisions (B) to (E) of section 133.25 of the Revised Code apply to the sales tax supported bonds or anticipation notes.

(G) Any authorized proceedings may contain provisions, subject to any agreements with holders as may then exist, which shall be a part of the contract with the holders, as to the pledging of any or all of the county's anticipated sales tax receipts to secure the payment of the sales tax supported bonds; the use and disposition of the sales tax receipts of the

county; the crediting of the proceeds of the sale of sales tax supported bonds to and among the funds referred to or provided for in the authorizing proceedings; limitations on the purpose to which the proceeds of the sales tax supported bonds may be applied and the pledging of portions of such proceeds to secure the payment of the sales tax supported bonds or of anticipation notes; the agreement of the county to do all things necessary for the authorization, issuance, and sale of those notes anticipated in such amounts as may be necessary for the timely payment of debt charges on any anticipation notes; limitations on the issuance of additional sales tax supported bonds; the terms upon which additional sales tax supported bonds may be issued and secured; the refunding of refunded obligations; the procedure by which the terms of any contract with holders may be amended, and the manner in which any required consent to amend may be given; securing any sales tax supported bonds by a trust agreement or other agreement; and any other matters, of like or different character, that in any way affect the security or protection of the sales tax supported bonds or anticipation notes.

(H) The taxing authority of a county may not repeal, rescind, or reduce any portion of a county sales tax pledged to the payment of debt charges on sales tax supported bonds issued by the county while such sales tax supported bonds remain outstanding, and no portion of a county sales tax pledged to the payment of debt charges on sales tax supported bonds shall be subject to repeal or reduction by the electorate of the county or by the taxing authority of the county while such sales tax supported bonds are outstanding.

Sec. 133.09. (A) Unless it is a township that has adopted a limited home rule government under Chapter 504. of the Revised Code, a township shall not incur net indebtedness that exceeds an amount equal to five per cent of its tax valuation and, except as specifically authorized by section 505.262 of the Revised Code or other laws, shall not incur any net indebtedness unless authorized by vote of the electors.

(B) A township that has adopted a limited home rule government under Chapter 504. of the Revised Code shall not incur net indebtedness that exceeds an amount equal to ten and one-half per cent of its tax valuation, or incur without a vote of the electors net indebtedness that exceeds an amount equal to five and one-half per cent of that tax valuation. In calculating the net indebtedness of a township that has adopted a limited home rule government, none of the following securities shall be considered:

- (1) Self-supporting securities issued for any purpose;
- (2) Securities issued for the purpose of purchasing, constructing,

improving, or extending water or sanitary or surface and storm water sewerage systems or facilities, or a combination of those systems or facilities, to the extent that an agreement entered into with another subdivision requires the other subdivision to pay to the township amounts equivalent to debt charges on the securities;

(3) Securities that are not general obligations of the township;

(4) Voted securities issued for the purposes of redevelopment to the extent that their principal amount does not exceed an amount equal to two per cent of the tax valuation of the township;

(5) Securities issued for the purpose of acquiring or constructing roads, highways, bridges, or viaducts, or for the purpose of acquiring or making other highway permanent improvements, to the extent that the resolution of the board of township trustees authorizing the issuance of the securities includes a covenant to appropriate from money distributed to the township under Chapter 4501., 4503., 4504., or 5735. of the Revised Code a sufficient amount to cover debt charges on and financing costs relating to the securities as they become due;

(6) Securities issued for energy conservation measures under section 505.264 of the Revised Code.

(C) In calculating the net indebtedness of any township, no obligation incurred under division (B) of section 513.17 or under section 505.261, 505.264, 505.265, 505.267, or 505.37 of the Revised Code, or in connection with a project undertaken pursuant to Section 515.03 of H.B. 66 of the 126th General Assembly, shall be considered.

Sec. 140.01. As used in this chapter:

(A) "Hospital agency" means any public hospital agency or any nonprofit hospital agency.

(B) "Public hospital agency" means any county, board of county hospital trustees established pursuant to section 339.02 of the Revised Code, county hospital commission established pursuant to section 339.14 of the Revised Code, municipal corporation, new community authority organized under Chapter 349. of the Revised Code, joint township hospital district, state or municipal university or college operating or authorized to operate a hospital facility, or the state.

(C) "Nonprofit hospital agency" means a corporation or association not for profit, no part of the net earnings of which inures or may lawfully inure to the benefit of any private shareholder or individual, that has authority to own or operate a hospital facility or provides or is to provide services to one or more other hospital agencies.

(D) "Governing body" means, in the case of a county, the board of

county commissioners or other legislative body; in the case of a board of county hospital trustees, the board; in the case of a county hospital commission, the commission; in the case of a municipal corporation, the council or other legislative authority; in the case of a new community authority, its board of trustees; in the case of a joint township hospital district, the joint township district hospital board; in the case of a state or municipal university or college, its board of trustees or board of directors; in the case of a nonprofit hospital agency, the board of trustees or other body having general management of the agency; and, in the case of the state, the director of development or the Ohio higher educational facility commission.

(E) "Hospital facilities" means buildings, structures and other improvements, additions thereto and extensions thereof, furnishings, equipment, and real estate and interests in real estate, used or to be used for or in connection with one or more hospitals, emergency, intensive, intermediate, extended, long-term, or self-care facilities, diagnostic and treatment and out-patient facilities, facilities related to programs for home health services, clinics, laboratories, public health centers, research facilities, and rehabilitation facilities, for or pertaining to diagnosis, treatment, care, or rehabilitation of sick, ill, injured, infirm, impaired, disabled, or handicapped persons, or the prevention, detection, and control of disease, and also includes education, training, and food service facilities for health professions personnel, housing facilities for such personnel and their families, and parking and service facilities in connection with any of the foregoing; and includes any one, part of, or any combination of the foregoing; and further includes site improvements, utilities, machinery, facilities, furnishings, and any separate or connected buildings, structures, improvements, sites, utilities, facilities, or equipment to be used in, or in connection with the operation or maintenance of, or supplementing or otherwise related to the services or facilities to be provided by, any one or more of such hospital facilities.

(F) "Costs of hospital facilities" means the costs of acquiring hospital facilities or interests in hospital facilities, including membership interests in nonprofit hospital agencies, costs of constructing hospital facilities, costs of improving one or more hospital facilities, including reconstructing, rehabilitating, remodeling, renovating, and enlarging, costs of equipping and furnishing such facilities, and all financing costs pertaining thereto, including, without limitation thereto, costs of engineering, architectural, and other professional services, designs, plans, specifications and surveys, and estimates of cost, costs of tests and inspections, the costs of any indemnity or surety bonds and premiums on insurance, all related direct or allocable

administrative expenses pertaining thereto, fees and expenses of trustees, depositories, and paying agents for the obligations, cost of issuance of the obligations and financing charges and fees and expenses of financial advisors, attorneys, accountants, consultants and rating services in connection therewith, capitalized interest on the obligations, amounts necessary to establish reserves as required by the bond proceedings, the reimbursement of all moneys advanced or applied by the hospital agency or others or borrowed from others for the payment of any item or items of costs of such facilities, and all other expenses necessary or incident to planning or determining feasibility or practicability with respect to such facilities, and such other expenses as may be necessary or incident to the acquisition, construction, reconstruction, rehabilitation, remodeling, renovation, enlargement, improvement, equipment, and furnishing of such facilities, the financing thereof, and the placing of the same in use and operation, including any one, part of, or combination of such classes of costs and expenses, and means the costs of refinancing obligations issued by, or reimbursement of money advanced by, nonprofit hospital agencies or others the proceeds of which were used for the payment of costs of hospital facilities, if the governing body of the public hospital agency determines that the refinancing or reimbursement advances the purposes of this chapter, whether or not the refinancing or reimbursement is in conjunction with the acquisition or construction of additional hospital facilities.

(G) "Hospital receipts" means all moneys received by or on behalf of a hospital agency from or in connection with the ownership, operation, acquisition, construction, improvement, equipping, or financing of any hospital facilities, including, without limitation thereto, any rentals and other moneys received from the lease, sale, or other disposition of hospital facilities, and any gifts, grants, interest subsidies, or other moneys received under any federal program for assistance in financing the costs of hospital facilities, and any other gifts, grants, and donations, and receipts therefrom, available for financing the costs of hospital facilities.

(H) "Obligations" means bonds, notes, or other evidences of indebtedness or obligation, including interest coupons pertaining thereto, issued or issuable by a public hospital agency to pay costs of hospital facilities.

(I) "Bond service charges" means principal, interest, and call premium, if any, required to be paid on obligations.

(J) "Bond proceedings" means one or more ordinances, resolutions, trust agreements, indentures, and other agreements or documents, and amendments and supplements to the foregoing, or any combination thereof,

authorizing or providing for the terms, including any variable interest rates, and conditions applicable to, or providing for the security of, obligations and the provisions contained in such obligations.

(K) "Nursing home" has the same meaning as in division (A)(1) of section 5701.13 of the Revised Code.

(L) "Residential care facility" has the same meaning as in division (A)(2) of section 5701.13 of the Revised Code.

(M) "Adult care facility" has the same meaning as in division (A)(3) of section 5701.13 of the Revised Code.

(N) "Independent living facility" means any self-care facility or other housing facility designed or used as a residence for elderly persons. An "independent living facility" does not include a residential facility, or that part of a residential facility, that is any of the following:

(1) A hospital required to be certified by section 3727.02 of the Revised Code;

(2) A nursing home or residential care facility;

(3) An adult care facility;

(4) A hospice licensed under section 3712.04 of the Revised Code;

~~(5) A habilitation center as defined in section 5123.041 of the Revised Code;~~

~~(6)~~ A residential facility for the mentally ill licensed by the department of mental health under section 5119.22 of the Revised Code;

~~(7)~~(6) A facility licensed to provide methadone treatment under section 3793.11 of the Revised Code;

~~(8)~~(7) A facility certified as an alcohol and drug addiction program under section 3793.06 of the Revised Code;

~~(9)~~(8) A residential facility licensed under section 5123.19 of the Revised Code or a facility providing services under a contract with the department of mental retardation and developmental disabilities under section 5123.18 of the Revised Code;

~~(10)~~(9) A residential facility used as part of a hospital to provide housing for staff of the hospital or students pursuing a course of study at the hospital.

Sec. 141.011. Beginning in calendar year 2001, the annual salaries of the elective officers of the state shall be as follows rather than as prescribed by divisions (A) to (F) of section 141.01 of the Revised Code:

(A)(1) In calendar year 2001 the annual salary of the governor shall be one hundred twenty-six thousand four hundred ninety-seven dollars.

(2) In calendar years 2002 through 2006 the annual salary of the governor shall be one hundred thirty thousand two hundred ninety-two

dollars.

(3) In calendar year 2007 the annual salary of the governor shall be the annual salary in 2006 increased by each of the following percentages in succession:

(a) The lesser of three per cent or the percentage increase, if any, in the consumer price index from October 1, 2001, to September 30, 2002, rounded to the nearest one-tenth of one per cent;

(b) The lesser of three per cent or the percentage increase, if any, in the consumer price index from October 1, 2002, to September 30, 2003, rounded to the nearest one-tenth of one per cent;

(c) The lesser of three per cent or the percentage increase, if any, in the consumer price index from October 1, 2003, to September 30, 2004, rounded to the nearest one-tenth of one per cent;

(d) The lesser of three per cent or the percentage increase, if any, in the consumer price index from October 1, 2004, to September 30, 2005, rounded to the nearest one-tenth of one per cent;

(e) The lesser of three per cent or the percentage increase, if any, in the consumer price index from October 1, 2005, to September 30, 2006, rounded to the nearest one-tenth of one per cent.

(4) In calendar year 2008 and thereafter, the annual salary of the governor shall be the annual salary in 2007 increased by the lesser of the following:

(a) Three per cent;

(b) The percentage increase, if any, in the consumer price index from October 1, 2006, to September 30, 2007, rounded to the nearest one-tenth of one per cent.

(B)(1) In calendar year 2001 the annual salary of the lieutenant governor shall be sixty-six thousand three hundred six dollars.

(2) In calendar years 2002 through 2006 the annual salary of the lieutenant governor shall be sixty-eight thousand two hundred ninety-five dollars.

(3) In calendar year 2007 the annual salary of the lieutenant governor shall be the annual salary in 2006 increased by each of the following percentages in succession:

(a) The lesser of three per cent or the percentage increase, if any, in the consumer price index from October 1, 2001, to September 30, 2002, rounded to the nearest one-tenth of one per cent;

(b) The lesser of three per cent or the percentage increase, if any, in the consumer price index from October 1, 2002, to September 30, 2003, rounded to the nearest one-tenth of one per cent;



(c) The lesser of three per cent or the percentage increase, if any, in the consumer price index from October 1, 2003, to September 30, 2004, rounded to the nearest one-tenth of one per cent;

(d) The lesser of three per cent or the percentage increase, if any, in the consumer price index from October 1, 2004, to September 30, 2005, rounded to the nearest one-tenth of one per cent;

(e) The lesser of three per cent or the percentage increase, if any, in the consumer price index from October 1, 2005, to September 30, 2006, rounded to the nearest one-tenth of one per cent.

(4) In calendar year 2008 and thereafter, the annual salary of the lieutenant governor shall be the annual salary in 2007 increased by the lesser of the following:

(a) Three per cent;

(b) The percentage increase, if any, in the consumer price index from October 1, 2006 to September 30, 2007, rounded to the nearest one-tenth of one per cent.

If the governor appoints the lieutenant governor as an administrative department head ~~or as the director of the office of criminal justice services under section 108.05 of the Revised Code~~, the lieutenant governor may accept the salary for that office while serving as its head in lieu of the salary for the office of lieutenant governor.

(C)(1) In calendar year 2001 the annual salary of the secretary of state, auditor of state, treasurer of state, and attorney general shall be ninety-three thousand four hundred forty-seven dollars.

(2) In calendar year 2002 the annual salary of the secretary of state, auditor of state, treasurer of state, and attorney general shall be ninety-six thousand two hundred fifty dollars.

(3) In each calendar year from 2003 through 2008, the annual salary of the secretary of state, auditor of state, treasurer of state, and attorney general shall be increased by the lesser of the following:

(a) Three per cent;

(b) The percentage increase, if any, in the consumer price index over the twelve-month period that ends on the thirtieth day of September of the immediately preceding year, rounded to the nearest one-tenth of one per cent.

(D) Upon the death of an elected executive officer of the state listed in divisions (A) to (F) of section 141.01 of the Revised Code during that person's term of office, an amount shall be paid in accordance with section 2113.04 of the Revised Code, or to that person's estate. The amount shall equal the amount of the salary that the officer would have received during

the remainder of the officer's unexpired term or an amount equal to the salary of that person's office for two years, whichever is less.

(E) As used in this section, "consumer price index" has the same meaning as in section 101.27 of the Revised Code.

Sec. 141.04. (A) The annual salaries of the chief justice of the supreme court and of the justices and judges named in this section payable from the state treasury are as follows, rounded to the nearest fifty dollars:

(1) For the chief justice of the supreme court, the following amounts effective in the following years:

(a) Beginning January 1, 2000, one hundred twenty-four thousand nine hundred dollars;

(b) Beginning January 1, 2001, one hundred twenty-eight thousand six hundred fifty dollars;

(c) After 2001, the amount determined under division (E)(1) of this section.

(2) For the justices of the supreme court, the following amounts effective in the following years:

(a) Beginning January 1, 2000, one hundred seventeen thousand two hundred fifty dollars;

(b) Beginning January 1, 2001, one hundred twenty thousand seven hundred fifty dollars;

(c) After 2001, the amount determined under division (E)(1) of this section.

(3) For the judges of the courts of appeals, the following amounts effective in the following years:

(a) Beginning January 1, 2000, one hundred nine thousand two hundred fifty dollars;

(b) Beginning January 1, 2001, one hundred twelve thousand five hundred fifty dollars;

(c) After 2001, the amount determined under division (E)(1) of this section.

(4) For the judges of the courts of common pleas, the following amounts effective in the following years:

(a) Beginning January 1, 2000, one hundred thousand five hundred dollars, reduced by an amount equal to the annual compensation paid to that judge from the county treasury pursuant to section 141.05 of the Revised Code;

(b) Beginning January 1, 2001, one hundred three thousand five hundred dollars, reduced by an amount equal to the annual compensation paid to that judge from the county treasury pursuant to section 141.05 of the

Revised Code;

(c) After 2001, the aggregate annual salary amount determined under division (E)(2) of this section reduced by an amount equal to the annual compensation paid to that judge from the county treasury pursuant to section 141.05 of the Revised Code.

(5) For the full-time judges of a municipal court or the part-time judges of a municipal court of a territory having a population of more than fifty thousand, the following amounts effective in the following years, which amounts shall be in addition to all amounts received pursuant to divisions (B)(1)(a) and (2) of section 1901.11 of the Revised Code from municipal corporations and counties:

(a) Beginning January 1, 2000, thirty-two thousand six hundred fifty dollars;

(b) Beginning January 1, 2001, thirty-five thousand five hundred dollars;

(c) After 2001, the amount determined under division (E)(3) of this section.

(6) For judges of a municipal court designated as part-time judges by section 1901.08 of the Revised Code, other than part-time judges to whom division (A)(5) of this section applies, and for judges of a county court, the following amounts effective in the following years, which amounts shall be in addition to any amounts received pursuant to division (A) of section 1901.11 of the Revised Code from municipal corporations and counties or pursuant to division (A) of section 1907.16 of the Revised Code from counties:

(a) Beginning January 1, 2000, eighteen thousand eight hundred dollars;

(b) Beginning January 1, 2001, twenty thousand four hundred fifty dollars;

(c) After 2001, the amount determined under division (E)(4) of this section.

(B) Except as provided in section 1901.121 of the Revised Code, except as otherwise provided in this division, and except for the compensation to which the judges described in division (A)(5) of this section are entitled pursuant to divisions (B)(1)(a) and (2) of section 1901.11 of the Revised Code, the annual salary of the chief justice of the supreme court and of each justice or judge listed in division (A) of this section shall be paid in equal monthly installments from the state treasury. If the chief justice of the supreme court or any justice or judge listed in division (A)(2), (3), or (4) of this section delivers a written request to be paid biweekly to the administrative director of the supreme court prior to the first day of January

of any year, the annual salary of the chief justice or the justice or judge that is listed in division (A)(2), (3), or (4) of this section shall be paid, during the year immediately following the year in which the request is delivered to the administrative director of the supreme court, biweekly from the state treasury.

(C) Upon the death of the chief justice or a justice of the supreme court during that person's term of office, an amount shall be paid in accordance with section 2113.04 of the Revised Code, or to that person's estate. The amount shall equal the amount of the salary that the chief justice or justice would have received during the remainder of the unexpired term or an amount equal to the salary of office for two years, whichever is less.

(D) Neither the chief justice of the supreme court nor any justice or judge of the supreme court, the court of appeals, the court of common pleas, or the probate court shall hold any other office of trust or profit under the authority of this state or the United States.

(E)(1) Each calendar year from 2002 through 2008, the annual salaries of the chief justice of the supreme court and of the justices and judges named in divisions (A)(2) and (3) of this section shall be increased by an amount equal to the adjustment percentage for that year multiplied by the compensation paid the preceding year pursuant to division (A)(1), (2), or (3) of this section.

(2) Each calendar year from 2002 through 2008, the aggregate annual salary payable under division (A)(4) of this section to the judges named in that division shall be increased by an amount equal to the adjustment percentage for that year multiplied by the aggregate compensation paid the preceding year pursuant to division (A)(4) of this section and section 141.05 of the Revised Code.

(3) Each calendar year from 2002 through 2008, the salary payable from the state treasury under division (A)(5) of this section to the judges named in that division shall be increased by an amount equal to the adjustment percentage for that year multiplied by the aggregate compensation paid the preceding year pursuant to division (A)(5) of this section and division (B)(1)(a) of section 1901.11 of the Revised Code.

(4) Each calendar year from 2002 through 2008, the salary payable from the state treasury under division (A)(6) of this section to the judges named in that division shall be increased by an amount equal to the adjustment percentage for that year multiplied by the aggregate compensation paid the preceding year pursuant to division (A)(6) of this section and division (A) of section 1901.11 of the Revised Code from municipal corporations and counties or division (A) of section 1907.16 of the Revised Code from

counties.

(F) In addition to the salaries payable pursuant to this section, the chief justice of the supreme court and the justices of the supreme court shall be entitled to a vehicle allowance of five hundred dollars per month, payable from the state treasury. The allowance shall be increased on the first day of January of each odd numbered year by an amount equal to the percentage increase, if any, in the consumer price index for the immediately preceding twenty-four month period for which information is available.

(G) As used in this section:

(1) The "adjustment percentage" for a year is the lesser of the following:

(a) Three per cent;

(b) The percentage increase, if any, in the consumer price index over the twelve-month period that ends on the thirtieth day of September of the immediately preceding year, rounded to the nearest one-tenth of one per cent.

(2) "Consumer price index" has the same meaning as in section 101.27 of the Revised Code.

(3) "Salary" does not include any portion of the cost, premium, or charge for health, medical, hospital, dental, or surgical benefits, or any combination of those benefits, covering the chief justice of the supreme court or a justice or judge named in this section and paid on the chief justice's or the justice's or judge's behalf by a governmental entity.

Sec. 145.01. As used in this chapter:

(A) "Public employee" means:

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

(2) A person who is a member of the public employees retirement system and who continues to perform the same or similar duties under the direction of a contractor who has contracted to take over what before the date of the contract was a publicly operated function. The governmental unit

with which the contract has been made shall be deemed the employer for the purposes of administering this chapter.

(3) Any person who is an employee of a public employer, notwithstanding that the person's compensation for that employment is derived from funds of a person or entity other than the employer. Credit for such service shall be included as total service credit, provided that the employee makes the payments required by this chapter, and the employer makes the payments required by sections 145.48 and 145.51 of the Revised Code.

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

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

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

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

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

(E) "Prior service" means all service as a public employee rendered before January 1, 1935, and all service as an employee of any employer who comes within the state teachers retirement system or of the school employees retirement system or of any other retirement system established

under the laws of this state rendered prior to January 1, 1935, provided that if the employee claiming the service was employed in any capacity covered by that other system after that other system was established, credit for the service may be allowed by the public employees retirement system only when the employee has made payment, to be computed on the salary earned from the date of appointment to the date membership was established in the public employees retirement system, at the rate in effect at the time of payment, and the employer has made payment of the corresponding full liability as provided by section 145.44 of the Revised Code. "Prior service" also means all service credited for active duty with the armed forces of the United States as provided in section 145.30 of the Revised Code.

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

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

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

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

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

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

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

(F) "Contributor" means any person who has an account in the

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

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

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

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

(3) Where a member also is a member of the state teachers retirement system or the school employees retirement system, or both, except in cases of retirement on a combined basis pursuant to section 145.37 of the Revised Code or as provided in section 145.383 of the Revised Code, service credit



for any period shall be credited on the basis of the ratio that contributions to the public employees retirement system bear to total contributions in all state retirement systems.

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

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

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

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

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

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

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

(L) "Annuity" means payments for life derived from contributions made by a contributor and paid from the annuity and pension reserve fund as provided in this chapter. All annuities shall be paid in twelve equal monthly installments.

(M) "Annuity reserve" means the present value, computed upon the basis of the mortality and other tables adopted by the board, of all payments

to be made on account of any annuity, or benefit in lieu of any annuity, granted to a retirant as provided in this chapter.

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

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

(3) "Disability benefit" means a benefit paid as disability retirement under section 145.36 of the Revised Code, as a disability allowance under section 145.361 of the Revised Code, or as a disability benefit under section 145.37 of the Revised Code.

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

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

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

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

(R)(1) Except as otherwise provided in division (R) of this section, "earnable salary" means all salary, wages, and other earnings paid to a contributor by reason of employment in a position covered by the retirement system. The salary, wages, and other earnings shall be determined prior to determination of the amount required to be contributed to the employees' savings fund under section 145.47 of the Revised Code and without regard to whether any of the salary, wages, or other earnings are treated as deferred income for federal income tax purposes. "Earnable salary" includes the following:

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

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

(c) Allowances paid by the employer for full maintenance, consisting of

housing, laundry, and meals, as certified to the retirement board by the employer or the head of the department that employs the contributor;

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

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

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

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

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

(b) Amounts paid by the employer to provide life insurance, sickness, accident, endowment, health, medical, hospital, dental, or surgical coverage, or other insurance for the contributor or the contributor's family, or amounts paid by the employer to the contributor in lieu of providing the insurance;

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

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

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

(f) Payments made to or on behalf of a contributor that are in excess of the annual compensation that may be taken into account by the retirement system under division (a)(17) of section 401 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 401(a)(17), as amended;

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

(h) Anything of value received by the contributor that is based on or attributable to retirement or an agreement to retire, except that payments

made on or before January 1, 1989, that are based on or attributable to an agreement to retire shall be included in earnable salary if both of the following apply:

(i) The payments are made in accordance with contract provisions that were in effect prior to January 1, 1986;

(ii) The employer pays the retirement system an amount specified by the retirement board equal to the additional liability resulting from the payments.

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

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

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

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

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

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

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

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

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

(X) "Public service terminates" means the last day for which a public employee is compensated for services performed for an employer or the date of the employee's death, whichever occurs first.

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

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

endorsed by the employer prior to coverage under this chapter or under a combination of the coverage.

(AA) "Deputy sheriff" means any person who is commissioned and employed as a full-time peace officer by the sheriff of any county, and has been so employed since on or before December 31, 1965, and whose primary duties are to preserve the peace, to protect life and property, and to enforce the laws of this state; any person who is or has been commissioned and employed as a peace officer by the sheriff of any county since January 1, 1966, and who has received a certificate attesting to the person's satisfactory completion of the peace officer training school as required by section 109.77 of the Revised Code and whose primary duties are to preserve the peace, protect life and property, and enforce the laws of this state; or any person deputized by the sheriff of any county and employed pursuant to section 2301.12 of the Revised Code as a criminal bailiff or court constable who has received a certificate attesting to the person's satisfactory completion of the peace officer training school as required by section 109.77 of the Revised Code and whose primary duties are to preserve the peace, protect life and property, and enforce the laws of this state.

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

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

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

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

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

(EE) "Natural resources law enforcement staff officer" means a

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(VV) "Municipal public safety director" means a person who serves full-time as the public safety director of a municipal corporation with the duty of directing the activities of the municipal corporation's police department and fire department.

(WW) Notwithstanding section 2901.01 of the Revised Code, "PERS law enforcement officer" means a sheriff, deputy sheriff, township constable or police officer in a township police department or district, drug agent, municipal public safety director, department of public safety enforcement agent, natural resources law enforcement staff officer, park officer, forest officer, preserve officer, wildlife officer, state watercraft officer, park district police officer, conservancy district officer, veterans' home police officer, special police officer for a mental health institution, special police



officer for an institution for the mentally retarded and developmentally disabled, state university law enforcement officer, municipal police officer, house sergeant at arms, assistant house sergeant at arms, regional transit authority police officer, or state highway patrol police officer.

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

~~(XX)~~(YY) "Fiduciary" means a person who does any of the following:

(1) Exercises any discretionary authority or control with respect to the management of the system or with respect to the management or disposition of its assets;

(2) Renders investment advice for a fee, direct or indirect, with respect to money or property of the system;

(3) Has any discretionary authority or responsibility in the administration of the system.

~~(YY)~~(ZZ) "Actuary" means an individual who satisfies all of the following requirements:

(1) Is a member of the American academy of actuaries;

(2) Is an associate or fellow of the society of actuaries;

(3) Has a minimum of five years' experience in providing actuarial services to public retirement plans.

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

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

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

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

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

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

thereof, of such prior and military service credit;

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

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

(a) Eighty-six dollars;

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

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

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

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

Attained Birthday	Percentage of Base Amount
66	102
67	104
68	106

69	108
70 or more	110

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

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

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

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

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

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

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

(i) A PERS law enforcement officer;

(ii) A Hamilton county municipal court bailiff.

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

(4) A member with at least fifteen years of total service credit as a PERS law enforcement officer or Hamilton county municipal court bailiff who voluntarily resigns or is discharged for any reason except death, dishonesty, cowardice, intemperate habits, or conviction of a felony may

apply for an age and service retirement benefit, which shall consist of an annual single lifetime allowance equal to one and one-half per cent of the member's final average salary multiplied by the number of years of the member's total service credit. The allowance shall commence on the first day of the calendar month following the month in which the application is filed with the public employees retirement board on or after the attainment by the applicant of age fifty-two.

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

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

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

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

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

(D) A benefit paid under division (B) or (C) of this section shall not exceed the lesser of ninety per cent of the member's final average salary or the limit established by section 415 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 415, as amended.

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

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

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

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

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

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

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

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

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

(e) Any person who originally is employed as an undercover drug agent as defined in section 109.79 of the Revised Code, department of public

safety enforcement agent who prior to June 30, 1999, was a liquor control investigator, park officer, forest officer, wildlife officer, state watercraft officer, park district police officer, conservancy district officer, veterans' home police officer, special police officer for a mental health institution, special police officer for an institution for the mentally retarded and developmentally disabled, or municipal police officer on or after December 15, 1988;

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

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

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

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

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

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

(l) Any person who is originally appointed as a regional transit authority police officer or state highway patrol police officer on or after February 1, 2002;

(m) Any person who is originally employed as a municipal public safety director on or after the effective date of this amendment.

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

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

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

Sec. 147.05. (A) Before entering upon the duties of the office of notary public, a notary public shall leave the notary public's commission with the oath endorsed on the commission with the clerk of the court of common

pleas of the county in which the notary public resides. The clerk shall record the commission in a book kept for that purpose. The clerk shall endorse on the margin of the record and on the back of the commission the time that the clerk received the commission for record and make a proper index to all commissions so recorded. For recording and indexing a commission, the fee of the clerk shall be as provided in division (R) of section 2303.20 of the Revised Code.

(B) The secretary of state shall maintain a record of the commissions of each notary public appointed and commissioned by the secretary of state under this chapter and make a proper index to that record.

The governor's office shall transfer to the secretary of state's office, on or after ~~the effective date of this amendment~~ June 6, 2001, the record of notaries public formerly kept by the governor's office under section 107.10 of the Revised Code. The secretary of state's office shall maintain that record together with the record and index of commissions of notaries public required by this division.

(C) If a notary public legally changes the notary public's name or address after having been commissioned as a notary public, the notary public shall notify the secretary of state and the appropriate clerk of courts within thirty days after the name or address change. Notification to the secretary of state shall be on a form prescribed by the secretary of state.

(D) A notary, other than an attorney, who resigns the person's commission shall deliver to the secretary of state, on a form prescribed by the secretary of state, a written notice indicating the effective date of resignation.

Sec. 147.10. No notary public shall do or perform any act as a notary public knowing that ~~his~~ the notary public's term of office has expired or that the notary public has resigned the notary public's commission.

Sec. 147.11. A person appointed notary public who performs any act as such after the expiration of ~~his~~ the person's term of office or after the person resigns the person's commission, knowing that ~~his~~ the person's term has expired or that the person has resigned, shall forfeit not more than five hundred dollars, to be recovered by an action in the name of the state. Such act shall render ~~such~~ the person ineligible for reappointment.

Sec. 147.12. An official act done by a notary public after the expiration of ~~his~~ the notary public's term of office or after the notary public resigns the notary public's commission is as valid as if done during ~~his~~ the notary public's term of office.

Sec. 147.371. (A) Upon receipt of a fee of two dollars and an affidavit that the original commission of a notary public has been lost or destroyed, a

duplicate commission as notary public shall be issued by the secretary of state.

(B) Upon receipt of a fee of two dollars and the properly completed, prescribed form for a name and address change under division (C) of section 147.05 of the Revised Code, the secretary of state shall issue a duplicate commission as a notary public.

Sec. 149.30. The Ohio historical society, chartered by this state as a corporation not for profit to promote a knowledge of history and archaeology, especially of Ohio, and operated continuously in the public interest since 1885, may perform public functions as prescribed by law.

The general assembly may appropriate money to the Ohio historical society each biennium to carry out the public functions of the society as enumerated in this section. An appropriation by the general assembly to the society constitutes an offer to contract with the society to carry out those public functions for which appropriations are made. An acceptance by the society of the appropriated funds constitutes an acceptance by the society of the offer and is considered an agreement by the society to perform those functions in accordance with the terms of the appropriation and the law and to expend the funds only for the purposes for which appropriated. The governor may request on behalf of the society, and the controlling board may release, additional funds to the society for survey, salvage, repair, or rehabilitation of an emergency nature for which funds have not been appropriated, and acceptance by the society of those funds constitutes an agreement on the part of the society to expend those funds only for the purpose for which released by the controlling board.

The society shall faithfully expend and apply all moneys received from the state to the uses and purposes directed by law and for necessary administrative expenses. The If the general assembly appropriates money to the society for grants or subsidies to other entities for their site-related programs, the society, except for good cause, shall distribute the money within ninety days of accepting a grant or subsidy application for the money.

The society shall perform the public function of sending notice by certified mail to the owner of any property at the time it is listed on the national register of historic places. The society shall accurately record all expenditures of such funds in conformity with generally accepted accounting principles.

The auditor of state shall audit all funds and fiscal records of the society.

The public functions to be performed by the Ohio historical society shall include all of the following:



(A) Creating, supervising, operating, protecting, maintaining, and promoting for public use a system of state memorials, titles to which may reside wholly or in part with this state or wholly or in part with the society as provided in and in conformity to appropriate acts and resolves of the general assembly, and leasing for renewable periods of two years or less, with the advice and consent of the attorney general and the director of administrative services, lands and buildings owned by the state which are in the care, custody, and control of the society, all of which shall be maintained and kept for public use at reasonable hours;

(B) Making alterations and improvements, marking, and constructing, reconstructing, protecting, or restoring structures, earthworks, and monuments in its care, and equipping such facilities with appropriate educational maintenance facilities;

(C) Serving as the archives administration for the state and its political subdivisions as provided in sections 149.31 to 149.42 of the Revised Code;

(D) Administering a state historical museum, to be the headquarters of the society and its principal museum and library, which shall be maintained and kept for public use at reasonable hours;

(E) Establishing a marking system to identify all designated historic and archaeological sites within the state and marking or causing to be marked historic sites and communities considered by the society to be historically or archaeologically significant;

(F) Publishing books, pamphlets, periodicals, and other publications about history, archaeology, and natural science and offering one copy of each regular periodical issue to all public libraries in this state at a reasonable price, which shall not exceed one hundred ten per cent more than the total cost of publication;

(G) Engaging in research in history, archaeology, and natural science and providing historical information upon request to all state agencies;

(H) Collecting, preserving, and making available by all appropriate means and under approved safeguards all manuscript, print, or near-print library collections and all historical objects, specimens, and artifacts which pertain to the history of Ohio and its people, including the following original documents: Ohio Constitution of 1802; Ohio Constitution of 1851; proposed Ohio Constitution of 1875; design and the letters of patent and assignment of patent for the state flag; S.J.R. 13 (1873); S.J.R. 53 (1875); S.J.R. 72 (1875); S.J.R. 50 (1883); H.J.R. 73 (1883); S.J.R. 28 (1885); H.J.R. 67 (1885); S.J.R. 17 (1902); S.J.R. 28 (1902); H.J.R. 39 (1902); S.J.R. 23 (1903); H.J.R. 19 (1904); S.J.R. 16 (1905); H.J.R. 41 (1913); H.J.R. 34 (1917); petition form (2) (1918); S.J.R. 6 (1921); H.J.R. 5 (1923); H.J.R. 40

(1923); H.J.R. 8 (1929); H.J.R. 20 (1929); S.J.R. 4 (1933); petition form (2) (1933); S.J.R. 57 (1936); petition form (1936); H.J.R. 14 (1942); H.J.R. 15 (1944); H.J.R. 8 (1944); S.J.R. 6 (1947); petition form (1947); H.J.R. 24 (1947); and H.J.R. 48 (1947);

(I) Encouraging and promoting the organization and development of county and local historical societies;

(J) Providing to Ohio schools such materials as the society may prepare to facilitate the instruction of Ohio history at a reasonable price, which shall not exceed one hundred ten per cent more than the total cost of preparation and delivery;

(K) Providing advisory and technical assistance to local societies for the preservation and restoration of historic and archaeological sites;

(L) Devising uniform criteria for the designation of historic and archaeological sites throughout the state and advising local historical societies of the criteria and their application;

(M) Taking inventory, in cooperation with the Ohio arts council, the Ohio archaeological council, and the archaeological society of Ohio, of significant designated and undesignated state and local sites and keeping an active registry of all designated sites within the state;

(N) Contracting with the owners or persons having an interest in designated historic or archaeological sites or property adjacent or contiguous to those sites, or acquiring, by purchase, gift, or devise, easements in those sites or in property adjacent or contiguous to those sites, in order to control or restrict the use of those historic or archaeological sites or adjacent or contiguous property for the purpose of restoring or preserving the historical or archaeological significance or educational value of those sites;

(O) Constructing a monument honoring Governor James A. Rhodes, which shall stand on the northeast quadrant of the grounds surrounding the capitol building. The monument shall be constructed with private funds donated to the Ohio historical society and designated for this purpose. No public funds shall be expended to construct this monument. The department of administrative services shall cooperate with the Ohio historical society in carrying out this function and shall maintain the monument in a manner compatible with the grounds of the capitol building.

(P) Commissioning a portrait of each departing governor, which shall be displayed in the capitol building. The Ohio historical society may accept private contributions designated for this purpose and, at the discretion of its board of trustees, also may apply for the same purpose funds appropriated by the general assembly to the society pursuant to this section.

(Q) Planning and developing a center at the capitol building for the

purpose of educating visitors about the history of Ohio, including its political, economic, and social development and the design and erection of the capitol building and its grounds. The Ohio historical society may accept contributions of private moneys and in-kind services designated for this purpose and may, at the discretion of its board of trustees, also apply, for the same purpose, personnel and other resources paid in whole or in part by its state subsidy.

(R) Submitting an annual report of its activities, programs, and operations to the governor within two months after the close of each fiscal year of the state.

The society shall not sell, mortgage, transfer, or dispose of historical or archaeological sites to which it has title and in which the state has monetary interest except by action of the general assembly.

In consideration of the public functions performed by the Ohio historical society for the state, employees of the society shall be considered public employees within the meaning of section 145.01 of the Revised Code.

Sec. 150.07. (A) For the purpose stated in section 150.01 of the Revised Code, the authority may authorize a lender to claim one of the tax credits allowed under section 5707.031, 5725.19, 5727.241, 5729.08, 5733.49, or 5747.80 of the Revised Code. The credits shall be authorized by a written contract with the lender. The contract shall specify the terms under which the lender may claim the credit, including the amount of loss, if any, the lender must incur before the lender may claim the credit; specify that the credit shall not exceed the amount of the loss; and specify that the lender may claim the credit only for a loss certified by a program administrator to the authority under the procedures prescribed under division (B)(6) of section 150.05 of the Revised Code.

(B) Tax credits may be authorized at any time after the authority establishes the investment policy under section 150.03 of the Revised Code, but a tax credit so authorized may not be claimed until the beginning of the fifth year after the authority establishes the investment policy. A tax credit may not be claimed after June 30, 2026.

(C) (1) Upon receiving certification of a lender's loss from a program administrator pursuant to the procedures in the investment policy, the authority shall issue a tax credit certificate to the lender, except as otherwise provided in division (D) of this section. ~~The~~

(2) If the lender is a pass-through entity, as defined in section 5733.04 of the Revised Code, then each equity investor in the lender pass-through entity shall be entitled to claim one of the tax credits allowed under division

(A) of this section for that equity investor's taxable year in which or with which ends the taxable year of the lender pass-through entity in an amount based on the equity investor's distributive or proportionate share of the credit amount set forth in the certificate issued by the authority. If all equity investors of the lender pass-through entity are not eligible to claim a credit against the same tax set forth in division (A) of this section, then each equity investor may elect to claim a credit against the tax to which the equity investor is subject to in an amount based on the equity investor's distributive or proportionate share of the credit amount set forth in the certificate issued by the authority.

(3) The authority shall not issue a certificate until the lender, in the manner prescribed by the authority, or in the case of a lender pass-through entity, until each equity investor in that lender pass-through entity, elects to receive a refundable or nonrefundable tax credit. The election, once made, is irrevocable. The certificate shall state the amount of the credit, whether the credit is refundable or nonrefundable, and the calendar year, under section 5707.031, 5725.19, 5727.241, or 5729.08, the tax year, under section 5733.49, or the taxable year under section 5747.80 of the Revised Code, for which the credit may be claimed. The authority, in conjunction with the tax commissioner, shall develop a system for issuing tax credit certificates for the purpose of verifying that any credit claimed is a credit issued under this section and is properly taken in the year specified in the certificate and in compliance with division (B) of this section.

(D) The authority shall not, in any fiscal year, issue tax credit certificates in a total amount exceeding twenty million dollars.

Sec. 150.10. (A) On the first day of January of the second year after the date of entering into an agreement under section 150.05 of the Revised Code and of each ensuing year, the authority shall file with the clerk of the house of representatives, the clerk of the senate, and the chairpersons of the house and senate standing committees predominantly concerned with economic development a written report on the Ohio venture capital program. The report shall include all the following:

(1) A description of the details of the investment policy established or modified in accordance with sections 150.03 and 150.04 of the Revised Code;

(2) The authority's assessment of the program's achievement of its purpose stated in section 150.01 of the Revised Code;

(3) The value of tax credit certificates issued by the authority under section 150.07 of the Revised Code in each fiscal year ending on or before the preceding thirtieth day of June;

(4) The amount of tax credits claimed pursuant to section 5707.031, 5725.19, 5727.241, 5729.08, 5733.49, or 5747.80 of the Revised Code, as to the respective taxes involved;

(5) The financial status of the Ohio venture capital fund;

(6) The names of venture capital funds in which money from the program fund has been invested and the locations of their principal offices, and the names of the enterprises in which each of those venture capital funds has invested such money and the locations of those enterprises' principal offices;

(7) Any recommendations for modifying the program to better achieve the purpose stated in section 150.01 of the Revised Code.

(B) During each year that a report is issued under division (A) of this section, the chairperson of the authority, or another member of the authority designated by the chairperson as the authority's representative, shall be required to appear in person before the standing committees of the house and senate predominantly concerned with economic development to give testimony concerning the status of the Ohio venture capital program.

Sec. 153.02. (A) The director of administrative services may debar a contractor from contract awards for public improvements as referred to in section 153.01 of the Revised Code upon proof that the contractor has done any of the following:

(1) Defaulted on a contract requiring the execution of a takeover agreement as set forth in division (B) of section 153.17 of the Revised Code;

(2) Knowingly failed during the course of a contract to maintain the coverage required by the bureau of workers' compensation;

(3) Knowingly failed during the course of a contract to maintain the contractor's drug-free workplace program as required by the contract;

(4) Knowingly failed during the course of a contract to maintain insurance required by the contract or otherwise by law, resulting in a substantial loss to the owner, as owner is referred to in section 153.01 of the Revised Code;

(5) Misrepresented the firm's qualifications in the selection process set forth in sections 153.65 to 153.71 of the Revised Code;

(6) Been convicted of a criminal offense related to the application for or performance of any public or private contract, including, but not limited to, embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, and any other offense that directly reflects on the contractor's business integrity;

(7) Been convicted of a criminal offense under state or federal antitrust laws;

(8) Deliberately or willfully submitted false or misleading information in connection with the application for or performance of a public contract;

(9) Been debarred from bidding on or participating in a contract with any state or federal agency.

(B) When the director reasonably believes that grounds for debarment exist, the director shall send the contractor a notice of proposed debarment indicating the grounds for the proposed debarment and the procedure for requesting a hearing on the proposed debarment. The hearing shall be conducted in accordance with Chapter 119. of the Revised Code. If the contractor does not respond with a request for a hearing in the manner specified in Chapter 119. of the Revised Code, the director shall issue the debarment decision without a hearing and shall notify the contractor of the decision by certified mail, return receipt requested.

(C) The director shall determine the length of the debarment period and may rescind the debarment at any time upon notification to the contractor. During the period of debarment, the contractor is not eligible to bid for or participate in any contract for a public improvement as referred to in section 153.01 of the Revised Code. After the debarment period expires, the contractor shall be eligible to bid for and participate in contracts for a public improvement as referred to in section 153.01 of the Revised Code.

(D) The director, through the office of the state architect, shall maintain a list of all contractors currently debarred under this section. Any governmental entity awarding a contract for construction of a public improvement may use a contractor's presence on the debarment list to determine whether a contractor is responsible or best under section 9.312 or any other section of the Revised Code in the award of a contract.

Sec. 154.11. The issuing authority may authorize and issue obligations for the refunding, including funding and retirement, of any obligations previously issued under this chapter and any bonds or notes previously issued under Chapter 152. of the Revised Code to pay costs of capital facilities leased to the Ohio cultural facilities commission, formerly known as the Ohio arts and sports facilities commission. Such obligations may be issued in amounts sufficient for payment of the principal amount of the prior obligations, any redemption premiums thereon, principal maturities of any such obligations maturing prior to the redemption of the remaining obligations on a parity therewith, interest accrued or to accrue to the maturity dates or dates of redemption of such obligations, and any expenses incurred or to be incurred in connection with such issuance and such refunding, funding, and retirement. Subject to the bond proceedings therefor, the portion of proceeds of the sale of obligations issued under this

section to be applied to bond service charges on the prior obligations shall be credited to the bond service fund for those prior obligations. Obligations authorized under this section shall be deemed to be issued for those purposes for which those prior obligations were issued and are subject to the provisions of Chapter 154. of the Revised Code pertaining to other obligations, except as otherwise indicated by this section and except for division (A) of section 154.02 of the Revised Code, provided that, unless otherwise authorized by the general assembly, any limitations imposed by the general assembly pursuant to that division with respect to bond service charges applicable to the prior obligations shall be applicable to the obligations issued under this section to refund, fund, or retire those prior obligations.

Sec. 173.26. (A) Each of the following facilities shall annually pay to the department of aging six dollars for each bed maintained by the facility for use by a resident during any part of the previous year:

(1) Nursing homes, residential care facilities, and homes for the aging as defined in section 3721.01 of the Revised Code;

(2) Facilities authorized to provide extended care services under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended;

(3) County homes and district homes operated pursuant to Chapter 5155. of the Revised Code;

(4) Adult care facilities as defined in section 3722.01 of the Revised Code;

(5) Facilities approved by the Veterans Administration under Section 104(a) of the "Veterans Health Care Amendments of 1983," 97 Stat. 993, 38 U.S.C. 630, as amended, and used exclusively for the placement and care of veterans.

The department shall, by rule adopted in accordance with Chapter 119. of the Revised Code, establish deadlines for payments required by this section. A facility that fails, within ninety days after the established deadline, to pay a payment required by this section shall be assessed at two times the original invoiced payment.

(B) All money collected under this section shall be deposited in the state treasury to the credit of the office of the state long-term care ombudsperson program fund, which is hereby created. Money credited to the fund shall be used solely to pay the costs of operating the regional long-term care ombudsperson programs.

(C) The state long-term care ombudsperson and the regional programs may solicit and receive contributions to support the operation of the office

or a regional program, except that no contribution shall be solicited or accepted that would interfere with the independence or objectivity of the office or program.

Sec. 173.39. As used in sections 173.39 to 173.393 of the Revised Code, "community-based long-term care services" has the same meaning as in section 173.14 of the Revised Code.

Except as provided in section 173.392 of the Revised Code, the department of aging may not pay a person or government entity for providing community-based long-term care services under a program the department administers unless the person or government entity is certified under section 173.391 of the Revised Code and provides the services.

Sec. 173.391. (A) The department of aging or its designee shall do all of the following in accordance with Chapter 119. of the Revised Code:

(1) Certify a person or government entity to provide community-based long-term care services under a program the department administers if the person or government entity satisfies the requirements for certification established by rules adopted under division (B) of this section;

(2) When required to do so by rules adopted under division (B) of this section, take one or more of the following disciplinary actions against a person or government entity issued a certificate under division (A)(1) of this section:

(a) Issue a written warning;

(b) Require the submission of a plan of correction;

(c) Suspend referrals;

(d) Remove clients;

(e) Impose a fiscal sanction such as a civil monetary penalty or an order that unearned funds be repaid;

(f) Revoke the certificate;

(g) Impose another sanction.

(3) Hold hearings when there is a dispute between the department or its designee and a person or government entity concerning actions the department or its designee takes or does not take under division (A)(1) or (2)(c) to (g) of this section.

(B) The director of aging shall adopt rules in accordance with Chapter 119. of the Revised Code establishing certification requirements and standards for determining which type of disciplinary action to take under division (A)(2) of this section in individual situations. The rules shall establish procedures for all of the following:

(1) Ensuring that PASSPORT agencies, as defined in section 173.41 of the Revised Code, comply with that section;



(2) Evaluating the services provided to ensure that they are provided in a quality manner advantageous to the individual receiving the services;

(3) Determining when to take disciplinary action under division (A)(2) of this section and which disciplinary action to take.

(C) The procedures established in rules adopted under division (B)(2) of this section shall require that all of the following be considered as part of an evaluation:

(1) The service provider's experience and financial responsibility;

(2) The service provider's ability to comply with standards for the community-based long-term care services that the provider provides under a program the department administers;

(3) The service provider's ability to meet the needs of the individuals served;

(4) Any other factor the director considers relevant.

(D) The rules adopted under division (B)(3) of this section shall specify that the reasons disciplinary action may be taken under division (A)(2) of this section include good cause, including misfeasance, malfeasance, nonfeasance, confirmed abuse or neglect, financial irresponsibility, or other conduct the director determines is injurious to the health or safety of individuals being served.

Sec. 173.392. (A) The department of aging may pay a person or government entity for providing community-based long-term care services under a program the department administers, even though the person or government entity is not certified under section 173.391 of the Revised Code if all of the following are the case:

(1) The person or government entity has a contract with the department of aging or the department's designee to provide the services;

(2) The contract includes detailed conditions of participation for providers of services under a program the department administers and service standards that the person or government entity is required to satisfy;

(3) The person or government entity complies with the contract;

(4) The contract is not for medicaid-funded services, other than services provided under the PACE program administered by the department of aging under section 173.50 of the Revised Code.

(B) The director of aging shall adopt rules in accordance with Chapter 119. of the Revised Code governing both of the following:

(1) Contracts between the department of aging and persons and government entities regarding community-based long-term care services provided under a program the department administers;

(2) The department's payment for community-based long-term care

services provided under such a contract.

Sec. 173.393. (A) Except as provided in division (B) of this section, the records of an evaluation conducted in accordance with rules adopted under division (B)(2) of section 173.391 of the Revised Code are public records for purposes of section 149.43 of the Revised Code and shall be made available on request of any person, including individuals receiving or seeking community-based long-term care services under a program the department of aging administers.

(B) A part of a record of an evaluation that is otherwise available as a public record under division (A) of this section is not available as a public record if its release would violate a federal or state statute, regulation, or rule, including regulations adopted by the United States department of health and human services to implement the health information privacy provisions of the "Health Insurance Portability and Accountability Act of 1996," 110 Stat. 1955, 42 U.S.C. 1320d, et seq., as amended.

~~Sec. 173.40. There is hereby created a medicaid waiver component of the medicaid program established under Chapter 5111, as defined in section 5111.85 of the Revised Code, to be known as the preadmission screening system providing options and resources today program, or PASSPORT. The PASSPORT program shall provide home and community-based services as an alternative to nursing facility placement for aged and disabled medicaid recipients. The program shall be operated pursuant to a home and community-based waiver granted by the United States secretary of health and human services under section 1915 of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 1396n, as amended. The department of aging shall administer the program through a contract entered into with the department of job and family services under section 5111.91 of the Revised Code. The ~~directors~~ director of ~~aging and~~ job and family services shall adopt rules under section 5111.85 of the Revised Code and the director of aging shall adopt rules in accordance with Chapter 119. of the Revised Code to implement the program.~~

~~Sec. 5101.75~~ 173.42. (A) As used in ~~sections 5101.75, 5101.751, 5101.752, 5101.753, and 5101.754 of the Revised Code~~ this section:

~~(1) "Alternative source of long-term care" includes a residential care facility licensed under Chapter 3721. of the Revised Code, an adult care facility licensed under Chapter 3722. of the Revised Code, home and community-based services, and a nursing home licensed under Chapter 3721. of the Revised Code that is not a nursing facility~~ Area agency on aging" means a public or private nonprofit entity designated under section 173.011 of the Revised Code to administer programs on behalf of the

department of aging.

(2) "Long-term care consultation" means the process used to provide services under the long-term care consultation program established pursuant to this section, including, but not limited to, such services as the provision of information about long-term care options and costs, the assessment of an individual's functional capabilities, and the conduct of all or part of the reviews, assessments, and determinations specified in sections 5111.202, 5111.204, 5119.061, and 5123.021 of the Revised Code and the rules adopted under those sections.

(3) "Medicaid" means the medical assistance program established under Chapter 5111. of the Revised Code.

~~(3)~~(4) "Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.

~~(4)~~(5) "Representative" means a person acting on behalf of an applicant individual seeking a long-term care consultation, applying for admission to a nursing facility, or residing in a nursing facility. A representative may be a family member, attorney, hospital social worker, or any other person chosen to act on behalf of ~~an applicant~~ the individual.

(5) ~~"Third-party payment source" means a third-party payer as defined in section 3901.38 of the Revised Code or medicaid.~~

~~(B) Effective July 1, 1994, the department of job and family services may assess a person applying or intending to apply for admission to a nursing facility who is not an applicant for or recipient of medicaid to determine whether the person is in need of nursing facility services and whether an alternative source of long-term care is more appropriate for the person in meeting the person's physical, mental, and psychosocial needs than admission to the facility to which the person has applied.~~

~~Each assessment shall be performed by the department or an agency designated by the department under section 5101.751 of the Revised Code and shall be based on information provided by the person or the person's representative. It shall consider the person's physical, mental, and psychosocial needs and the availability and effectiveness of informal support and care. The department or designated agency shall determine the person's physical, mental, and psychosocial needs by using, to the maximum extent appropriate, information from the resident assessment instrument specified in rules adopted by the department under division (A) of section 5111.231 of the Revised Code. The department or designated agency shall also use the criteria and procedures established in rules adopted by the department under division (I) of this section. Assessments may be performed only by persons~~ The department of aging shall develop a

long-term care consultation program whereby individuals or their representatives are provided with long-term care consultations and receive through these professional consultations information about options available to meet long-term care needs and information about factors to consider in making long-term care decisions. The long-term care consultations provided under the program may be provided at any appropriate time, as permitted or required under this section and the rules adopted under it, including either prior to or after the individual who is the subject of a consultation has been admitted to a nursing facility.

(C) The long-term care consultation program shall be administered by the department of aging, except that the department may enter into a contract with an area agency on aging or other entity selected by the department under which the program for a particular area is administered by the area agency on aging or other entity pursuant to the contract.

(D) The long-term care consultations provided for purposes of the program shall be provided by individuals certified by the department under section 5401.752 173.43 of the Revised Code. The department or designated agency shall make a recommendation on the basis of the assessment and, not later than the time the assessment is required to be performed under division (D) of this section, give the person assessed written notice of the recommendation, which shall explain the basis for the recommendation. If the department or designated agency determines pursuant to an assessment that an alternative source of long term care is more appropriate for the person than admission to the facility to which the person has applied, the department or designated agency shall include in the notice possible sources of financial assistance for the alternative source of long-term care. If the department or designated agency has been informed that the person has a representative, it shall give the notice to the representative.

(C) A person (E) The information provided through a long-term care consultation shall be appropriate to the individual's needs and situation and shall address all of the following:

(1) The availability of any long-term care options open to the individual;  
(2) Sources and methods of both public and private payment for long-term care services;

(3) Factors to consider when choosing among the available programs, services, and benefits;

(4) Opportunities and methods for maximizing independence and self-reliance, including support services provided by the individual's family, friends, and community.

(F) An individual's long-term care consultation may include an

assessment of the individual's functional capabilities. The consultation may incorporate portions of the determinations required under sections 5111.202, 5119.061, and 5123.021 of the Revised Code and may be provided concurrently with the assessment required under section 5111.204 of the Revised Code.

(G)(1) Unless an exemption specified in division (I) of this section is applicable, each individual in the following categories shall be provided with a long-term care consultation:

(a) Individuals who apply or indicate an intention to apply for admission to a nursing facility, regardless of the source of payment to be used for their care in a nursing facility;

(b) Nursing facility residents who apply or indicate an intention to apply for medicaid;

(c) Nursing facility residents who are likely to spend down their resources within six months after admission to a nursing facility to a level at which they are financially eligible for medicaid;

(d) Individuals who request a long-term care consultation.

(2) In addition to the individuals included in the categories specified in division (G)(1) of this section, long-term care consultations may be provided to nursing facility residents who have not applied and have not indicated an intention to apply for medicaid. The purpose of the consultations provided to these individuals shall be to determine continued need for nursing facility services, to provide information on alternative services, and to make referrals to alternative services.

(H)(1) When a long-term care consultation is required to be provided pursuant to division (G)(1) of this section, the consultation shall be provided as follows or pursuant to division (H)(2) or (3) of this section:

(a) If the individual for whom the consultation is being provided has applied for medicaid and the consultation is being provided concurrently with the assessment required under section 5111.204 of the Revised Code, the consultation shall be completed in accordance with the applicable time frames specified in that section for providing a level of care determination based on the assessment.

(b) In all other cases, the consultation shall be provided not later than five calendar days after the department or the program administrator under contract with the department receives notice of the reason for which the consultation is required to be provided pursuant to division (G)(1) of this section.

(2) An individual or the individual's representative may request that a long-term care consultation be provided on a date that is later than the date

required under division (H)(1)(a) or (b) of this section.

(3) If a long-term care consultation cannot be completed within the number of days required by division (H)(1) or (2) of this section, the department or the program administrator under contract with the department may do any of the following:

(a) Exempt the individual from the consultation pursuant to rules that may be adopted under division (L) of this section;

(b) In the case of an applicant for admission to a nursing facility, provide the consultation after the individual is admitted to the nursing facility;

(c) In the case of a resident of a nursing facility, provide the consultation as soon as practicable.

(I) An individual is not required to be assessed provided a long-term care consultation under division (B) of this section if any of the following apply:

(1) The ~~circumstances~~ individual or the individual's representative chooses to forego participation in the consultation pursuant to criteria specified by in rules adopted under division (H)(L) of this section exist;

(2) The ~~person~~ individual is to receive care in a nursing facility under a contract for continuing care as defined in section 173.13 of the Revised Code;

(3) The ~~person~~ individual has a contractual right to admission to a nursing facility operated as part of a system of continuing care in conjunction with one or more facilities that provide a less intensive level of services, including a residential care facility licensed under Chapter 3721. of the Revised Code, an ~~adult-care~~ adult care facility licensed under Chapter 3722. of the Revised Code, or an independent living arrangement;

(4) The ~~person~~ individual is to receive continual care in a home for the aged exempt from taxation under section 5701.13 of the Revised Code;

(5) The ~~person is to receive care in the nursing facility for not more than fourteen days in order to provide temporary relief to the person's primary caregiver and the nursing facility notifies the department of the person's admittance not later than twenty four hours after admitting the person~~ individual is seeking admission to a facility that is not a nursing facility with a provider agreement under section 5111.22 of the Revised Code;

(6) The ~~person~~ individual is to be transferred from another nursing facility, unless the nursing facility from which or to which the person is to be transferred determines that the person's medical condition has changed substantially since the person's admission to the nursing facility from which the person is to be transferred or a review is required by a third party

~~payment source;~~

~~(7) The person individual is to be readmitted to a nursing facility following a period of hospitalization, unless the hospital or nursing facility determines that the person's medical condition has changed substantially since the person's admission to the hospital, or a review is required by a third-party payment source;~~

~~(8) The department or designated agency fails to complete an assessment within the time required by division (D) or (E) of this section or determines after a partial assessment that the person should be exempt from the assessment individual is exempted from the long-term care consultation requirement by the department or the program administrator pursuant to rules that may be adopted under division (L) of this section.~~

~~(D) The department or designated agency shall perform a complete assessment, or, if circumstances provided by rules adopted under division (I) of this section exist, a partial assessment, as follows:~~

~~(1) In the case of a hospitalized person applying or intending to apply to a nursing facility, not later than two working days after the person or the person's representative is notified that a bed is available in a nursing facility;~~

~~(2) In the case of an emergency as determined in accordance with rules adopted under division (I) of this section, not later than one working day after the person or the person's representative is notified that a bed is available in a nursing facility;~~

~~(3) In all other cases, not later than five calendar days after the person or the person's representative who submits the application is notified that a bed is available in a nursing facility.~~

~~(E) If the department or designated agency conducts a partial assessment under division (D) of this section, it shall complete the rest of the assessment not later than one hundred eighty days after the date the person is admitted to the nursing facility unless the assessment entity determines the person should be exempt from the assessment.~~

~~(F) A person assessed under this section or the person's representative may file a complaint with the department about the assessment process. The department shall work to resolve the complaint in accordance with rules adopted under division (I) of this section.~~

~~(G) A person (J) At the conclusion of an individual's long-term care consultation, the department or the program administrator under contract with the department shall provide the individual or individual's representative with a written summary of options and resources available to meet the individual's needs. Even though the summary may specify that a source of long-term care other than care in a nursing facility is appropriate~~

~~and available, the individual~~ is not required to seek an alternative source of long-term care and may be admitted to or continue to reside in a nursing facility ~~even though an alternative source of long-term care is available or the person is determined pursuant to an assessment under this section not to need nursing facility services.~~

~~(H)(K)~~ No nursing facility for which an operator has a provider agreement ~~with the department~~ under section 5111.22 of the Revised Code shall admit or retain any ~~person, other than a person exempt from the assessment requirement as provided by division (C) of this section,~~ individual as a resident, unless the nursing facility has received evidence that a ~~complete or partial assessment~~ long-term care consultation has been completed for the individual or division (I) of this section is applicable to the individual.

~~(I)(L)~~ The director of ~~job and family services shall~~ aging may adopt any rules ~~in accordance with Chapter 119. of the Revised Code to implement and administer~~ the director considers necessary for the implementation and administration of this section. The rules shall ~~include~~ be adopted in accordance with Chapter 119. of the Revised Code and may specify any or all of the following:

~~(1) The information a person being assessed or the person's representative must provide to enable the department or designated agency to do the assessment;~~

~~(2) Criteria to be used to determine whether a person is in need of nursing facility services;~~

~~(3) Criteria to be used to determine whether an alternative source of long-term care is appropriate for the person being assessed;~~

~~(4) Criteria and procedures to be used to determine a person's physical, mental, and psychosocial needs;~~

~~(5) Criteria to be used to determine the effectiveness and continued availability of a person's current source of informal support and care;~~

~~(6) Circumstances, in addition to those specified in division (C) of this section, under which a person is not required to be assessed;~~

~~(7) Circumstances under which the department or designated agency may perform a partial assessment under division (D) of this section;~~

~~(8) The method by which a situation will be determined to be an emergency for the purpose of division (D)(2) of this section;~~

~~(9) The method by which the department will attempt to resolve complaints filed under division (F) of this section~~ Procedures for providing long-term care consultations pursuant to this section;

(2) Information to be provided through long-term care consultations



regarding long-term care services that are available;

(3) Criteria under which an individual or the individual's representative may choose to forego participation in a long-term care consultation;

(4) Criteria for exempting individuals from the long-term care consultation requirement;

(5) Circumstances under which it may be appropriate to provide an individual's long-term care consultation after the individual's admission to a nursing facility rather than before admission;

(6) Criteria for identifying nursing facility residents who would benefit from the provision of a long-term care consultation.

~~(J)(M)~~ The director of ~~job and family services~~ aging may fine a nursing facility an amount determined by rules the director shall adopt in accordance with Chapter 119. of the Revised Code ~~in either of the following circumstances:~~

~~(1) The nursing facility fails to notify the department within the required time about an admission described in division (C)(5) of this section;~~

~~(2) The if the nursing facility admits or retains an individual, without evidence that a complete or partial assessment~~ long-term care consultation has been conducted provided, a person other than a person exempt from the assessment requirement as provided required by division (C) of this section.

~~The director shall deposit~~ In accordance with section 5111.62 of the Revised Code, all fines collected under this division shall be deposited into the state treasury to the credit of the residents protection fund established by section 5111.62 of the Revised Code.

~~Sec. 5401.752~~ 173.43. The department of ~~job and family services~~ aging shall certify ~~registered nurses licensed under Chapter 4723. of the Revised Code and social workers and independent social workers licensed under Chapter 4757. of the Revised Code~~ individuals who meet certification requirements established by rule to ~~perform assessments under~~ provide long-term care consultations for purposes of section ~~5401.75 or 5401.754~~ 173.42 of the Revised Code. The director of ~~job and family services~~ aging shall adopt rules in accordance with Chapter 119. of the Revised Code governing the certification process and requirements. The rules shall specify the education, experience, or training in ~~geriatric~~ long-term care a person must have to qualify for certification.

Sec. 173.44. (A) As used in this section, "nursing home" and "residential care facility" have the same meanings as in section 3721.01 of the Revised Code.

(B) The department of aging may conduct an annual survey of nursing homes and residential care facilities. The survey shall include questions

about capacity, occupancy, and private pay charges. The department may contract with an outside entity to conduct the survey and analyze the results. The results of the survey and any analysis completed by the department or its designee shall be made available to the general assembly, other state agencies, nursing home and residential care facility providers, and the general public.

(C) No nursing home or residential care facility shall recklessly fail to complete the survey.

Sec. 173.45. As used in this section and in sections 173.46 to 173.49 of the Revised Code:

(A) "Long-term care facility" means a nursing home or residential care facility.

(B) "Nursing home" and "residential care facility" have the same meanings as in section 3721.01 of the Revised Code.

(C) "Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.

Sec. 173.46. (A) The department of aging shall develop and publish a guide to long-term care facilities for use by individuals considering long-term care facility admission and their families, friends, and advisors. The guide, which shall be titled the Ohio long-term care consumer guide, may be published in printed form or in electronic form for distribution over the internet. The guide may be developed as a continuation or modification of the guide published by the department prior to the effective date of this section under rules adopted under section 173.02 of the Revised Code.

(B) The Ohio long-term care consumer guide shall include information on each long-term care facility in this state. For each facility, the guide shall include the following information, as applicable to the facility:

(1) Information regarding the facility's compliance with state statutes and rules and federal statutes and regulations;

(2) Information generated by the centers for medicare and medicaid services of the United States department of health and human services from the quality measures developed as part of its nursing home quality initiative;

(3) Results of the customer satisfaction surveys conducted under section 173.47 of the Revised Code;

(4) Any other information the department specifies in rules adopted under section 173.49 of the Revised Code.

Sec. 173.47. (A) For purposes of publishing the Ohio long-term care consumer guide, the department of aging shall conduct or provide for the conduct of an annual customer satisfaction survey of each long-term care facility. The results of the surveys may include information obtained from

long-term care facility residents, their families, or both.

(B)(1) The department may charge fees for the conduct of annual customer satisfaction surveys. The department may contract with any person or government entity to collect the fees on its behalf. All fees collected under this section shall be deposited in accordance with section 173.48 of the Revised Code.

(2) The fees charged under this section shall not exceed the following amounts:

(a) Four hundred dollars for the customer satisfaction survey of a long-term care facility that is a nursing home;

(b) Three hundred dollars for the customer satisfaction survey pertaining to a long-term care facility that is a residential care facility.

(3) Fees paid by a long-term care facility that is a nursing facility shall be reimbursed through the medicaid program operated under Chapter 5111. of the Revised Code.

(C) Each long-term care facility shall cooperate in the conduct of its annual customer satisfaction survey.

Sec. 173.48. There is hereby created in the state treasury the long-term care consumer guide fund. Money collected from the fees charged for the conduct of customer satisfaction surveys under section 173.47 of the Revised Code shall be credited to the fund. The department of aging shall use money in the fund for costs associated with publishing the Ohio long-term care consumer guide, including, but not limited to, costs incurred in conducting or providing for the conduct of customer satisfaction surveys.

Sec. 173.49. The department of aging shall adopt rules as the department considers necessary to implement and administer sections 173.45 to 173.48 of the Revised Code. The rules shall be adopted under Chapter 119. of the Revised Code.

Sec. 173.50. (A) Pursuant to a contract entered into with the department of job and family services as an interagency agreement under section 5111.91 of the Revised Code, the department of aging shall carry out the day-to-day administration of the component of the medicaid program established under Chapter 5111. of the Revised Code known as the program of all-inclusive care for the elderly or PACE. The department of aging shall carry out its PACE administrative duties in accordance with the provisions of the interagency agreement and all applicable federal laws, including the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396u-4, as amended.

(B) The department of aging may adopt rules in accordance with Chapter 119. of the Revised Code regarding the PACE program, subject to both of the following:

(1) The rules shall be authorized by rules adopted by the department of job and family services.

(2) The rules shall address only those issues that are not addressed in rules adopted by the department of job and family services for the PACE program.

Sec. 173.99. (A) A long-term care provider, person employed by a long-term care provider, other entity, or employee of such other entity that violates division (C) of section 173.24 of the Revised Code is subject to a fine not to exceed one thousand dollars for each violation.

(B) Whoever violates division (C) of section 173.23 of the Revised Code is guilty of registering a false complaint, a misdemeanor of the first degree.

(C) A long-term care provider, other entity, or person employed by a long-term care provider or other entity that violates division (E) of section 173.19 of the Revised Code by denying a representative of the office of the state long-term care ombudsperson program the access required by that division is subject to a fine not to exceed five hundred dollars for each violation.

(D) Whoever violates division (C) of section 173.44 of the Revised Code is subject to a fine of one hundred dollars.

Sec. 183.28. The education technology trust fund is hereby created in the state treasury. Money credited to the fund shall be used to pay costs of the eTech Ohio ~~SchoolNet~~ commission under section ~~3301.80~~ 3353.02 of the Revised Code. All investment earnings of the fund shall be credited to the fund.

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

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

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

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

(4) Contract with, retain the services of, or designate, and fix the compensation of, such financial consultants, accountants, other consultants and advisors, and other independent contractors as may be necessary or

desirable to carry out its duties;

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

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

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

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

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

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

(3) With specific application to the biomedical research and technology transfer trust fund, periodically make strategic assessments of the types of state investments in biomedical research and biotechnology in the state that would likely create jobs and business opportunities in the state and produce the most beneficial long-term improvements to the public health of ~~Ohioans~~ Ohioans, including, but not limited to, biomedical research and biotechnology initiatives that address tobacco-related illnesses as may be outlined in any master agreement. The commission shall award grants and loans from the fund pursuant to a process established under division (B)(1) of this section.

(C) Notwithstanding the authority granted to the commission under sections 184.01 to 184.04 of the Revised Code, the commission shall not make any grants or loans to individuals, public agencies, private companies or organizations, or joint ventures for any activities involving stem cell research with human embryonic tissue.

Sec. 305.171. (A) The board of county commissioners of any county may contract for, purchase, or otherwise procure and pay all or any part of the cost of group insurance policies that may provide benefits including, but not limited to, hospitalization, surgical care, major medical care, disability, dental care, eye care, medical care, hearing aids, or prescription drugs, and that may provide sickness and accident insurance, group legal services, or group life insurance, or a combination of any of the foregoing types of insurance or coverage, for county officers and employees and their immediate dependents from the funds or budgets from which the county

officers or employees are compensated for services, issued by an insurance company.

(B) The board of county commissioners also may negotiate and contract for any plan or plans of health care services with health insuring corporations holding a certificate of authority under Chapter 1751. of the Revised Code, provided that each county officer or employee shall be permitted to do both of the following:

(1) Exercise an option between a plan offered by an insurance company and ~~such a~~ plan or plans offered by health insuring corporations under this division, on the condition that the county officer or employee shall pay any amount by which the cost of the plan chosen by ~~such the county~~ officer or employee pursuant to this division exceeds the cost of the plan offered under division (A) of this section;

(2) Change from one of the plans to another at a time each year as determined by the board.

(C) Section 307.86 of the Revised Code does not apply to the purchase of benefits for county officers or employees under divisions (A) and (B) of this section when those benefits are provided through a jointly administered health and welfare trust fund in which the county or contracting authority and a collective bargaining representative of the county employees or contracting authority agree to participate.

(D) The board of trustees of a jointly administered trust fund that receives contributions pursuant to collective bargaining agreements entered into between the board of county commissioners of any county and a collective bargaining representative of the employees of the county may provide for self-insurance of all risk in the provision of fringe benefits, and may provide through the self-insurance method specific fringe benefits as authorized by the rules of the board of trustees of the jointly administered trust fund. The fringe benefits may include, but are not limited to, hospitalization, surgical care, major medical care, disability, dental care, vision care, medical care, hearing aids, prescription drugs, group life insurance, sickness and accident insurance, group legal services, or a combination of any of the foregoing types of insurance or coverage, for county employees and their dependents.

(E) The board of county commissioners may provide the benefits described in divisions (A) to (D) of this section through an individual self-insurance program or a joint self-insurance program as provided in section 9.833 of the Revised Code.

(F) When a board of county commissioners offers health benefits authorized under this section to ~~an~~ a county officer or employee ~~of the~~

~~county~~, the board may offer the benefits through a cafeteria plan meeting the requirements of section 125 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 125, as amended, and, as part of that plan, may offer the county officer or employee the option of receiving a cash payment in any form permissible under such cafeteria plans. A cash payment made to ~~an~~ a county officer or employee under this division shall not exceed twenty-five per cent of the cost of premiums or payments that otherwise would be paid by the board for benefits for the county officer or employee under a policy or plan.

(G) The board of county commissioners may establish a policy authorizing any county appointing authority to make a cash payment to any county officer or employee in lieu of providing a benefit authorized under this section if the county officer or employee elects to take the cash payment instead of the offered benefit. A cash payment made to ~~an~~ a county officer or employee under this division shall not exceed twenty-five per cent of the cost of premiums or payments that otherwise would be paid by the board for benefits for the county officer or employee under an offered policy or plan.

(H) No cash payment in lieu of a health benefit shall be made to a county officer or employee under division (F) or (G) of this section unless the county officer or employee signs a statement affirming that the county officer or employee is covered under another health insurance or health care policy, contract, or plan, and setting forth the name of the employer, if any, that sponsors the coverage, the name of the carrier that provides the coverage, and the identifying number of the policy, contract, or plan.

~~(I)(1) As used in this division:~~

~~(a) "County-operated municipal court" and "legislative authority" have the same meanings as in section 1901.03 of the Revised Code.~~

~~(b) "Health care coverage" has the same meaning as in section 1901.111 of the Revised Code.~~

~~(2) The legislative authority of a county-operated municipal court, after consultation with the judges, or the clerk and deputy clerks, of the municipal court, shall negotiate and contract for, purchase, or otherwise procure, and pay the costs, premiums, or charges for, group health care coverage for the judges, and group health care coverage for the clerk and deputy clerks, in accordance with section 1901.111 or 1901.312 of the Revised Code.~~

(J) As used in this section:

(1) "County officer or employee" includes, but is not limited to, a member or employee of the county board of elections.

(2) "County-operated municipal court" and "legislative authority" have the same meanings as in section 1901.03 of the Revised Code.

(3) "Health care coverage" has the same meaning as in section 1901.111 of the Revised Code.

Sec. 305.28. If a board of county commissioners by resolution elects to participate in a criminal justice regional information system as provided in section 2949.093 of the Revised Code, the board also shall create in its county treasury a criminal justice regional information fund. All money deposited into the fund shall be used only as provided in that section.

Sec. 306.331. Notwithstanding section 306.33 of the Revised Code, the board of trustees of any regional transit authority created by one county and two municipal corporations, with the county having a population of at least five hundred thousand according to the most recent federal census, shall be appointed and governed as provided in this section.

The board of trustees of such a regional transit authority shall consist of nine members, six of whom shall be appointed by the board of county commissioners, two of whom shall be appointed by the most populous municipal corporation that is included in the regional transit authority, and one of whom shall be appointed by the second most populous municipal corporation in the county, regardless of whether the second most populous municipal corporation in the county is a member of the regional transit authority. A trustee appointed under this section shall serve at the pleasure of the appointing authority.

The trustees of any authority first appointed under this section shall serve staggered terms. Thereafter each successor shall serve a term of three years, except that any person appointed to fill a vacancy shall be appointed to only the unexpired term. The resolutions or ordinances creating the regional transit authority may determine whether an appointed trustee is eligible for reappointment.

A majority of the board of trustees constitutes a quorum, the affirmative vote of which is necessary for any action taken by the authority. No vacancy in the board shall impair the rights of a quorum to exercise all rights and perform all the duties of the authority.

Each member of the board of trustees, before entering upon the trustee's official duties, shall take and subscribe to an oath or affirmation that the trustee will honestly, faithfully, and impartially perform the duties of office and that the trustee will not be personally interested directly or indirectly in any contract let by the regional transit authority.

After each member of the board has taken the oath as prescribed by this section, the board shall meet and organize by electing one of its members as president and another as vice-president, who shall hold their respective offices until the next annual meeting of the board as provided in its bylaws.



At each annual meeting thereafter, the board shall elect from its membership a president and a vice-president who shall serve for a term of one year. The board shall hold regular and special meetings in a time, place, and manner established in its bylaws, provided that all meetings shall be open to the public except executive sessions as set forth in section 122.22 of the Revised Code.

The board shall appoint and fix the compensation of a secretary-treasurer, who shall be the fiscal officer. The secretary-treasurer shall not be a member of the board and shall serve at the pleasure of the board. Each member of the board of trustees is entitled to receive from the regional transit authority reimbursement for reasonable expenses in the performance of the trustee's duties.

Sec. 307.37. (A) As used in division (B)(3) of this section, "proposed new construction" means a proposal to erect, construct, repair, alter, redevelop, or maintain a single-family, two-family, or three-family dwelling or any structure that is regulated by the Ohio building code.

(B)(1)(a) The board of county commissioners may adopt local residential building regulations governing residential buildings as defined in section 3781.06 of the Revised Code, to be enforced within the unincorporated area of the county or within districts the board establishes in any part of the unincorporated area. No local residential building regulation shall differ from the state residential building code the board of building standards establishes pursuant to Chapter 3781. of the Revised Code unless the regulation addresses subject matter not addressed by the state residential building code or is adopted pursuant to section 3781.01 of the Revised Code.

(b) The board of county commissioners may, by resolution, adopt, administer, and enforce within the unincorporated area of the county, or within districts the board establishes in the unincorporated area, an existing structures code pertaining to the repair and continued maintenance of structures and the premises of those structures provided that the existing structures code governs subject matter not addressed by, and is not in conflict with, the state residential building code adopted pursuant to Chapter 3781. of the Revised Code. The board may adopt by ~~incorporation~~ incorporation by reference a model or standard code prepared and promulgated by the state, any agency of this state, or any private organization that publishes a recognized or standard existing structures code.

(c) The board shall assign the duties of administering and enforcing any local residential building regulations or existing structures code to a county

officer or employee who is trained and qualified for those duties and shall establish by resolution the minimum qualifications necessary to perform those duties.

(2) The board may adopt regulations for participation in the national flood insurance program established in the "Flood Disaster Protection Act of 1973," 87 Stat. 975, 42 U.S.C.A. 4002, as amended, and regulations adopted for the purposes of section 1506.04 or 1506.07 of the Revised Code governing the prohibition, location, erection, construction, redevelopment, or floodproofing of new buildings or structures, substantial improvements to existing buildings or structures, or other development in unincorporated territory within flood hazard areas identified under the "Flood Disaster Protection Act of 1973," 87 Stat. 975, 42 U.S.C.A. 4002, as amended, or within Lake Erie coastal erosion areas identified under section 1506.06 of the Revised Code, including, but not limited to, residential, commercial, institutional, or industrial buildings or structures or other permanent structures, as defined in section 1506.01 of the Revised Code. Rules adopted under division (B)(2) of this section shall not conflict with the state residential and nonresidential building codes adopted pursuant to section 3781.10 of the Revised Code.

(3)(a) A board may adopt regulations that provide for a review of the specific effects of a proposed new construction on existing surface or subsurface drainage. The regulations may require reasonable drainage mitigation and reasonable alteration of a proposed new construction before a building permit is issued in order to prevent or correct any adverse effects that the proposed new construction may have on existing surface or subsurface drainage. The regulations shall not be inconsistent with, more stringent than, or broader in scope than standards adopted by the natural resource conservation service in the United States department of agriculture concerning drainage or rules adopted by the environmental protection agency for reducing, controlling, or mitigating storm water runoff from construction sites, where applicable. The regulations shall allow a person who is registered under Chapter 4703. or 4733. of the Revised Code to prepare and submit relevant plans and other documents for review, provided that the person is authorized to prepare the plans and other documents pursuant to the person's registration.

(b) If regulations are adopted under division (B)(3) of this section, the board shall specify in the regulations a procedure for the review of the specific effects of a proposed new construction on existing surface or subsurface drainage. The procedure shall include at a minimum all of the following:

(i) A meeting at which the proposed new construction shall be examined for those specific effects. The meeting shall be held within thirty days after an application for a building permit is filed or a review is requested unless the applicant agrees in writing to extend that time period or to postpone the meeting to another date, time, or place. The meeting shall be scheduled within five days after an application for a building permit is filed or a review is requested.

(ii) Written notice of the date, time, and place of that meeting, sent by regular mail to the applicant. The written notice shall be mailed at least seven days before the scheduled meeting date.

(iii) Completion of the review by the board of county commissioners not later than thirty days after the application for a building permit is filed or a review is requested unless the applicant has agreed in writing to extend that time period or postpone the meeting to a later time, in which case the review shall be completed not later than two days after the date of the meeting. A complete review shall include the issuance of any order of the board of county commissioners regarding necessary reasonable drainage mitigation and necessary reasonable alterations to the proposed new construction to prevent or correct any adverse effects on existing surface or subsurface drainage so long as those alterations comply with the state residential and nonresidential building codes adopted pursuant to section 3781.10 of the Revised Code. If the review is not completed within the thirty-day period or an extended or postponed period that the applicant has agreed to, the proposed new construction shall be deemed to have no adverse effects on existing surface or subsurface drainage, and those effects shall not be a valid basis for the denial of a building permit.

(iv) A written statement, provided to the applicant at the meeting or in an order for alterations to a proposed new construction, informing the applicant of the right to seek appellate review of the denial of a building permit under division (B)(3)(b)(iii) of this section by filing a petition in accordance with Chapter 2506. of the Revised Code.

(c) The regulations may authorize the board, after obtaining the advice of the county engineer, to enter into an agreement with the county engineer or another qualified person or entity to carry out any necessary inspections and make evaluations about what, if any, alterations are necessary to prevent or correct any adverse effects that a proposed new construction may have on existing surface or subsurface drainage.

(d) Regulations adopted pursuant to division (B)(3) of this section shall not apply to any property that a platting authority has approved under section 711.05, 711.09, or 711.10 of the Revised Code and shall not govern

the same subject matter as the state residential or nonresidential building codes adopted pursuant to section 3781.10 of the Revised Code.

(e) As used in division (B)(3) of this section, "subsurface drainage" does not include a household sewage treatment system as defined in section 3709.091 of the Revised Code.

(C)(1) Any regulation, code, or amendment may be adopted under this section only after a public hearing at not fewer than two regular or special sessions of the board. The board shall cause notice of any public hearing to be published in a newspaper of general circulation in the county once a week for the two consecutive weeks immediately preceding the hearing, except that if the board posts the hearing notice on the board's internet site on the world wide web, the board need publish only one notice of the hearing in a newspaper of general circulation if that newspaper notice includes the board's internet site and a statement that the notice is also posted on the internet site. Any notice of a public hearing shall include the time, date, and place of the hearing.

(2) Any proposed regulation, code, or amendment shall be made available to the public at the board office. The regulations or amendments shall take effect on the thirty-first day following the date of their adoption.

(D)(1) No person shall violate any regulation, code, or amendment the board adopts under sections 307.37 to 307.40 of the Revised Code.

(2) Each day during which an illegal location, erection, construction, floodproofing, repair, alteration, development, redevelopment, or maintenance continues may be considered a separate offense.

(E) Regulations or amendments the board adopts pursuant to this section, with the exception of an existing structures code, do not affect buildings or structures that exist or on which construction has begun on or before the date the board adopts the regulation or amendment.

(F)(1) The board may create a building department and employ the personnel it determines necessary to administer and enforce any local residential building regulations or existing structures code the board adopts pursuant to this section. The building department may enforce the state residential and nonresidential building codes adopted pursuant to Chapter 3781. of the Revised Code if the building department is certified pursuant to section 3781.10 of the Revised Code to enforce those codes.

(2) The board may direct the building department, upon certification, to exercise enforcement authority and to accept and approve plans pursuant to sections 3781.03 and 3791.04 of the Revised Code for the class of building for which the department and personnel are certified.

Sec. 307.676. (A) As used in this section:

(1) "Food and beverages" means any raw, cooked, or processed edible substance used or intended for use in whole or in part for human consumption, including ice, water, spirituous liquors, wine, mixed beverages, beer, soft drinks, soda, and other beverages.

(2) "Convention facilities authority" has the same meaning as in section 351.01 of the Revised Code.

(3) "Convention center" has the same meaning as in section 307.695 of the Revised Code.

(B) The legislative authority of a county with a population of one million two hundred thousand or more according to the most recent federal decennial census or the most recent annual population estimate published or released by the United States census bureau at the time the resolution is adopted placing the levy on the ballot, may, by resolution adopted on or before July 1, 2008, by a majority of the members of the legislative authority and with the subsequent approval of a majority of the electors of the county voting upon it, levy a tax of not more than two per cent on every retail sale in the county of food and beverages to be consumed on the premises where sold to pay the expenses of administering the tax and to provide revenues for paying the direct and indirect costs of constructing, improving, expanding, equipping, financing, or operating a convention center. The resolution shall direct the board of elections to submit the question of levying the tax to the electors of the county at the next primary or general election in the county occurring not less than seventy-five days after the resolution is certified to the board of elections. The legislative authority shall establish all rules necessary to provide for the administration and allocation of the tax. The rules may prescribe the time for payment of the tax and may provide for imposition of a penalty, interest, or both for late payments, but any such penalty shall not exceed ten per cent of the amount of tax due and the rate at which interest accrues shall not exceed the rate per annum required under section 5703.47 of the Revised Code.

(C) A tax levied under this section shall remain in effect for the period of time specified in the resolution or ordinance levying the tax, but not for a longer period than forty years.

(D) A tax levied under this section is in addition to any other tax levied under Chapter 307., 4301., 4305., 5739., 5741., or any other chapter of the Revised Code. "Price," as defined in sections 5739.01 and 5741.01 of the Revised Code, does not include any tax levied under this section and any tax levied under this section does not include any tax imposed under Chapter 5739. or 5741. of the Revised Code.

(E) Any amount collected from a tax levied under this section may be

contributed to a convention facilities authority created before July 1, 2005, but no amount collected from a tax levied under this section may be contributed to a convention facilities authority, corporation, or other entity created after July 1, 2005, unless the mayor of the municipal corporation in which the convention center is to be operated by that convention facilities authority, corporation, or other entity has consented to the creation of that convention facilities authority, corporation, or entity.

(F) The levy of any taxes under Chapter 5739. of the Revised Code on the same transactions subject to a tax under this section does not prevent the levy of a tax under this section.

Sec. 307.695. (A) As used in this section, "convention center" means any structure expressly designed and constructed for the purposes of presenting conventions, public meetings, and exhibitions and includes parking facilities that serve the center and any personal property used in connection with any such structure or facilities.

(B) A board of county commissioners may enter into an agreement with a convention and visitors' bureau operating in the county under which:

(1) The bureau agrees to construct and equip a convention center in the county and to pledge and contribute from the tax revenues received by it under division (A) of section 5739.09 of the Revised Code, not more than such portion thereof that it is authorized to pledge and contribute for the purpose described in division (C) of this section; and

(2) The board agrees to levy a tax under division (C) of section 5739.09 of the Revised Code and pledge and contribute the revenues therefrom for the purpose described in division (C) of this section.

(C) The purpose of the pledges and contributions described in divisions (B)(1) and (2) of this section is payment of principal, interest, and premium, if any, on bonds and notes issued by or for the benefit of the bureau to finance the construction and equipping of a convention center. The pledges and contributions provided for in the agreement shall be for the period stated in the agreement, but not to exceed thirty years. Revenues determined from time to time by the board to be needed to cover the real and actual costs of administering the tax imposed by division (C) of section 5739.09 of the Revised Code may not be pledged or contributed. The agreement shall provide that any such bonds and notes shall be secured by a trust agreement between the bureau or other issuer acting for the benefit of the bureau and a corporate trustee that is a trust company or bank having the powers of a trust company within or without the state, and the trust agreement shall pledge or assign to the retirement of the bonds or notes, all moneys paid by the county under this section. A tax the revenues from which are pledged under an

agreement entered into by a board of county commissioners under this section shall not be subject to diminution by initiative or referendum, or diminution by statute, unless provision is made therein for an adequate substitute therefor reasonably satisfactory to the trustee under the trust agreement that secures the bonds and notes.

(D) A pledge of money by a county under this section shall not be indebtedness of the county for purposes of Chapter 133. of the Revised Code.

(E) If the terms of the agreement so provide, the board of county commissioners may acquire and lease real property to the convention bureau as the site of the convention center. The lease shall be for a term not to exceed thirty years and shall be on such terms as are set forth in the agreement. The purchase and lease are not subject to the limitations of sections 307.02 and 307.09 of the Revised Code.

(F) In addition to the authority granted to a board of county commissioners under divisions (B) to (E) of this section, a board of county commissioners in a county with a population of one million two hundred thousand or more may establish and provide local funding options for constructing and equipping a convention center.

Sec. 307.86. Anything to be purchased, leased, leased with an option or agreement to purchase, or constructed, including, but not limited to, any product, structure, construction, reconstruction, improvement, maintenance, repair, or service, except the services of an accountant, architect, attorney at law, physician, professional engineer, construction project manager, consultant, surveyor, or appraiser, by or on behalf of the county or contracting authority, as defined in section 307.92 of the Revised Code, at a cost in excess of twenty-five thousand dollars, except as otherwise provided in division (D) of section 713.23 and in sections 125.04, 125.60 to 125.6012, 307.022, 307.041, 307.861, 339.05, 340.03, 340.033, 4115.31 to 4115.35, 5119.16, 5513.01, 5543.19, 5713.01, and 6137.05 of the Revised Code, shall be obtained through competitive bidding. However, competitive bidding is not required when any of the following applies:

(A) The board of county commissioners, by a unanimous vote of its members, makes a determination that a real and present emergency exists, and that determination and the reasons for it are entered in the minutes of the proceedings of the board, when either of the following applies:

(1) The estimated cost is less than fifty thousand dollars.

(2) There is actual physical disaster to structures, radio communications equipment, or computers.

For purposes of this division, "unanimous vote" means all three

members of a board of county commissioners when all three members are present, or two members of the board if only two members, constituting a quorum, are present.

Whenever a contract of purchase, lease, or construction is exempted from competitive bidding under division (A)(1) of this section because the estimated cost is less than fifty thousand dollars, but the estimated cost is twenty-five thousand dollars or more, the county or contracting authority shall solicit informal estimates from no fewer than three persons who could perform the contract, before awarding the contract. With regard to each such contract, the county or contracting authority shall maintain a record of such estimates, including the name of each person from whom an estimate is solicited. The county or contracting authority shall maintain the record for the longer of at least one year after the contract is awarded or the amount of time the federal government requires.

(B)(1) The purchase consists of supplies or a replacement or supplemental part or parts for a product or equipment owned or leased by the county, and the only source of supply for the supplies, part, or parts is limited to a single supplier.

(2) The purchase consists of services related to information technology, such as programming services, that are proprietary or limited to a single source.

(C) The purchase is from the federal government, the state, another county or contracting authority of another county, or a board of education, township, or municipal corporation.

(D) The purchase is made by a county department of job and family services under section 329.04 of the Revised Code and consists of family services duties or workforce development activities or is made by a county board of mental retardation and developmental disabilities under section 5126.05 of the Revised Code and consists of program services, such as direct and ancillary client services, child care, case management services, residential services, and family resource services.

(E) The purchase consists of criminal justice services, social services programs, family services, or workforce development activities by the board of county commissioners from nonprofit corporations or associations under programs funded by the federal government or by state grants.

(F) The purchase consists of any form of an insurance policy or contract authorized to be issued under Title XXXIX of the Revised Code or any form of health care plan authorized to be issued under Chapter 1751. of the Revised Code, or any combination of such policies, contracts, or plans that the contracting authority is authorized to purchase, and the contracting



authority does all of the following:

(1) Determines that compliance with the requirements of this section would increase, rather than decrease, the cost of the purchase;

(2) Employs a competent consultant to assist the contracting authority in procuring appropriate coverages at the best and lowest prices;

(3) Requests issuers of the policies, contracts, or plans to submit proposals to the contracting authority, in a form prescribed by the contracting authority, setting forth the coverage and cost of the policies, contracts, or plans as the contracting authority desires to purchase;

(4) Negotiates with the issuers for the purpose of purchasing the policies, contracts, or plans at the best and lowest price reasonably possible.

(G) The purchase consists of computer hardware, software, or consulting services that are necessary to implement a computerized case management automation project administered by the Ohio prosecuting attorneys association and funded by a grant from the federal government.

(H) Child care services are purchased for provision to county employees.

(I)(1) Property, including land, buildings, and other real property, is leased for offices, storage, parking, or other purposes, and all of the following apply:

(a) The contracting authority is authorized by the Revised Code to lease the property.

(b) The contracting authority develops requests for proposals for leasing the property, specifying the criteria that will be considered prior to leasing the property, including the desired size and geographic location of the property.

(c) The contracting authority receives responses from prospective lessors with property meeting the criteria specified in the requests for proposals by giving notice in a manner substantially similar to the procedures established for giving notice under section 307.87 of the Revised Code.

(d) The contracting authority negotiates with the prospective lessors to obtain a lease at the best and lowest price reasonably possible considering the fair market value of the property and any relocation and operational costs that may be incurred during the period the lease is in effect.

(2) The contracting authority may use the services of a real estate appraiser to obtain advice, consultations, or other recommendations regarding the lease of property under this division.

(J) The purchase is made pursuant to section 5139.34 or sections 5139.41 to 5139.46 of the Revised Code and is of programs or services that

provide case management, treatment, or prevention services to any felony or misdemeanor delinquent, unruly youth, or status offender under the supervision of the juvenile court, including, but not limited to, community residential care, day treatment, services to children in their home, or electronic monitoring.

(K) The purchase is made by a public children services agency pursuant to section 307.92 or 5153.16 of the Revised Code and consists of family services, programs, or ancillary services that provide case management, prevention, or treatment services for children at risk of being or alleged to be abused, neglected, or dependent children.

(L) The purchase is to obtain the services of emergency medical service organizations under a contract made by the board of county commissioners pursuant to section 307.05 of the Revised Code with a joint emergency medical services district.

Any issuer of policies, contracts, or plans listed in division (F) of this section and any prospective lessor under division (I) of this section may have the issuer's or prospective lessor's name and address, or the name and address of an agent, placed on a special notification list to be kept by the contracting authority, by sending the contracting authority that name and address. The contracting authority shall send notice to all persons listed on the special notification list. Notices shall state the deadline and place for submitting proposals. The contracting authority shall mail the notices at least six weeks prior to the deadline set by the contracting authority for submitting proposals. Every five years the contracting authority may review this list and remove any person from the list after mailing the person notification of that action.

Any contracting authority that negotiates a contract under division (F) of this section shall request proposals and renegotiate with issuers in accordance with that division at least every three years from the date of the signing of such a contract.

Any consultant employed pursuant to division (F) of this section and any real estate appraiser employed pursuant to division (I) of this section shall disclose any fees or compensation received from any source in connection with that employment.

Sec. 307.88. (A) Bids submitted pursuant to sections 307.86 to 307.92 of the Revised Code shall be in a form prescribed by the contracting authority and filed in a sealed envelope at the time and place mentioned in the advertisement notice. The bids received shall be opened and tabulated at the time stated in the notice. Each bid shall contain the full name of each person submitting the bid. ~~Except as otherwise provided in division (B) of~~

~~this section, if~~ If the bid is in excess of ~~ten~~ twenty-five thousand dollars and for a contract for the construction, demolition, alteration, repair, or reconstruction of an improvement, it shall meet the requirements of section 153.54 of the Revised Code. If the bid is in excess of ~~ten~~ twenty-five thousand dollars and for any other contract authorized by sections 307.86 to 307.92 of the Revised Code, it shall be accompanied by a bond or certified check, cashier's check, or money order on a solvent bank or savings and loan association in a reasonable amount stated in the ~~advertisement~~ notice but not to exceed five per cent of the bid, conditioned that ~~he shall~~ the bidder, if ~~his~~ the bidder's bid is accepted, shall execute a contract in conformity to the invitation and ~~his~~ the bid.

(B) The board of county commissioners ~~may~~, by a unanimous vote of the entire board, may permit a contracting authority to exempt a bid from any or all of the requirements of section 153.54 of the Revised Code if the estimated cost is ~~less than~~ twenty-five thousand dollars or less. If the board exempts a bid from any but not all of ~~these~~ those requirements, the bid notice published in the newspaper pursuant to section 307.87 of the Revised Code shall state the specific bid guaranty requirements that apply. If the board exempts a bid from all requirements of section 153.54 of the Revised Code, the notice shall state that none of the requirements of that section apply.

Sec. 317.08. (A) Except as provided in divisions (C) and (D) of this section, the county recorder shall keep six separate sets of records as follows:

(1) A record of deeds, in which shall be recorded all deeds and other instruments of writing for the absolute and unconditional sale or conveyance of lands, tenements, and hereditaments; all notices as provided in sections 5301.47 to 5301.56 of the Revised Code; all judgments or decrees in actions brought under section 5303.01 of the Revised Code; all declarations and bylaws, and all amendments to declarations and bylaws, as provided in Chapter 5311. of the Revised Code; affidavits as provided in section 5301.252 of the Revised Code; all certificates as provided in section 5311.17 of the Revised Code; all articles dedicating archaeological preserves accepted by the director of the Ohio historical society under section 149.52 of the Revised Code; all articles dedicating nature preserves accepted by the director of natural resources under section 1517.05 of the Revised Code; all agreements for the registration of lands as archaeological or historic landmarks under section 149.51 or 149.55 of the Revised Code; all conveyances of conservation easements and agricultural easements under section 5301.68 of the Revised Code; all instruments extinguishing

agricultural easements under section 901.21 or 5301.691 of the Revised Code or pursuant to terms of such an easement granted to a charitable organization under section 5301.68 of the Revised Code; all instruments or orders described in division (B)(1)(c)(ii) of section 5301.56 of the Revised Code; all no further action letters issued under section 122.654 or 3746.11 of the Revised Code; all covenants not to sue issued under section 3746.12 of the Revised Code, including all covenants not to sue issued pursuant to section 122.654 of the Revised Code; any restrictions on the use of property contained in a no further action letter issued under section 122.654 of the Revised Code, any restrictions on the use of property identified pursuant to division (C)(3)(a) of section 3746.10 of the Revised Code, and any restrictions on the use of property contained in a deed or other instrument as provided in division (E) or (F) of section 3737.882 of the Revised Code; any easement executed or granted under section 3734.22, 3734.24, 3734.25, or 3734.26 of the Revised Code; any environmental covenant entered into in accordance with sections 5301.80 to 5301.92 of the Revised Code; all memoranda of trust, as described in division (A) of section 5301.255 of the Revised Code, that describe specific real property; and all agreements entered into under division (A) of section 1521.26 of the Revised Code;

(2) A record of mortgages, in which shall be recorded all of the following:

(a) All mortgages, including amendments, supplements, modifications, and extensions of mortgages, or other instruments of writing by which lands, tenements, or hereditaments are or may be mortgaged or otherwise conditionally sold, conveyed, affected, or encumbered;

(b) All executory installment contracts for the sale of land executed after September 29, 1961, that by their terms are not required to be fully performed by one or more of the parties to them within one year of the date of the contracts;

(c) All options to purchase real estate, including supplements, modifications, and amendments of the options, but no option of that nature shall be recorded if it does not state a specific day and year of expiration of its validity;

(d) Any tax certificate sold under section 5721.33 of the Revised Code, or memorandum of it, that is presented for filing of record.

(3) A record of powers of attorney, including all memoranda of trust, as described in division (A) of section 5301.255 of the Revised Code, that do not describe specific real property;

(4) A record of plats, in which shall be recorded all plats and maps of town lots, of the subdivision of town lots, and of other divisions or surveys

of lands, any center line survey of a highway located within the county, the plat of which shall be furnished by the director of transportation or county engineer, and all drawings and amendments to drawings, as provided in Chapter 5311. of the Revised Code;

(5) A record of leases, in which shall be recorded all leases, memoranda of leases, and supplements, modifications, and amendments of leases and memoranda of leases;

(6) A record of declarations executed pursuant to section 2133.02 of the Revised Code and durable powers of attorney for health care executed pursuant to section 1337.12 of the Revised Code.

(B) All instruments or memoranda of instruments entitled to record shall be recorded in the proper record in the order in which they are presented for record. The recorder may index, keep, and record in one volume unemployment compensation liens, internal revenue tax liens and other liens in favor of the United States as described in division (A) of section 317.09 of the Revised Code, personal tax liens, mechanic's liens, agricultural product liens, notices of liens, certificates of satisfaction or partial release of estate tax liens, discharges of recognizances, excise and franchise tax liens on corporations, broker's liens, and liens provided for in sections 1513.33, 1513.37, 3752.13, ~~5111.02~~ 5111.022, and 5311.18 of the Revised Code.

The recording of an option to purchase real estate, including any supplement, modification, and amendment of the option, under this section shall serve as notice to any purchaser of an interest in the real estate covered by the option only during the period of the validity of the option as stated in the option.

(C) In lieu of keeping the six separate sets of records required in divisions (A)(1) to (6) of this section and the records required in division (D) of this section, a county recorder may record all the instruments required to be recorded by this section in two separate sets of record books. One set shall be called the "official records" and shall contain the instruments listed in divisions (A)(1), (2), (3), (5), and (6) and (D) of this section. The second set of records shall contain the instruments listed in division (A)(4) of this section.

(D) Except as provided in division (C) of this section, the county recorder shall keep a separate set of records containing all corrupt activity lien notices filed with the recorder pursuant to section 2923.36 of the Revised Code and a separate set of records containing all medicaid fraud lien notices filed with the recorder pursuant to section 2933.75 of the Revised Code.

Sec. 317.36. (A) The county recorder shall collect the low- and

moderate-income housing trust fund fee as specified in sections 317.32, 1563.42, 1702.59, 2505.13, 4141.23, 4509.60, ~~5111.021~~ 5111.022, 5310.15, 5719.07, 5727.56, 5733.18, 5733.22, 6101.09, and 6115.09 of the Revised Code. The amount of any housing trust fund fee the recorder is authorized to collect is equal to the amount of any base fee the recorder is authorized to collect for services. The housing trust fund fee shall be collected in addition to the base fee.

(B) The recorder shall certify the amounts collected as housing trust fund fees pursuant to division (A) of this section into the county treasury as housing trust fund fees to be paid to the treasurer of state pursuant to section 319.63 of the Revised Code.

Sec. 319.20. After complying with sections 319.202, 315.251, and 319.203 of the Revised Code, and on application and presentation of title, with the affidavits required by law, or the proper order of a court, bearing the last known address of the grantee, or of any one of the grantees named in the title, and a reference to the volume and page of the recording of the next preceding recorded instrument by or through which the grantor claims title, the county auditor shall transfer any land or town lot or part thereof, minerals therein, or mineral rights thereto, charged with taxes on the tax list, from the name in which it stands into the name of the owner, when rendered necessary by a conveyance, partition, devise, descent, or otherwise. If by reason of the conveyance or otherwise, a part only of a tract or lot, minerals therein, or mineral rights thereto, as charged in the tax list, is to be transferred, the auditor shall determine the tax value of the part of a tract or lot of real estate, minerals therein, or mineral rights thereto, so transferred, and the value of the remaining part compared with the value of the whole.

Whenever a part only of a tract or lot of real estate has been transferred by the auditor and ~~such~~ the tract or lot bears unpaid taxes, penalties, interest, or special assessments, the unpaid taxes, penalties, interest, or special assessments shall immediately be apportioned, upon demand or request by the transferee or remaining owner, in the following manner:

(A) The auditor shall allocate to the part so transferred, and to the remaining part, amounts of any current or delinquent taxes, interest, or penalties that have accrued against the parcel as a whole, proportionate to their respective values.

(B) The lien of taxes, penalties, interest, and special assessments, as levied against the original tract, shall extend to the part so transferred and the part remaining only to the extent of the amounts so allocated to the respective parts.

This section does not change the total amount of taxes, special

assessments, or other charges as originally levied, or the total amount of the balance due. The auditor shall certify such apportionments to the county treasurer.

Whenever the state acquires an entire parcel or a part only of a parcel of real property in fee simple, the county auditor, upon application of the grantor or property owner or the state, which application shall contain a description of the property as it appears on the tax list and the date of transfer of ownership, shall prepare an estimate of the taxes that are a lien on ~~said~~ the property, but have not been determined, assessed, and levied for the year in which the property was acquired. The county auditor shall thereupon apportion ~~such~~ the estimated taxes proportionately between the grantor and the state for the period of the lien year that each had or shall have had ownership or possession of the property, whichever is earlier. The county treasurer shall accept payment from the state for estimated taxes at the time that the real property is acquired. If the state has paid in full in the year in which the property is acquired that proportion of the estimated taxes that the tax commissioner determines are not subject to remission by the county auditor for such year under division (C) of section 5713.08 of the Revised Code, the estimated taxes paid shall be considered the tax liability on the exempted property for that year.

Section 319.42 of the Revised Code applies to the apportionment of special assessments.

Complaint against such values as determined by the auditor or the allocation of assessments by the certifying authority may be filed by the transferee or the remaining owner, and if filed, proceedings including appeals shall be had in the manner and within the time provided by sections 5717.01 to 5717.06 and 5715.19 to 5715.22 of the Revised Code, for complaints against valuation or assessment of real property.

The auditor shall endorse on the deed or other evidences of title presented to the auditor that the proper transfer of the real estate described in ~~such~~ the deed has been made in the auditor's office or that it is not entered for taxation, and sign the auditor's name to ~~such~~ the deed. The address of the grantee, or any one of the grantees, set forth in the deed or other evidences of title shall be entered by the auditor on the transfer sheets and on the general tax list of real property prepared pursuant to section 319.28 of the Revised Code.

Sec. 319.302. (A)(1) Real property that is not intended primarily for use in a business activity shall qualify for a partial exemption from real property taxation. For purposes of this partial exemption, "business activity" includes all uses of real property, except farming; leasing property for farming;

occupying or holding property improved with single-family, two-family, or three-family dwellings; leasing property improved with single-family, two-family, or three-family dwellings; or holding vacant land that the county auditor determines will be used for farming or to develop single-family, two-family, or three-family dwellings. For purposes of this partial exemption, "farming" does not include land used for the commercial production of timber that is receiving the tax benefit under section 5713.23 or 5713.31 of the Revised Code and all improvements connected with such commercial production of timber.

(2) Each year, the county auditor shall review each parcel of real property to determine whether it qualifies for the partial exemption provided for by this section as of the first day of January of the current tax year.

(B) After complying with section 319.301 of the Revised Code, the county auditor shall reduce the remaining sums to be levied against each parcel of real property that is listed on the general tax list and duplicate of real and public utility property for the current tax year and that qualifies for partial exemption under division (A) of this section, and against each manufactured and mobile home that is taxed pursuant to division (D)(2) of section 4503.06 of the Revised Code and that is on the manufactured home tax list for the current tax year, by ten per cent, to provide a partial exemption for that parcel or home. Except as otherwise provided in sections 323.152, 323.158, 505.06, and 715.263 of the Revised Code, the amount of the taxes remaining after any such reduction shall be the real and public utility property taxes charged and payable on each parcel of real property, including property that does not qualify for partial exemption under division (A) of this section, and the manufactured home tax charged and payable; on each ~~property~~ manufactured or mobile home, and shall be the amounts certified to the county treasurer for collection. Upon receipt of the tax duplicate, the treasurer shall certify to the tax commissioner the total amount by which taxes were reduced under this section, as shown on the duplicate. Such reduction shall not directly or indirectly affect the determination of the principal amount of notes that may be issued in anticipation of any tax levies or the amount of bonds or notes for any planned improvements. If after application of sections 5705.31 and 5705.32 of the Revised Code and other applicable provisions of law, including divisions (F) and (I) of section 321.24 of the Revised Code, there would be insufficient funds for payment of debt charges on bonds or notes payable from taxes reduced by this section, the reduction of taxes provided for in this section shall be adjusted to the extent necessary to provide funds from such taxes.

(C) The tax commissioner may adopt rules governing the administration



of the partial exemption provided for by this section.

(D) The determination of whether property qualifies for partial exemption under division (A) of this section is solely for the purpose of allowing the partial exemption under division (B) of this section.

Sec. 321.24. (A) On or before the fifteenth day of February, in each year, the county treasurer shall settle with the county auditor for all taxes and assessments that the treasurer has collected on the general duplicate of real and public utility property at the time of making the settlement.

(B) On or before the thirtieth day of June, in each year, the treasurer shall settle with the auditor for all advance payments of general personal and classified property taxes that the treasurer has received at the time of making the settlement.

(C) On or before the tenth day of August, in each year, the treasurer shall settle with the auditor for all taxes and assessments that the treasurer has collected on the general duplicates of real and public utility property at the time of making such settlement, not included in the preceding February settlement.

(D) On or before the thirty-first day of October, in each year, the treasurer shall settle with the auditor for all taxes that the treasurer has collected on the general personal and classified property duplicates, and for all advance payments of general personal and classified property taxes, not included in the preceding June settlement, that the treasurer has received at the time of making such settlement.

(E) In the event the time for the payment of taxes is extended, pursuant to section 323.17 of the Revised Code, the date on or before which settlement for the taxes so extended must be made, as herein prescribed, shall be deemed to be extended for a like period of time. At each such settlement, the auditor shall allow to the treasurer, on the moneys received or collected and accounted for by the treasurer, the treasurer's fees, at the rate or percentage allowed by law, at a full settlement of the treasurer.

(F) Within thirty days after the day of each settlement of taxes required under divisions (A) and (C) of this section, the treasurer shall certify to the tax commissioner any adjustments ~~which that~~ have been made to the amount certified previously pursuant to section 319.302 of the Revised Code and that the settlement has been completed. Upon receipt of such certification, the commissioner shall provide for payment to the county treasurer from the general revenue fund of an amount equal to one-half of the amount certified by the treasurer in the preceding tax year under section 319.302 of the Revised Code, less one-half of the amount computed for all taxing districts in that county for the current fiscal year under section 5703.80 of the

Revised Code for crediting to the property tax administration fund. Such payment shall be credited upon receipt to the county's undivided income tax fund, and the county auditor shall transfer to the county general fund from the amount thereof the total amount of all fees and charges which the auditor and treasurer would have been authorized to receive had such section not been in effect and that amount had been levied and collected as taxes. The county auditor shall distribute the amount remaining among the various taxing districts in the county as if it had been levied, collected, and settled as real property taxes. The amount distributed to each taxing district shall be reduced by the total of the amounts computed for the district under ~~divisions (A), (B), and (C)~~ of section 5703.80 of the Revised Code, but the reduction shall not exceed the amount that otherwise would be distributed to the taxing district under this division. The tax commissioner shall make available to taxing districts such information as is sufficient for a taxing district to be able to determine the amount of the reduction in its distribution under this section.

(G)(1) Within thirty days after the day of the settlement required in division (D) of this section, the county treasurer shall notify the tax commissioner that the settlement has been completed. Upon receipt of that notification, the commissioner shall provide for payment to the county treasurer from the general revenue fund of an amount equal to the amount certified under former section 319.311 of the Revised Code and paid in the state's fiscal year 2003 multiplied by the percentage specified in division (G)(2) of this section. The payment shall be credited upon receipt to the county's undivided income tax fund, and the county auditor shall distribute the amount thereof among the various taxing districts of the county as if it had been levied, collected, and settled as personal property taxes. The amount received by a taxing district under this division shall be apportioned among its funds in the same proportion as the current year's personal property taxes are apportioned.

(2) Payments required under division (G)(1) of this section shall be made at the following percentages of the amount certified under former section 319.311 of the Revised Code and paid under division (G)(1) of this section in the state's fiscal year 2003:

- (a) In fiscal year 2004, ninety per cent;
- (b) In fiscal year 2005, eighty per cent;
- (c) In fiscal year 2006, ~~seventy~~ sixty-four per cent;
- (d) In fiscal year 2007, ~~sixty~~ forty per cent;
- (e) In fiscal year 2008, ~~fifty~~ thirty-two per cent;
- (f) In fiscal year 2009, ~~forty~~ sixteen per cent;

- ~~(g) In fiscal year 2010, thirty per cent;~~
- ~~(h) In fiscal year 2011, twenty per cent;~~
- ~~(i) In fiscal year 2012, ten per cent.~~

After fiscal year ~~2012~~ 2009, no payments shall be made under division (G)(1) of this section.

(H)(1) On or before the fifteenth day of April each year, the county treasurer shall settle with the county auditor for all manufactured home taxes that the county treasurer has collected on the manufactured home tax duplicate at the time of making the settlement.

(2) On or before the fifteenth day of September each year, the county treasurer shall settle with the county auditor for all remaining manufactured home taxes that the county treasurer has collected on the manufactured home tax duplicate at the time of making the settlement.

(3) If the time for payment of such taxes is extended under section 4503.06 of the Revised Code, the time for making the settlement as prescribed by divisions (H)(1) and (2) of this section is extended for a like period of time.

(I) Within thirty days after the day of each settlement of taxes required under division (H) of this section, the county treasurer shall certify to the tax commissioner any adjustments that have been made to the amount certified previously pursuant to section 319.302 of the Revised Code and that the settlement has been completed. Upon receipt of such certification, the commissioner shall provide for payment to the county treasurer from the general revenue fund of an amount equal to one-half of the amount certified by the treasurer in the current tax year under section 319.302 of the Revised Code. Such payment shall be credited upon receipt to the county's undivided income tax fund, and the county auditor shall transfer to the county general fund from the amount thereof the total amount of all fees and charges that the auditor and treasurer would have been authorized to receive had such section not been in effect and that amount had been levied and collected as taxes. The county auditor shall distribute the amount remaining among the various taxing districts in the county as if it had been levied, collected, and settled as manufactured home taxes.

Sec. 323.01. Except as otherwise provided, as used in Chapter 323. of the Revised Code:

(A) "Subdivision" means any county, township, school district, or municipal corporation.

(B) "Municipal corporation" includes charter municipalities.

(C) "Taxes" means the total amount of all charges against an entry appearing on a tax list and the duplicate thereof that was prepared and

certified in accordance with section 319.28 of the Revised Code, including taxes levied against real estate; taxes on property whose value is certified pursuant to section 5727.23 of the Revised Code; recoupment charges applied pursuant to section 5713.35 of the Revised Code; all assessments; penalties and interest charged pursuant to section 323.121 of the Revised Code; charges added pursuant to section 319.35 of the Revised Code; and all of such charges which remain unpaid from any previous tax year.

(D) "Current taxes" means all taxes charged against an entry on the general tax list and duplicate of real and public utility property that have not appeared on such list and duplicate for any prior tax year and any penalty thereon charged by division (A) of section 323.121 of the Revised Code. Current taxes, whether or not they have been certified delinquent, become delinquent taxes if they remain unpaid after the last day prescribed for payment of the second installment of current taxes without penalty.

(E) "Delinquent taxes" means:

(1) Any taxes charged against an entry on the general tax list and duplicate of real and public utility property that were charged against an entry on such list and duplicate for a prior tax year and any penalties and interest charged against such taxes.

(2) Any current taxes charged on the general tax list and duplicate of real and public utility property that remain unpaid after the last day prescribed for payment of the second installment of such taxes without penalty, whether or not they have been certified delinquent, and any penalties and interest charged against such taxes.

(F) "Current tax year" means, with respect to particular taxes, the calendar year in which the first installment of taxes is due prior to any extension granted under section 323.17 of the Revised Code.

(G) "Liquidated claim" means:

(1) Any sum of money due and payable, upon a written contractual obligation executed between the subdivision and the taxpayer, but excluding any amount due on general and special assessment bonds and notes;

(2) Any sum of money due and payable, for disability financial assistance ~~or disability medical assistance~~ provided under Chapter 5115. of the Revised Code that is furnished to or in behalf of a subdivision, provided that such claim is recognized by a resolution or ordinance of the legislative body of such subdivision;

(3) Any sum of money advanced and paid to or received and used by a subdivision, pursuant to a resolution or ordinance of such subdivision or its predecessor in interest, and the moral obligation to repay which sum, when in funds, shall be recognized by resolution or ordinance by the subdivision.

Sec. 323.152. In addition to the reduction in taxes required under section 319.302 of the Revised Code, taxes shall be reduced as provided in divisions (A) and (B) of this section.

(A)(1) Division (A) of this section applies to any of the following:

(a) A person who is permanently and totally disabled;

(b) A person who is sixty-five years of age or older;

(c) A person who is the surviving spouse of a deceased person who was permanently and totally disabled or sixty-five years of age or older and who applied and qualified for a reduction in taxes under this division in the year of death, provided the surviving spouse is at least fifty-nine but not sixty-five or more years of age on the date the deceased spouse dies.

(2) Real property taxes on a homestead owned and occupied, or a homestead in a housing cooperative occupied, by a person to whom division (A) of this section applies shall be reduced for each year for which the owner obtains a certificate of reduction from the county auditor under section 323.154 of the Revised Code or for which the occupant obtains a certificate of reduction in accordance with section 323.159 of the Revised Code. The reduction shall equal the amount obtained by multiplying the tax rate for the tax year for which the certificate is issued by the reduction in taxable value shown in the following schedule:

Total Income	Reduce Taxable Value by the Lesser of:
\$11,900 or less	\$5,000 or seventy-five per cent
More than \$11,900 but not more than \$17,500	\$3,000 or sixty per cent
More than \$17,500 but not more than \$23,000	\$1,000 or twenty-five per cent
More than \$23,000	-0-

(3) Each calendar year, the tax commissioner shall adjust the foregoing schedule by completing the following calculations in September of each year:

(a) Determine the percentage increase in the gross domestic product deflator determined by the bureau of economic analysis of the United States department of commerce from the first day of January of the preceding calendar year to the last day of December of the preceding calendar year;

(b) Multiply that percentage increase by each of the total income amounts, and by each dollar amount by which taxable value is reduced, for the current tax year;

(c) Add the resulting product to each of the total income amounts, and to each of the dollar amounts by which taxable value is reduced, for the

current tax year;

(d)(i) Except as provided in division (A)(3)(d)(ii) of this section, round the resulting sum to the nearest multiple of one hundred dollars;

(ii) If rounding the resulting sum to the nearest multiple of one hundred dollars under division (A)(3)(d)(i) of this section does not increase the dollar amounts by which taxable value is reduced, the resulting sum instead shall be rounded to the nearest multiple of ten dollars.

The commissioner shall certify the amounts resulting from the adjustment to each county auditor not later than the first day of December each year. The certified amounts apply to the following tax year. The commissioner shall not make the adjustment in any calendar year in which the amounts resulting from the adjustment would be less than the total income amounts, or less than the dollar amounts by which taxable value is reduced, for the current tax year.

(B) ~~Real~~ To provide a partial exemption, real property taxes on any homestead, and manufactured home taxes on any manufactured or mobile home on which a manufactured home tax is assessed pursuant to division (D)(2) of section 4503.06 of the Revised Code, shall be reduced for each year for which the owner obtains a certificate of reduction from the county auditor under section 323.154 of the Revised Code. The amount of the reduction shall equal ~~one-fourth~~ two and one-half per cent of the amount ~~by which the of taxes charged and payable to be levied on the homestead or the manufactured or mobile home are reduced for such year under after~~ applying section ~~319.302~~ 319.301 of the Revised Code.

(C) The reductions granted by this section do not apply to special assessments or respread of assessments levied against the homestead, and if there is a transfer of ownership subsequent to the filing of an application for a reduction in taxes, such reductions are not forfeited for such year by virtue of such transfer.

(D) The reductions in taxable value referred to in this section shall be applied solely as a factor for the purpose of computing the reduction of taxes under this section and shall not affect the total value of property in any subdivision or taxing district as listed and assessed for taxation on the tax lists and duplicates, or any direct or indirect limitations on indebtedness of a subdivision or taxing district. If after application of sections 5705.31 and 5705.32 of the Revised Code, including the allocation of all levies within the ten-mill limitation to debt charges to the extent therein provided, there would be insufficient funds for payment of debt charges not provided for by levies in excess of the ten-mill limitation, the reduction of taxes provided for in sections 323.151 to 323.159 of the Revised Code shall be proportionately

adjusted to the extent necessary to provide such funds from levies within the ten-mill limitation.

(E) No reduction shall be made on the taxes due on the homestead of any person convicted of violating division (C) or (D) of section 323.153 of the Revised Code for a period of three years following the conviction.

Sec. 325.31. (A) On the first business day of each month, and at the end of the officer's term of office, each officer named in section 325.27 of the Revised Code shall pay into the county treasury, to the credit of the general county fund, on the warrant of the county auditor, all fees, costs, penalties, percentages, allowances, and perquisites collected by the officer's office during the preceding month or part thereof for official services, except the fees allowed the county auditor by division (B) of section 319.54 of the Revised Code, which shall be paid into the county treasury to the credit of the real estate assessment fund hereby created.

(B) Moneys to the credit of the real estate assessment fund may be expended, upon appropriation by the board of county commissioners, for the purpose of defraying one or more of the following:

(1) The cost incurred by the county auditor in assessing real estate pursuant to Chapter 5713. of the Revised Code and manufactured and mobile homes pursuant to Chapter 4503. of the Revised Code;

(2) At the county auditor's discretion, costs and expenses incurred by the county auditor in preparing the list of real and public utility property, in administering laws related to the taxation of real property and the levying of special assessments on real property, including administering reductions under Chapters 319. and 323. and section 4503.065 of the Revised Code, and to support assessments of real property in any administrative or judicial proceeding;

(3) At the county auditor's discretion, the expenses incurred by the county board of revision under Chapter 5715. of the Revised Code;

(4) At the county auditor's discretion, the expenses incurred by the county auditor for geographic information systems, mapping programs, and technological advances in those or similar systems or programs;

(5) At the county auditor's discretion, expenses incurred by the county auditor in compiling the general tax list of tangible personal property and administering tangible personal property taxes under Chapters 5711. and 5719. of the Revised Code;

(6) At the county auditor's discretion, costs, expenses, and fees incurred by the county auditor in the administration of estate taxes under Chapter 5731. of the Revised Code and the amounts incurred under section 5731.41 of the Revised Code.

Any expenditures made from the real estate assessment fund shall comply with rules that the tax commissioner adopts under division (O) of section 5703.05 of the Revised Code. Those rules shall include a requirement that a copy of any appraisal plans, progress of work reports, contracts, or other documents required to be filed with the tax commissioner shall be filed also with the board of county commissioners.

The board of county commissioners shall not transfer moneys required to be deposited in the real estate assessment fund to any other fund. Following an assessment of real property pursuant to Chapter 5713. of the Revised Code, or an assessment of a manufactured or mobile home pursuant to Chapter 4503. of the Revised Code, any moneys not expended for the purpose of defraying the cost incurred in assessing real estate or manufactured or mobile homes or for the purpose of defraying the expenses described in divisions (B)(2), (3), (4), (5), and (6) of this section, and thereby remaining to the credit of the real estate assessment fund, shall be apportioned ratably and distributed to those taxing authorities that contributed to the fund. However, no such distribution shall be made if the amount of such unexpended moneys remaining to the credit of the real estate assessment fund does not exceed five thousand dollars.

(C) None of the officers named in section 325.27 of the Revised Code shall collect any fees from the county. Each of such officers shall, at the end of each calendar year, make and file a sworn statement with the board of county commissioners of all such fees, costs, penalties, percentages, allowances, and perquisites which have been due in the officer's office and unpaid for more than one year prior to the date such statement is required to be made.

Sec. 329.04. (A) The county department of job and family services shall have, exercise, and perform the following powers and duties:

(1) Perform any duties assigned by the state department of job and family services regarding the provision of public family services, including the provision of the following services to prevent or reduce economic or personal dependency and to strengthen family life:

(a) Services authorized by a Title IV-A program, as defined in section 5101.80 of the Revised Code;

(b) Social services authorized by Title XX of the "Social Security Act" and provided for by section 5101.46 or 5101.461 of the Revised Code;

(c) If the county department is designated as the child support enforcement agency, services authorized by Title IV-D of the "Social Security Act" and provided for by Chapter 3125. of the Revised Code. The county department may perform the services itself or contract with other



government entities, and, pursuant to division (C) of section 2301.35 and section 2301.42 of the Revised Code, private entities, to perform the Title IV-D services.

(d) Duties assigned under section 5111.98 of the Revised Code.

(2) Administer disability financial assistance, as required by the state department of job and family services under section 5115.03 of the Revised Code;

~~(3) Administer disability medical assistance, as required by the state department of job and family services under section 5115.13 of the Revised Code;~~

~~(4)~~ Administer burials insofar as the administration of burials was, prior to September 12, 1947, imposed upon the board of county commissioners and if otherwise required by state law;

~~(5)~~(4) Cooperate with state and federal authorities in any matter relating to family services and to act as the agent of such authorities;

~~(6)~~(5) Submit an annual account of its work and expenses to the board of county commissioners and to the state department of job and family services at the close of each fiscal year;

~~(7)~~(6) Exercise any powers and duties relating to family services duties or workforce development activities imposed upon the county department of job and family services by law, by resolution of the board of county commissioners, or by order of the governor, when authorized by law, to meet emergencies during war or peace;

~~(8)~~(7) Determine the eligibility for medical assistance of recipients of aid under Title XVI of the "Social Security Act";

~~(9)~~(8) If assigned by the state director of job and family services under section 5101.515 of the Revised Code, determine applicants' eligibility for health assistance under the children's health insurance program part II;

~~(10)~~(9) Enter into a plan of cooperation with the board of county commissioners under section 307.983, consult with the board in the development of the transportation work plan developed under section 307.985, establish with the board procedures under section 307.986 for providing services to children whose families relocate frequently, and comply with the contracts the board enters into under sections 307.981 and 307.982 of the Revised Code that affect the county department;

~~(11)~~(10) For the purpose of complying with a fiscal agreement the board of county commissioners enters into under section 307.98 of the Revised Code, exercise the powers and perform the duties the fiscal agreement assigns to the county department;

~~(12)~~(11) If the county department is designated as the workforce

development agency, provide the workforce development activities specified in the contract required by section 330.05 of the Revised Code.

(B) The powers and duties of a county department of job and family services are, and shall be exercised and performed, under the control and direction of the board of county commissioners. The board may assign to the county department any power or duty of the board regarding family services duties and workforce development activities. If the new power or duty necessitates the state department of job and family services changing its federal cost allocation plan, the county department may not implement the power or duty unless the United States department of health and human services approves the changes.

Sec. 329.051. The county department of job and family services shall make voter registration applications as prescribed by the secretary of state under section 3503.10 of the Revised Code available to persons who are applying for, receiving assistance from, or participating in any of the following:

(A) The disability financial assistance program established under Chapter 5115. of the Revised Code;

~~(B) The disability medical assistance program established under Chapter 5115. of the Revised Code;~~

~~(C)~~ The medical assistance program established under Chapter 5111. of the Revised Code;

~~(D)~~(C) The Ohio works first program established under Chapter 5107. of the Revised Code;

~~(E)~~(D) The prevention, retention, and contingency program established under Chapter 5108. of the Revised Code.

Sec. 339.72. (A) Each board of county commissioners shall provide for the county to be served by a tuberculosis control unit by designating a county tuberculosis control unit or by entering into an agreement with one or more boards of county commissioners of other counties under which the boards jointly designate a district tuberculosis control unit. The entity designated as the county or district tuberculosis control unit may be any of the following:

(1) A communicable disease control program operated by a board of health of a city or general health district pursuant to section 3709.22 of the Revised Code;

~~(2) A tuberculosis program operated by a county that receives funds pursuant to section 339.77 of the Revised Code;~~

~~(3)~~ A tuberculosis clinic established by a board of county commissioners pursuant to section 339.76 of the Revised Code;

~~(4)~~(3) A hospital that provides tuberculosis clinic services under a contract with a board of county commissioners pursuant to section 339.75 of the Revised Code.

(B) The entity designated under division (A) of this section as the tuberculosis control unit shall accept that designation and fulfill its duties as the tuberculosis control unit specified under sections 339.71 to 339.89 of the Revised Code.

Sec. 339.88. The expenses incurred for detention under section 339.86 or 339.87 of the Revised Code shall be paid by the individual detained or if the individual is indigent, by the board of county commissioners of the county from which the individual was removed. ~~The board of county commissioners may apply to the director of health for reimbursement under section 339.77 of the Revised Code for expenses of detaining indigent individuals with tuberculosis.~~

Sec. 340.03. (A) Subject to rules issued by the director of mental health after consultation with relevant constituencies as required by division (A)(11) of section 5119.06 of the Revised Code, with regard to mental health services, the board of alcohol, drug addiction, and mental health services shall:

(1) Serve as the community mental health planning agency for the county or counties under its jurisdiction, and in so doing it shall:

(a) Evaluate the need for facilities and community mental health services;

(b) In cooperation with other local and regional planning and funding bodies and with relevant ethnic organizations, assess the community mental health needs, set priorities, and develop plans for the operation of facilities and community mental health services;

(c) In accordance with guidelines issued by the director of mental health after consultation with board representatives, develop and submit to the department of mental health, no later than six months prior to the conclusion of the fiscal year in which the board's current plan is scheduled to expire, a community mental health plan listing community mental health needs, including the needs of all residents of the district now residing in state mental institutions and severely mentally disabled adults, children, and adolescents; all children subject to a determination made pursuant to section 121.38 of the Revised Code; and all the facilities and community mental health services that are or will be in operation or provided during the period for which the plan will be in operation in the service district to meet such needs.

The plan shall include, but not be limited to, a statement of which of the

services listed in section 340.09 of the Revised Code the board intends to provide or purchase, an explanation of how the board intends to make any payments that it may be required to pay under section 5119.62 of the Revised Code, a statement of the inpatient and community-based services the board proposes that the department operate, an assessment of the number and types of residential facilities needed, and such other information as the department requests, and a budget for moneys the board expects to receive. The board shall also submit an allocation request for state and federal funds. Within sixty days after the department's determination that the plan and allocation request are complete, the department shall approve or disapprove the plan and request, in whole or in part, according to the criteria developed pursuant to section 5119.61 of the Revised Code. The department's statement of approval or disapproval shall specify the inpatient and the community-based services that the department will operate for the board. Eligibility for financial support shall be contingent upon an approved plan or relevant part of a plan.

If the director disapproves all or part of any plan, the director shall inform the board of the reasons for the disapproval and of the criteria that must be met before the plan may be approved. The director shall provide the board an opportunity to present its case on behalf of the plan. The director shall give the board a reasonable time in which to meet the criteria, and shall offer the board technical assistance to help it meet the criteria.

If the approval of a plan remains in dispute thirty days prior to the conclusion of the fiscal year in which the board's current plan is scheduled to expire, the board or the director may request that the dispute be submitted to a mutually agreed upon third-party mediator with the cost to be shared by the board and the department. The mediator shall issue to the board and the department recommendations for resolution of the dispute. Prior to the conclusion of the fiscal year in which the current plan is scheduled to expire, the director, taking into consideration the recommendations of the mediator, shall make a final determination and approve or disapprove the plan, in whole or in part.

If a board determines that it is necessary to amend a plan or an allocation request that has been approved under division (A)(1)(c) of this section, the board shall submit a proposed amendment to the director. The director may approve or disapprove all or part of the amendment. If the director does not approve all or part of the amendment within thirty days after it is submitted, the amendment or part of it shall be considered to have been approved. The director shall inform the board of the reasons for disapproval of all or part of an amendment and of the criteria that must be

met before the amendment may be approved. The director shall provide the board an opportunity to present its case on behalf of the amendment. The director shall give the board a reasonable time in which to meet the criteria, and shall offer the board technical assistance to help it meet the criteria.

The board shall implement the plan approved by the department.

(d) Receive, compile, and transmit to the department of mental health applications for state reimbursement;

(e) Promote, arrange, and implement working agreements with social agencies, both public and private, and with judicial agencies.

(2) Investigate, or request another agency to investigate, any complaint alleging abuse or neglect of any person receiving services from a community mental health agency as defined in section 5122.01 of the Revised Code, or from a residential facility licensed under section 5119.22 of the Revised Code. If the investigation substantiates the charge of abuse or neglect, the board shall take whatever action it determines is necessary to correct the situation, including notification of the appropriate authorities. Upon request, the board shall provide information about such investigations to the department.

(3) For the purpose of section 5119.611 of the Revised Code, cooperate with the director of mental health in visiting and evaluating whether the services of a community mental health agency satisfy the certification standards established by rules adopted under that section;

(4) In accordance with criteria established under division (G) of section 5119.61 of the Revised Code, review and evaluate the quality, effectiveness, and efficiency of services provided through its community mental health plan and submit its findings and recommendations to the department of mental health;

(5) In accordance with section 5119.22 of the Revised Code, review applications for residential facility licenses and recommend to the department of mental health approval or disapproval of applications;

(6) Audit, in accordance with rules adopted by the auditor of state pursuant to section 117.20 of the Revised Code, at least annually all programs and services provided under contract with the board. In so doing, the board may contract for or employ the services of private auditors. A copy of the fiscal audit report shall be provided to the director of mental health, the auditor of state, and the county auditor of each county in the board's district.

(7) Recruit and promote local financial support for mental health programs from private and public sources;

(8)(a) Enter into contracts with public and private facilities for the

operation of facility services included in the board's community mental health plan and enter into contracts with public and private community mental health agencies for the provision of community mental health services listed in section 340.09 of the Revised Code and included in the board's community mental health plan. Contracts with community mental health agencies are subject to section 5119.611 of the Revised Code. Section 307.86 of the Revised Code does not apply to contracts entered into under this division. In contracting with a community mental health agency, a board shall consider the cost effectiveness of services provided by that agency and the quality and continuity of care, and may review cost elements, including salary costs, of the services to be provided. A utilization review process shall be established as part of the contract for services entered into between a board and a community mental health agency. The board may establish this process in a way that is most effective and efficient in meeting local needs. In the case of a contract with a community mental health facility, as defined in section ~~5111.022~~ 5111.023 of the Revised Code, to provide services listed in division (B) of that section, the contract shall provide for the facility to be paid in accordance with the contract entered into between the departments of job and family services and mental health under section 5111.91 of the Revised Code and any rules adopted under division (A) of section 5119.61 of the Revised Code.

If either the board or a facility or community mental health agency with which the board contracts under division (A)(8)(a) of this section proposes not to renew the contract or proposes substantial changes in contract terms, the other party shall be given written notice at least one hundred twenty days before the expiration date of the contract. During the first sixty days of this one hundred twenty-day period, both parties shall attempt to resolve any dispute through good faith collaboration and negotiation in order to continue to provide services to persons in need. If the dispute has not been resolved sixty days before the expiration date of the contract, either party may notify the department of mental health of the unresolved dispute. The director may require both parties to submit the dispute to a third party with the cost to be shared by the board and the facility or community mental health agency. The third party shall issue to the board, the facility or agency, and the department recommendations on how the dispute may be resolved twenty days prior to the expiration date of the contract, unless both parties agree to a time extension. The director shall adopt rules establishing the procedures of this dispute resolution process.

(b) With the prior approval of the director of mental health, a board may operate a facility or provide a community mental health service as follows,

if there is no other qualified private or public facility or community mental health agency that is immediately available and willing to operate such a facility or provide the service:

(i) In an emergency situation, any board may operate a facility or provide a community mental health service in order to provide essential services for the duration of the emergency;

(ii) In a service district with a population of at least one hundred thousand but less than five hundred thousand, a board may operate a facility or provide a community mental health service for no longer than one year;

(iii) In a service district with a population of less than one hundred thousand, a board may operate a facility or provide a community mental health service for no longer than one year, except that such a board may operate a facility or provide a community mental health service for more than one year with the prior approval of the director and the prior approval of the board of county commissioners, or of a majority of the boards of county commissioners if the district is a joint-county district.

The director shall not give a board approval to operate a facility or provide a community mental health service under division (A)(8)(b)(ii) or (iii) of this section unless the director determines that it is not feasible to have the department operate the facility or provide the service.

The director shall not give a board approval to operate a facility or provide a community mental health service under division (A)(8)(b)(iii) of this section unless the director determines that the board will provide greater administrative efficiency and more or better services than would be available if the board contracted with a private or public facility or community mental health agency.

The director shall not give a board approval to operate a facility previously operated by a person or other government entity unless the board has established to the director's satisfaction that the person or other government entity cannot effectively operate the facility or that the person or other government entity has requested the board to take over operation of the facility. The director shall not give a board approval to provide a community mental health service previously provided by a community mental health agency unless the board has established to the director's satisfaction that the agency cannot effectively provide the service or that the agency has requested the board take over providing the service.

The director shall review and evaluate a board's operation of a facility and provision of community mental health service under division (A)(8)(b) of this section.

Nothing in division (A)(8)(b) of this section authorizes a board to

administer or direct the daily operation of any facility or community mental health agency, but a facility or agency may contract with a board to receive administrative services or staff direction from the board under the direction of the governing body of the facility or agency.

(9) Approve fee schedules and related charges or adopt a unit cost schedule or other methods of payment for contract services provided by community mental health agencies in accordance with guidelines issued by the department as necessary to comply with state and federal laws pertaining to financial assistance;

(10) Submit to the director and the county commissioners of the county or counties served by the board, and make available to the public, an annual report of the programs under the jurisdiction of the board, including a fiscal accounting;

(11) Establish, to the extent resources are available, a community support system, which provides for treatment, support, and rehabilitation services and opportunities. The essential elements of the system include, but are not limited to, the following components in accordance with section 5119.06 of the Revised Code:

(a) To locate persons in need of mental health services to inform them of available services and benefits mechanisms;

(b) Assistance for clients to obtain services necessary to meet basic human needs for food, clothing, shelter, medical care, personal safety, and income;

(c) Mental health care, including, but not limited to, outpatient, partial hospitalization, and, where appropriate, inpatient care;

(d) Emergency services and crisis intervention;

(e) Assistance for clients to obtain vocational services and opportunities for jobs;

(f) The provision of services designed to develop social, community, and personal living skills;

(g) Access to a wide range of housing and the provision of residential treatment and support;

(h) Support, assistance, consultation, and education for families, friends, consumers of mental health services, and others;

(i) Recognition and encouragement of families, friends, neighborhood networks, especially networks that include racial and ethnic minorities, churches, community organizations, and meaningful employment as natural supports for consumers of mental health services;

(j) Grievance procedures and protection of the rights of consumers of mental health services;



(k) Case management, which includes continual individualized assistance and advocacy to ensure that needed services are offered and procured.

(12) Designate the treatment program, agency, or facility for each person involuntarily committed to the board pursuant to Chapter 5122. of the Revised Code and authorize payment for such treatment. The board shall provide the least restrictive and most appropriate alternative that is available for any person involuntarily committed to it and shall assure that the services listed in section 340.09 of the Revised Code are available to severely mentally disabled persons residing within its service district. The board shall establish the procedure for authorizing payment for services, which may include prior authorization in appropriate circumstances. The board may provide for services directly to a severely mentally disabled person when life or safety is endangered and when no community mental health agency is available to provide the service.

(13) Establish a method for evaluating referrals for involuntary commitment and affidavits filed pursuant to section 5122.11 of the Revised Code in order to assist the probate division of the court of common pleas in determining whether there is probable cause that a respondent is subject to involuntary hospitalization and what alternative treatment is available and appropriate, if any;

(14) Ensure that apartments or rooms built, subsidized, renovated, rented, owned, or leased by the board or a community mental health agency have been approved as meeting minimum fire safety standards and that persons residing in the rooms or apartments are receiving appropriate and necessary services, including culturally relevant services, from a community mental health agency. This division does not apply to residential facilities licensed pursuant to section 5119.22 of the Revised Code.

(15) Establish a mechanism for involvement of consumer recommendation and advice on matters pertaining to mental health services in the alcohol, drug addiction, and mental health service district;

(16) Perform the duties under section 3722.18 of the Revised Code required by rules adopted under section 5119.61 of the Revised Code regarding referrals by the board or mental health agencies under contract with the board of individuals with mental illness or severe mental disability to adult care facilities and effective arrangements for ongoing mental health services for the individuals. The board is accountable in the manner specified in the rules for ensuring that the ongoing mental health services are effectively arranged for the individuals.

(B) The board shall establish such rules, operating procedures,

standards, and bylaws, and perform such other duties as may be necessary or proper to carry out the purposes of this chapter.

(C) A board of alcohol, drug addiction, and mental health services may receive by gift, grant, devise, or bequest any moneys, lands, or property for the benefit of the purposes for which the board is established, and may hold and apply it according to the terms of the gift, grant, or bequest. All money received, including accrued interest, by gift, grant, or bequest shall be deposited in the treasury of the county, the treasurer of which is custodian of the alcohol, drug addiction, and mental health services funds to the credit of the board and shall be available for use by the board for purposes stated by the donor or grantor.

(D) No board member or employee of a board of alcohol, drug addiction, and mental health services shall be liable for injury or damages caused by any action or inaction taken within the scope of the board member's official duties or the employee's employment, whether or not such action or inaction is expressly authorized by this section, section 340.033, or any other section of the Revised Code, unless such action or inaction constitutes willful or wanton misconduct. Chapter 2744. of the Revised Code applies to any action or inaction by a board member or employee of a board taken within the scope of the board member's official duties or employee's employment. For the purposes of this division, the conduct of a board member or employee shall not be considered willful or wanton misconduct if the board member or employee acted in good faith and in a manner that the board member or employee reasonably believed was in or was not opposed to the best interests of the board and, with respect to any criminal action or proceeding, had no reasonable cause to believe the conduct was unlawful.

(E) The meetings held by any committee established by a board of alcohol, drug addiction, and mental health services shall be considered to be meetings of a public body subject to section 121.22 of the Revised Code.

Sec. 340.16. Not later than ninety days after ~~the effective date of this section~~ September 5, 2001, the department of mental health and the department of job and family services shall adopt rules that establish requirements and procedures for prior notification and service coordination between public children services agencies and boards of alcohol, drug addiction, and mental health services when a public children services agency refers a child in its custody to a board for services funded by the board. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

The department of mental health and department of job and family services shall collaborate in formulating a plan that delineates the funding

responsibilities of public children services agencies and boards of alcohol, drug addiction, and mental health services for services provided under section ~~5111.022~~ 5111.023 of the Revised Code to children in the custody of public children services agencies. The departments shall complete the plan not later than ninety days after ~~the effective date of this section~~ September 5, 2001.

Sec. 341.192. (A) As used in this section:

(1) "Medical assistance program" has the same meaning as in section 2913.40 of the Revised Code.

(2) "Medical provider" means a physician, hospital, laboratory, pharmacy, or other health care provider that is not employed by or under contract to a county or the department of rehabilitation and correction to provide medical services to persons confined in the county jail or a state correctional institution.

(3) "Necessary care" means medical care of a nonelective nature that cannot be postponed until after the period of confinement of a person who is confined in a county jail or a state correctional institution or is in the custody of a law enforcement officer without endangering the life or health of the person.

(B) If a physician employed by or under contract to a county or the department of rehabilitation and correction to provide medical services to persons confined in the county jail or state correctional institution determines that a person who is confined in the county jail or a state correctional institution or who is in the custody of a law enforcement officer prior to the person's confinement in the county jail or a state correctional institution requires necessary care that the physician cannot provide, the necessary care shall be provided by a medical provider. The county or the department of rehabilitation and correction shall pay a medical provider for necessary care an amount not exceeding the authorized reimbursement rate for the same service established by the department of job and family services under the medical assistance program.

Sec. 351.01. As used in this chapter:

(A) "Convention facilities authority" means a body corporate and politic created pursuant to section 351.02 of the Revised Code.

(B) "Governmental agency" means a department, division, or other unit of the state government or of a municipal corporation, county, township, or other political subdivision of the state; any state university or college, as defined in section 3345.12 of the Revised Code, community college, state community college, university branch, or technical college; any other public corporation or agency having the power to acquire, construct, or operate

facilities; the United States or any agency thereof; and any agency, commission, or authority established pursuant to an interstate compact or agreement.

(C) "Person" means any individual, firm, partnership, association, or corporation, or any combination of them.

(D) "Facility" or "facilities" means any convention, entertainment, or sports facility, or combination of them, located within the territory of the convention facilities authority, together with all parking facilities, walkways, and other auxiliary facilities, real and personal property, property rights, easements and interests that may be appropriate for, or used in connection with, the operation of the facility.

(E) "Cost" means the cost of acquisition of all land, rights-of-way, property rights, easements, franchise rights, and interests required for such acquisition; the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved; the cost of acquiring or constructing and equipping a principal office of the convention facilities authority; the cost of diverting highways, interchange of highways, access roads to private property, including the cost of land or easements for such access roads; the cost of public utility and common carrier relocation or duplication; the cost of all machinery, furnishings, and equipment; financing charges; interest prior to and during construction and for no more than eighteen months after completion of construction; expenses of research and development with respect to facilities; legal expenses; expenses of obtaining plans, specifications, engineering surveys, studies, and estimates of cost and revenues; working capital; expenses necessary or incident to determining the feasibility or practicability of acquiring or constructing such facility; administrative expense; and such other expenses as may be necessary or incident to the acquisition or construction of the facility, the financing of such acquisition or construction, including the amount authorized in the resolution of the convention facilities authority providing for the issuance of convention facilities authority revenue bonds to be paid into any special funds from the proceeds of such bonds, the cost of issuing the bonds, and the financing of the placing of such facility in operation. Any obligation, cost, or expense incurred by any governmental agency or person for surveys, borings, preparation of plans and specifications, and other engineering services, or any other cost described above, in connection with the acquisition or construction of a facility may be regarded as part of the cost of such facility and may be reimbursed out of the proceeds of convention facilities authority revenue bonds as authorized by this chapter.

(F) "Owner" includes a person having any title or interest in any property, rights, easements, or interests authorized to be acquired by Chapter 351. of the Revised Code.

(G) "Revenues" means all rentals and other charges received by the convention facilities authority for the use or services of any facility, the sale of any merchandise, or the operation of any concessions; any gift or grant received with respect to any facility, any moneys received with respect to the lease, sublease, sale, including installment sale or conditional sale, or other disposition of a facility or part thereof; moneys received in repayment of and for interest on any loans made by the authority to a person or governmental agency, whether from the United States or any department, administration, or agency thereof, or otherwise; proceeds of convention facilities authority revenue bonds to the extent the use thereof for payment of principal or of premium, if any, or interest on the bonds is authorized by the authority; proceeds from any insurance, appropriation, or guaranty pertaining to a facility or property mortgaged to secure bonds or pertaining to the financing of the facility; income and profit from the investment of the proceeds of convention facilities authority revenue bonds or of any revenues; contributions of the proceeds of a tax levied pursuant to division (A)(3) of section 5739.09 of the Revised Code; and moneys transmitted to the authority pursuant to division (B) of section 5739.211 and division (B) of section 5741.031 of the Revised Code.

(H) "Public roads" includes all public highways, roads, and streets in the state, whether maintained by the state, county, city, township, or other political subdivision.

(I) "Construction," unless the context indicates a different meaning or intent, includes, but is not limited to, reconstruction, enlargement, improvement, or providing fixtures, furnishings, and equipment.

(J) "Convention facilities authority revenue bonds" or "revenue bonds," unless the context indicates a different meaning or intent, includes convention facilities authority revenue notes, convention facilities authority revenue renewal notes, and convention facilities authority revenue refunding bonds.

(K) "Convention facilities authority tax anticipation bonds" or "tax anticipation bonds," unless the context indicates a different meaning, includes convention facilities authority tax anticipation bonds, tax anticipation notes, tax anticipation renewal notes, and tax anticipation refunding bonds.

(L) "Bonds and notes" means convention facilities authority revenue bonds and convention facilities authority tax anticipation bonds.

(M) "Territory of the authority" means all of the area of the county creating the convention facilities authority.

(N) "Excise taxes" means ~~either or both~~ any of the taxes levied pursuant to division (B) or (C) of section 351.021 of the Revised Code. "Excise taxes" does not include taxes levied pursuant to section 4301.424, 5743.026, or 5743.324 of the Revised Code.

(O) "Transaction" means the charge by a hotel for each occupancy by transient guests of a room or suite of rooms used in a hotel as a single unit for any period of twenty-four hours or less.

(P) "Hotel" and "transient guests" have the same meanings as in section 5739.01 of the Revised Code.

(Q) "Sports facility" means a facility intended to house major league professional athletic teams.

(R) "Constructing" or "construction" includes providing fixtures, furnishings, and equipment.

Sec. 351.021. (A) The resolution of the county commissioners creating a convention facilities authority, or any amendment or supplement to that resolution, may authorize the authority to levy one or both of the excise taxes authorized by division (B) of this section to pay the cost of one or more facilities; to pay principal, interest, and premium on convention facilities authority tax anticipation bonds issued to pay those costs; to pay the operating costs of the authority; to pay operating and maintenance costs of those facilities; and to pay the costs of administering the excise tax.

(B) The board of directors of a convention facilities authority that has been authorized pursuant to resolution adopted, amended, or supplemented by the board of county commissioners pursuant to division (A) of this section may levy, by resolution adopted on or before December 31, 1988, either or both of the following:

(1) Within the territory of the authority, an additional excise tax not to exceed four per cent on each transaction. The excise tax authorized by division (B)(1) of this section shall be in addition to any excise tax levied pursuant to section 5739.08 or 5739.09 of the Revised Code, or division (B)(2) of this section.

(2) Within that portion of any municipal corporation that is located within the territory of the authority or within the boundaries of any township that is located within the territory of the authority, which municipal corporation or township is levying any portion of the excise tax authorized by division (A) of section 5739.08 of the Revised Code, and with the approval, by ordinance or resolution, of the legislative authority of that municipal corporation or township, an additional excise tax not to exceed

nine-tenths of one per cent on each transaction. The excise tax authorized by division (B)(2) of this section may be levied only if, on the effective date of the levy specified in the resolution making the levy, the amount being levied pursuant to division (A) of section 5739.08 of the Revised Code by each municipal corporation or township in which the tax authorized by division (B)(2) of this section will be levied, when added to the amount levied under division (B)(2) of this section, does not exceed three per cent on each transaction. The excise tax authorized by division (B)(2) of this section shall be in addition to any excise tax that is levied pursuant to section 5739.08 or 5739.09 of the Revised Code, or division (B)(1) of this section.

(C)(1) The board of directors of a convention facilities authority that is located in an eligible Appalachian county; that has been authorized pursuant to resolution adopted, amended, or supplemented by the board of county commissioners pursuant to division (A) of this section; and that is not levying a tax under division (B)(1) or (2) of this section may levy within the territory of the authority, by resolution adopted on or before December 31, 2005, an additional excise tax not to exceed three per cent on each transaction. The excise tax authorized under division (C) of this section shall be in addition to any excise tax levied pursuant to section 5739.08 or 5739.09 of the Revised Code.

(2) As used in division (C)(1) of this section, "eligible Appalachian county" means a county in this state designated as being in the "Appalachian region" under the "Appalachian Regional Development Act of 1965," 79 Stat. 4, 40 U.S.C. App. 403, and having a population less than eighty thousand according to the most recent federal decennial census.

(D) The authority shall provide for the administration and allocation of ~~the an~~ excise ~~taxes tax~~ levied pursuant to division (B) or (C) of this section. All receipts arising from those excise taxes shall be expended for the purposes provided in, and in accordance with this section and section 351.141 of the Revised Code. An excise tax levied under division (B) or (C) of this section shall remain in effect at the rate at which it is levied for at least the duration of the period for which the receipts from the tax have been anticipated and pledged pursuant to section 351.141 of the Revised Code.

~~(D)(E)~~ Except as provided in division (B)(2) of this section, the levy of an excise tax on each transaction pursuant to sections 5739.08 and 5739.09 of the Revised Code does not prevent a convention facilities authority from levying ~~the an~~ excise ~~taxes tax~~ pursuant to division (B) or (C) of this section.

Sec. 351.06. A facility to be constructed pursuant to this chapter is a public improvement and a convention facilities authority is a public authority for purposes of section 4115.03 of the Revised Code. All

contractors and subcontractors working on such facilities are subject to and shall comply with sections 4115.03 to 4115.16 of the Revised Code. A convention facilities authority is a contracting authority for purposes of sections 307.86 to 307.91 of the Revised Code.

No convention facilities authority shall construct a facility under this chapter unless the plans for the facility provide for parking and transportation determined by the board of county commissioners as adequate to serve that facility.

A convention facilities authority may do all of the following:

(A) Adopt bylaws for the regulation of its affairs and the conduct of its business;

(B) Adopt an official seal;

(C) Maintain a principal office within its territory;

(D) Acquire, purchase, construct, reconstruct, enlarge, furnish, equip, maintain, repair, sell, exchange, lease or rent to, lease or rent from, operate, or contract for the operation by others of, facilities within its territory, and make charges for the use of the facilities;

(E) Make available the use or services of any facility to persons or governmental agencies on such terms and conditions as the authority shall determine;

(F) By resolution of its board of directors, issue convention facilities authority revenue bonds beyond the limit of bonded indebtedness provided by law, payable solely from revenues as provided in section 351.14 of the Revised Code, unless the bonds are refunded by refunding bonds, for the purpose of providing funds to pay the costs of any facility or facilities or parts of any facility or facilities, and, if moneys raised by taxation are not obligated or pledged for the payment of those revenue bonds, to pay the costs of any facility or facilities or parts of any facility or facilities pursuant to Section 13 of Article VIII, Ohio Constitution, and in order to create or preserve jobs and employment opportunities and improve the economic welfare of the people of the state;

(G) Maintain such funds as it determines necessary;

(H) Direct its agents or employees, when properly identified in writing and after at least five days' written notice, to enter upon lands within its territory in order to make surveys and examinations preliminary to location and construction of facilities, or other work for the purposes of the convention facilities authority, without liability of the authority or its agents or employees except for actual damage done;

(I) Promote, advertise, and publicize the authority and its facilities;

(J)(1) Adopt rules, not in conflict with general law, governing the use of



its property, grounds, buildings, equipment, and facilities, and the conduct of its employees and the public, in order to promote the public safety and convenience in and about its facilities and grounds, and to maintain order. Any such rule shall be posted at a prominent place in each of the buildings or facilities to which it applies.

(2) No person shall violate any lawful rule adopted and posted as provided in this division.

(K) Acquire by gift or purchase, hold, lease, and dispose of real and personal property and interests in the property in the exercise of its powers and the performance of its duties under this chapter;

(L) Acquire, in the name of the authority, by purchase or otherwise, on such terms and in such manner as the authority finds proper, or by the exercise of the right of appropriation in the manner provided by section 351.22 of the Revised Code, such public or private lands, including public parks, playgrounds, or reservations, or parts thereof or rights therein, rights-of-way, rights, franchises, easements, and interests as it finds necessary or proper for carrying out this chapter, and compensation shall be paid for public or private lands so taken;

(M) Make and enter into all contracts and agreements and execute all instruments necessary or incidental to the performance of its duties and the execution of its powers under this chapter provided that no construction contract or contract for the purchase of goods or services shall be approved or entered into by the authority prior to the adoption and implementation of a policy on the set aside of contracts for bidding by or award to minority business enterprises, as defined in division (E)(1) of section 122.71 of the Revised Code;

(N) Employ managers, superintendents, and other employees and retain or contract with consulting engineers, financial consultants, accounting experts, architects, attorneys, and such other consultants and independent contractors as are necessary in its judgment to carry out this chapter, and fix their compensation. All expenses of doing so shall be payable solely from the proceeds of convention facilities authority bonds and notes issued under this chapter, or from excise taxes and revenues.

(O) Receive and accept from any governmental agency grants for or in aid of the purposes of the authority, and receive and accept aid or contributions from any source of money, property, labor, or other things of value, to be held, used, and applied only for the purposes for which such grants and contributions are made;

(P) Engage in research and development with respect to facilities;

(Q) Purchase fire and extended coverage and liability insurance for any

facility and for the offices of the authority, insurance protecting the authority and its officers and employees against liability for damage to property or injury to or death of persons arising from its operations, and any other insurance the authority may agree to provide under any resolution authorizing its convention facilities authority revenue bonds or in any trust agreement securing the same;

(R) Charge, alter, and collect rentals and other charges for the use or services of any facility as provided in section 351.09 of the Revised Code;

(S) If a tax proposed under section 5739.026 of the Revised Code is disapproved by the electors, request the board of county commissioners to dissolve the authority pursuant to section 351.03 of the Revised Code;

(T) By resolution of its board of directors, levy ~~one or both~~ any of the excise taxes authorized by division (B) or (C) of section 351.021 of the Revised Code if authorized by the county commissioners, and issue convention facilities authority tax anticipation bonds beyond any limit of bonded indebtedness provided by law, payable solely from excise taxes levied pursuant to division (B) or (C) of section 351.021 of the Revised Code and revenues as provided in section 351.141 of the Revised Code.

(U) Do all acts necessary or proper to carry out the powers expressly granted in this chapter.

Sec. 351.141. A convention facilities authority that levies ~~one or both~~ any of the excise taxes authorized by division (B) or (C) of section 351.021 of the Revised Code or that receives contributions pursuant to division (A)(3) of section 5739.09 of the Revised Code, by resolution may anticipate the proceeds of the levy and issue convention facilities authority tax anticipation bonds, and notes anticipating the proceeds or the bonds, in the principal amount that, in the opinion of the authority, are necessary for the purpose of paying the cost of one or more facilities or parts of one or more facilities, and as able, with the interest on them, be paid over the term of the issue, or in the case of notes anticipating bonds over the term of the bonds, by the estimated amount of the excise taxes or contributions anticipated thereby. The excise taxes or contributions are determined by the general assembly to satisfy any applicable requirement of Section 11 of Article XII, Ohio Constitution. An authority, at any time, may issue renewal tax anticipation notes, issue tax anticipation bonds to pay such notes, and, whenever it considers refunding expedient, refund any tax anticipation bonds by the issuance of tax anticipation refunding bonds whether the bonds to be refunded have or have not matured, and issue tax anticipation bonds partly to refund bonds then outstanding and partly for any other authorized purpose. The refunding bonds shall be sold and the proceeds needed for

such purpose applied in the manner provided in the bond proceedings to the purchase, redemption, or payment of the bonds to be refunded.

Every issue of outstanding tax anticipation bonds shall be payable out of the proceeds of the excise taxes or contributions anticipated and other revenues of the authority that are pledged for such payment. The pledge shall be valid and binding from the time the pledge is made, and the anticipated excise taxes, contributions, and revenues so pledged and thereafter received by the authority immediately shall be subject to the lien of that pledge without any physical delivery of those excise taxes, contributions, and revenues or further act. The lien of any pledge is valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the authority, whether or not such parties have notice of the lien. Neither the resolution nor any trust agreement by which a pledge is created need be filed or recorded except in the authority's records.

Whether or not the bonds or notes are of such form and character as to be negotiable instruments under Title XIII of the Revised Code, the bonds or notes shall have all the qualities and incidents of negotiable instruments, subject only to their provisions for registration, if any.

The tax anticipation bonds shall bear such date or dates, and shall mature at such time or times, in the case of any such notes or any renewals of such notes not exceeding twenty years from the date of issue of such original notes and in the case of any such bonds or any refunding bonds not exceeding forty years from the date of the original issue of notes or bonds for the purpose, and shall be executed in the manner that the resolution authorizing the bonds may provide. The tax anticipation bonds shall bear interest at such rates, or at variable rate or rates changing from time to time, in accordance with provisions provided in the authorizing resolution, be in such denominations and form, either coupon or registered, carry such registration privileges, be payable in such medium of payment and at such place or places, and be subject to such terms of redemption, as the authority may authorize or provide. The tax anticipation bonds may be sold at public or private sale, and at, or at not less than the price or prices as the authority determines. If any officer whose signature or a facsimile of whose signature appears on any bonds or coupons ceases to be such officer before delivery of the bonds, the signature or facsimile shall nevertheless be sufficient for all purposes as if the officer had remained in office until delivery of the bonds, and in case the seal of the authority has been changed after a facsimile has been imprinted on the bonds, the facsimile seal will continue to be sufficient for all purposes.

Any resolution or resolutions authorizing any tax anticipation bonds or

any issue of tax anticipation bonds may contain provisions, subject to any agreements with bondholders as may then exist, which provisions shall be a part of the contract with the holders of the bonds, as to the pledging of any or all of the authority's anticipated excise taxes, contributions, and revenues to secure the payment of the bonds or of any issue of the bonds; the use and disposition of revenues of the authority; the crediting of the proceeds of the sale of bonds to and among the funds referred to or provided for in the resolution; limitations on the purpose to which the proceeds of sale of the bonds may be applied and the pledging of portions of such proceeds to secure the payment of the bonds or of any issue of the bonds; as to notes issued in anticipation of the issuance of bonds, the agreement of the authority to do all things necessary for the authorization, issuance, and sale of such bonds in such amounts as may be necessary for the timely retirement of such notes; limitations on the issuance of additional bonds; the terms upon which additional bonds may be issued and secured; the refunding of outstanding bonds; the procedure, if any, by which the terms of any contract with bondholders may be amended, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given; securing any bonds by a trust agreement in accordance with section 351.16 of the Revised Code; any other matters, of like or different character, that in any way affect the security or protection of the bonds. The excise taxes anticipated by the bonds, including bonds anticipated by notes, shall not be subject to diminution by initiative or referendum or by law while the bonds or notes remain outstanding in accordance with their terms, unless provision is made by law or by the authority for an adequate substitute therefor reasonably satisfactory to the trustee, if a trust agreement secures the bonds.

Neither the members of the board of directors of the authority nor any person executing the bonds shall be liable personally on the bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

Sec. 351.16. In the discretion of the convention facilities authority, any convention facilities authority bonds and notes issued under this chapter may be secured by a trust agreement between the authority and a corporate trustee, which trustee may be any trust company or bank having the powers of a trust company within or without the state.

Any such trust agreement for convention facility authority revenue bonds may pledge or assign revenues of the convention facilities authority to be received and may convey or mortgage any facility or any part of any facility. Any such trust agreement for convention facility authority tax

anticipation bonds may pledge or assign ~~one or both~~ any of the excise taxes authorized by division (B) or (C) of section 351.021 of the Revised Code and revenues of the convention facilities authority to be received and may convey or mortgage any facility or any part of any facility. Any such trust agreement or any resolution providing for the issuance of such bonds or notes may contain such provisions for protecting and enforcing the rights and remedies of the bondholders or noteholders as are reasonable and proper and not in violation of law, including covenants setting forth the duties of the authority in relation to the acquisition of property, the construction, improvement, maintenance, repair, operation, and insurance of the facility in connection with which such bonds or notes are authorized, the rentals or other charges to be imposed for the use or services of any facility, the custody, safeguarding, and application of all moneys, and provisions for the employment of consulting engineers in connection with the construction or operation of such facility. Any bank or trust company incorporated under the laws of this state that may act as depository of the proceeds of bonds or notes or of revenues may furnish such indemnifying bonds or may pledge such securities as are required by the authority. Any such trust agreement may set forth the rights and remedies of the bondholders and noteholders and of the trustee, and may restrict the individual right of action by bondholders and noteholders as is customary in trust agreements or trust indentures securing similar bonds. Such trust agreement may contain such other provisions as the authority determines reasonable and proper for the security of the bondholders or noteholders. All expenses incurred in carrying out the provisions of any such trust agreement may be treated as a part of the cost of the operation of the facility. Any such trust agreement or resolution authorizing the issuance of convention facilities authority bonds or notes may provide the method whereby the general administrative expenses of the authority shall be allocated among facilities acquired or constructed by it as a factor of the operation expenses of such facility.

Sec. 718.09. (A) This section applies to either of the following:

(1) A municipal corporation that shares the same territory as a city, local, or exempted village school district, to the extent that not more than five per cent of the territory of the municipal corporation is located outside the school district and not more than five per cent of the territory of the school district is located outside the municipal corporation;

(2) A municipal corporation that shares the same territory as a city, local, or exempted village school district, to the extent that not more than five per cent of the territory of the municipal corporation is located outside the school district, more than five per cent but not more than ten per cent of

the territory of the school district is located outside the municipal corporation, and that portion of the territory of the school district that is located outside the municipal corporation is located entirely within another municipal corporation having a population of four hundred thousand or more according to the federal decennial census most recently completed before the agreement is entered into under division (B) of this section.

(B) ~~Before January 1, 2001, the~~ The legislative authority of a municipal corporation to which this section applies may propose to the electors an income tax, one of the purposes of which shall be to provide financial assistance to the school district through payment to the district of not less than twenty-five per cent of the revenue generated by the tax, except that the legislative authority may not propose to levy the income tax on the incomes of nonresident individuals. Prior to proposing the tax, the legislative authority shall negotiate and enter into a written agreement with the board of education of the school district specifying the tax rate, the percentage of tax revenue to be paid to the school district, the purpose for which the school district will use the money, the first year the tax will be levied, the date of the special election on the question of the tax, and the method and schedule by which the municipal corporation will make payments to the school district. The special election shall be held ~~before January 1, 2001~~, on a day specified in division (D) of section 3501.01 of the Revised Code, except that the special election may not be held on the day for holding a primary election as authorized by the municipal corporation's charter unless the municipal corporation is to have a primary election on that day.

After the legislative authority and board of education have entered into the agreement, the legislative authority shall provide for levying the tax by ordinance. The ordinance shall state the tax rate, the percentage of tax revenue to be paid to the school district, the purpose for which the municipal corporation will use its share of the tax revenue, the first year the tax will be levied, and that the question of the income tax will be submitted to the electors of the municipal corporation. The legislative authority also shall adopt a resolution specifying the regular or special election date the election will be held and directing the board of elections to conduct the election. At least seventy-five days before the date of the election, the legislative authority shall file certified copies of the ordinance and resolution with the board of elections.

(C) The board of elections shall make the necessary arrangements for the submission of the question to the electors of the municipal corporation, and shall conduct the election in the same manner as any other municipal income tax election. Notice of the election shall be published in a newspaper

of general circulation in the municipal corporation once a week for four consecutive weeks prior to the election, and shall include statements of the rate and municipal corporation and school district purposes of the income tax, the percentage of tax revenue that will be paid to the school district, and the first year the tax will be levied. The ballot shall be in the following form:

"Shall the ordinance providing for a ..... per cent levy on income for (brief description of the municipal corporation and school district purposes of the levy, including a statement of the percentage of tax revenue that will be paid to the school district) be passed? The income tax, if approved, will not be levied on the incomes of individuals who do not reside in (the name of the municipal corporation).

	For the income tax	"
	Against the income tax	

(D) If the question is approved by a majority of the electors, the municipal corporation shall impose the income tax beginning in the year specified in the ordinance. The proceeds of the levy may be used only for the specified purposes, including payment of the specified percentage to the school district.

Sec. 718.10. (A) This section applies to a group of two or more municipal corporations that, taken together, share the same territory as a single city, local, or exempted village school district, to the extent that not more than five per cent of the territory of the municipal corporations as a group is located outside the school district and not more than five per cent of the territory of the school district is located outside the municipal corporations as a group.

(B) ~~Before January 1, 2001, the~~ The legislative authorities of the municipal corporations in a group of municipal corporations to which this section applies each may propose to the electors an income tax, to be levied in concert with income taxes in the other municipal corporations of the group, except that a legislative authority may not propose to levy the income tax on the incomes of individuals who do not reside in the municipal corporation. One of the purposes of such a tax shall be to provide financial assistance to the school district through payment to the district of not less than twenty-five per cent of the revenue generated by the tax. Prior to proposing the taxes, the legislative authorities shall negotiate and enter into a written agreement with each other and with the board of education of the school district specifying the tax rate, the percentage of the tax revenue to be paid to the school district, the first year the tax will be levied, and the date of

the election on the question of the tax, all of which shall be the same for each municipal corporation. The agreement also shall state the purpose for which the school district will use the money, and specify the method and schedule by which each municipal corporation will make payments to the school district. The special election shall be held ~~before January 1, 2001~~, on a day specified in division (D) of section 3501.01 of the Revised Code, including a day on which all of the municipal corporations are to have a primary election.

After the legislative authorities and board of education have entered into the agreement, each legislative authority shall provide for levying its tax by ordinance. Each ordinance shall state the rate of the tax, the percentage of tax revenue to be paid to the school district, the purpose for which the municipal corporation will use its share of the tax revenue, and the first year the tax will be levied. Each ordinance also shall state that the question of the income tax will be submitted to the electors of the municipal corporation on the same date as the submission of questions of an identical tax to the electors of each of the other municipal corporations in the group, and that unless the electors of all of the municipal corporations in the group approve the tax in their respective municipal corporations, none of the municipal corporations in the group shall levy the tax. Each legislative authority also shall adopt a resolution specifying the regular or special election date the election will be held and directing the board of elections to conduct the election. At least seventy-five days before the date of the election, each legislative authority shall file certified copies of the ordinance and resolution with the board of elections.

(C) For each of the municipal corporations, the board of elections shall make the necessary arrangements for the submission of the question to the electors, and shall conduct the election in the same manner as any other municipal income tax election. For each of the municipal corporations, notice of the election shall be published in a newspaper of general circulation in the municipal corporation once a week for four consecutive weeks prior to the election. The notice shall include a statement of the rate and municipal corporation and school district purposes of the income tax, the percentage of tax revenue that will be paid to the school district, and the first year the tax will be levied, and an explanation that the tax will not be levied unless an identical tax is approved by the electors of each of the other municipal corporations in the group. The ballot shall be in the following form:

"Shall the ordinance providing for a ... per cent levy on income for (brief description of the municipal corporation and school district purposes



of the levy, including a statement of the percentage of income tax revenue that will be paid to the school district) be passed? The income tax, if approved, will not be levied on the incomes of individuals who do not reside in (the name of the municipal corporation). In order for the income tax to be levied, the voters of (the other municipal corporations in the group), which are also in the (name of the school district) school district, must approve an identical income tax and agree to pay the same percentage of the tax revenue to the school district.

	For the income tax	"
	Against the income tax	

(D) If the question is approved by a majority of the electors and identical taxes are approved by a majority of the electors in each of the other municipal corporations in the group, the municipal corporation shall impose the tax beginning in the year specified in the ordinance. The proceeds of the levy may be used only for the specified purposes, including payment of the specified percentage to the school district.

Sec. 731.14. All contracts made by the legislative authority of a village shall be executed in the name of the village and signed on its behalf by the mayor and clerk. Except where the contract is for equipment, services, materials, or supplies to be purchased under division (D) of section 713.23 or section 125.04 or 5513.01 of the Revised Code ~~or~~, available from a qualified nonprofit agency pursuant to sections 4115.31 to 4115.35 of the Revised Code, or required to be purchased from a qualified nonprofit agency under sections 125.60 to 125.6012 of the Revised Code, when any expenditure, other than the compensation of persons employed in the village, exceeds twenty-five thousand dollars, such contracts shall be in writing and made with the lowest and best bidder after advertising for not less than two nor more than four consecutive weeks in a newspaper of general circulation within the village. The bids shall be opened and shall be publicly read by the clerk of the village or a person designated by the clerk at the time, date, and place specified in the advertisement to bidders or specifications. The time, date, and place of bid openings may be extended to a later date by the legislative authority of the village, provided that written or oral notice of the change shall be given to all persons who have received or requested specifications no later than ninety-six hours prior to the original time and date fixed for the opening. This section does not apply to those villages that have provided for the appointment of a village administrator under section 735.271 of the Revised Code.

Sec. 731.141. In those villages that have established the position of village administrator, as provided by section 735.271 of the Revised Code, the village administrator shall make contracts, purchase supplies and materials, and provide labor for any work under the administrator's supervision involving not more than twenty-five thousand dollars. When an expenditure, other than the compensation of persons employed by the village, exceeds twenty-five thousand dollars, the expenditure shall first be authorized and directed by ordinance of the legislative authority of the village. When so authorized and directed, except where the contract is for equipment, services, materials, or supplies to be purchased under division (D) of section 713.23 or section 125.04 or 5513.01 of the Revised Code ~~or~~, available from a qualified nonprofit agency pursuant to sections 4115.31 to 4115.35 of the Revised Code, or required to be purchased from a qualified nonprofit agency under sections 125.60 to 125.6012 of the Revised Code, the village administrator shall make a written contract with the lowest and best bidder after advertisement for not less than two nor more than four consecutive weeks in a newspaper of general circulation within the village. The bids shall be opened and shall be publicly read by the village administrator or a person designated by the village administrator at the time, date, and place as specified in the advertisement to bidders or specifications. The time, date, and place of bid openings may be extended to a later date by the village administrator, provided that written or oral notice of the change shall be given to all persons who have received or requested specifications no later than ninety-six hours prior to the original time and date fixed for the opening. All contracts shall be executed in the name of the village and signed on its behalf by the village administrator and the clerk.

The legislative authority of a village may provide, by ordinance, for central purchasing for all offices, departments, divisions, boards, and commissions of the village, under the direction of the village administrator, who shall make contracts, purchase supplies or materials, and provide labor for any work of the village in the manner provided by this section.

Sec. 742.59. The board of trustees of the Ohio police and fire pension fund shall be the trustee of the funds created as follows:

(A) The "police officers' contribution fund" is the fund in which shall be credited the contributions deducted from the salaries of members of police departments and paid into the Ohio police and fire pension fund, as provided by section 742.31 of the Revised Code, and that percentage of the employers' accrued liability that is attributable to deductions previously made from the salaries of members of the police department who are still in the active service at the time that portion of the employers' accrued liability

is paid. The accumulated contributions of a member of a police department shall be transferred at the member's retirement from the police officers' contribution fund to the police officers' pension reserve fund.

(B) The "firefighters' contribution fund" is the fund in which shall be credited contributions deducted from the salaries of members of fire departments and paid into the Ohio police and fire pension fund, as provided by section 742.31 of the Revised Code, and that percentage of the employers' accrued liability that is attributable to deductions previously made from the salaries of members of the fire department who are still in the active service at the time that portion of the employers' accrued liability is paid. The accumulated contributions of a member of a fire department shall be transferred at the member's retirement from the firefighters' contribution fund to the firefighters' pension reserve fund.

(C) The "police officer employers' contribution fund" is the fund to which the following shall be credited:

(1) The police officer employers' contribution, as provided by section 742.33 of the Revised Code, ~~and that;~~

(2) The percentage of the employers' accrued liability that is attributable to the employers' liability for prior service of members of the police department who are still in the active service at the time that portion of the employers' accrued liability is paid, ~~and that portion of the state contribution allocated to such fund, as provided by section 742.36 of the Revised Code, shall be credited, and in which shall be accumulated.~~

In the police officer employers' contribution fund shall accumulate the reserves held in trust for the payment of all pensions or other benefits provided by sections 742.01 to 742.61 of the Revised Code to members of a police department retiring in the future or their qualified beneficiaries and from which the reserves for such pensions and other benefits shall be transferred to the police officers' pension reserve fund.

(D) The "firefighter employers' contribution fund" is the fund to which the following shall be credited:

(1) The firefighter employers' contribution, as provided in section 742.34 of the Revised Code, ~~and that;~~

(2) The percentage of the employers' accrued liability that is attributable to the employers' liability for prior service for members of the fire department who are still in the active service at the time that portion of the employers' accrued liability is paid, ~~and that portion of the state contribution allocated to such fund, as provided by section 742.36 of the Revised Code, shall be credited, and in which shall be accumulated.~~

In the firefighter employers' contribution fund shall accumulate the

reserves held in trust for the payment of all pensions and other benefits provided by sections 742.01 to 742.61 of the Revised Code to members of a fire department retiring in the future or their qualified beneficiaries and from which the reserves for such pensions and other benefits shall be transferred to the firefighters' pension reserve fund.

(E) The "police officers' pension reserve fund" is the fund from which shall be paid all pensions and other benefits for which reserves have been transferred from the police officers' contribution fund and the police officer employers' contribution fund, and to which shall be credited that percentage of the employers' accrued liability that is attributable to the total of deductions previously made from the salaries of members of the police department who are retired and are receiving pensions or other benefits, or whose beneficiaries are receiving benefits, at the time that portion of the employers' accrued liability is paid, and that percentage of the employers' accrued liability that is attributable to prior service of members of the police department who are retired and are receiving pensions or other benefits, or whose beneficiaries are receiving benefits, at the time that portion of the employers' accrued liability is paid.

(F) The "firefighters' pension reserve fund" is the fund from which shall be paid all pensions and other benefits for which reserves have been transferred from the firefighters' contribution fund and the firefighter employers' contribution fund, and to which shall be credited that percentage of the employers' accrued liability that is attributable to the total of deductions previously made from the salaries of members of the fire department who are retired and are receiving pensions or other benefits, or whose beneficiaries are receiving benefits, at the time that portion of the employers' accrued liability is paid, and that percentage of the employers' accrued liability that is attributable to prior service of members of the fire department who are retired and are receiving pensions or other benefits, or whose beneficiaries are receiving benefits, at the time that portion of the employers' accrued liability is paid.

(G) The "guarantee fund" is the fund from which interest is transferred and credited on the amounts in the funds described in divisions (C), (D), (E), and (F) of this section, and is a contingent fund from which the special requirements of said funds may be paid by transfer from this fund. All income derived from the investment of funds by the board of trustees of the Ohio police and fire pension fund as trustee under section 742.11 of the Revised Code, together with all gifts and bequests or the income therefrom, shall be paid into this fund.

Any deficit occurring in any other fund that will not be covered by

payments to that fund, as otherwise provided by sections 742.01 to 742.61 of the Revised Code, shall be paid by transfers of amounts from the guarantee fund to such fund or funds. Should the amount in the guarantee fund be insufficient at any time to meet the amounts payable therefrom, the amount of such deficiency, with regular interest, shall be paid by an additional employer rate of current contribution as determined by the actuary and shall be approved by the board of trustees of the Ohio police and fire pension fund, and the amount of such additional employer contribution shall be credited to the guarantee fund.

The board may accept gifts and bequests. Any funds that may come into the possession of the board in this manner, or any other funds whose disposition is not otherwise provided for, shall be credited to the guarantee fund.

(H) The "expense fund" is the fund from which shall be paid the expenses for the administration and management of the Ohio police and fire pension fund, as provided by sections 742.01 to 742.61 of the Revised Code, and to which shall be credited from the guarantee fund an amount sufficient to pay the expenses of operation.

Sec. 901.43. (A) The director of agriculture may authorize any department of agriculture laboratory to perform a laboratory service for any person, organization, political subdivision, state agency, federal agency, or other entity, whether public or private. The director shall adopt and enforce rules to provide for the rendering of a laboratory service.

(B) The director may charge a reasonable fee for the performance of a laboratory service, except when the service is performed on an official sample taken by the director acting pursuant to Title IX, Chapter 3715., or Chapter 3717. of the Revised Code; by a board of health acting as the licensor of retail food establishments or food service operations under Chapter 3717. of the Revised Code; or by the director of health acting as the licensor of food service operations under Chapter 3717. of the Revised Code. The director of agriculture shall adopt rules specifying what constitutes an official sample.

The director shall publish a list of laboratory services offered, together with the fee for each service.

(C) The director may enter into a contract with any person, organization, political subdivision, state agency, federal agency, or other entity for the provision of a laboratory service.

(D)(1) The director may adopt rules establishing standards for accreditation of laboratories and laboratory services and in doing so may adopt by reference existing or recognized standards or practices.

(2) The director may inspect and accredit laboratories and laboratory services, and may charge a reasonable fee for the inspections and accreditation.

(E)(1) ~~At~~ There is hereby created in the state treasury the animal health and food safety fund. Moneys from the following sources shall be deposited into the state treasury to the credit of the fund: all moneys collected by the director under this section that are from fees generated by a laboratory service performed by the department and related to the diseases of animals, and all moneys so collected that are from fees generated for the inspection and accreditation of laboratories and laboratory services related to the diseases of animals, shall be deposited in the animal industry laboratory fund, which is hereby created in the state treasury. The director shall use the moneys in the animal industry laboratory fund to pay the expenses necessary to operate the animal industry laboratory, including the purchase of supplies and equipment.

~~(2) At all~~ moneys collected by the director under this section that are from fees generated by a laboratory service performed by the consumer analytical laboratory, and all moneys so collected that are from fees generated for the inspection and accreditation of laboratories and laboratory services not related to weights and measures or the diseases of animals, shall be deposited in the laboratory services fund, which is hereby created in the state treasury. The director may use the moneys held in the fund may be used to pay the expenses necessary to operate the animal industry laboratory and the consumer analytical laboratory, including the purchase of supplies and equipment.

~~(3)~~ (2) All moneys collected by the director under this section that are from fees generated by a laboratory service performed by the weights and measures laboratory, and all moneys so collected that are from fees generated for the inspection and accreditation of laboratories and laboratory services related to weights and measures, shall be deposited in the state treasury to the credit of the weights and measures laboratory fund, which is hereby created in the state treasury. The moneys held in the fund may be used to pay the expenses necessary to operate the division of weights and measures, including the purchase of supplies and equipment.

Sec. 901.44. There is hereby created in the state treasury the laboratory and administrative support fund. The department of agriculture shall deposit the following moneys received by the department to the credit of the fund: payment for the rental of the department's auditoriums by outside parties and reimbursement for related utility expenses, laboratory fees that are not designated for deposit into another fund, and other miscellaneous moneys

that are not designated for deposit into another fund. The department may use moneys in the fund to pay costs associated with any program of the department as the director of agriculture sees fit.

Sec. 903.05. (A) Each application for a permit to install or permit to operate a concentrated animal feeding facility that is submitted by an applicant who has not operated a concentrated animal feeding facility in this state for at least two of the five years immediately preceding the submission of the application shall be accompanied by all of the following:

(1) A listing of all ~~eoneentrated~~ animal feeding facilities that the owner or operator of the proposed new or modified concentrated animal feeding facility has operated or is operating in this state;

(2) A listing of the ~~eoneentrated~~ animal feeding facilities that the owner or operator has operated or is operating elsewhere in the United States and that are regulated under the Federal Water Pollution Control Act together with a listing of the ~~eoneentrated~~ animal feeding facilities that the owner or operator has operated or is operating outside the United States;

(3) A listing of all administrative enforcement orders issued to the owner or operator, all civil actions in which the owner or operator was determined by the trier of fact to be liable in damages or was the subject of injunctive relief or another type of civil relief, and all criminal actions in which the owner or operator pleaded guilty or was convicted, during the five years immediately preceding the submission of the application, in connection with any violation of the federal Water Pollution Control Act, the "Safe Drinking Water Act," as defined in section 6109.01 of the Revised Code, or any other applicable state laws pertaining to environmental protection that was alleged to have occurred or to be occurring at any ~~eoneentrated~~ animal feeding facility that the owner or operator has operated or is operating in the United States or with any violation of the environmental laws of another country that was alleged to have occurred or to be occurring at any ~~eoneentrated~~ animal feeding facility that the owner or operator has operated or is operating outside the United States.

The lists of ~~eoneentrated~~ animal feeding facilities operated by the owner or operator within or outside this state or outside the United States shall include, respectively, all such facilities operated by the owner or operator during the five-year period immediately preceding the submission of the application.

(B) If the applicant for a permit to install or permit to operate has been involved in any prior activity involving the operation of ~~a-eoneentrated~~ an animal feeding facility, the director of agriculture may deny the application if the director finds from the application, the information submitted under

divisions (A)(1) to (3) of this section, pertinent information submitted to the director, and other pertinent information obtained by the director at the director's discretion that the applicant and persons associated with the applicant, in the operation of ~~concentrated~~ animal feeding facilities, have a history of substantial noncompliance with the Federal Water Pollution Control Act, the "Safe Drinking Water Act," as defined in section 6109.01 of the Revised Code, any other applicable state laws pertaining to environmental protection, or the environmental laws of another country that indicates that the applicant lacks sufficient reliability, expertise, and competence to operate the proposed new or modified concentrated animal feeding facility in substantial compliance with this chapter and rules adopted under it.

(C) A person who seeks to acquire a concentrated animal feeding facility that has been issued an installation permit that has been transferred from the director of environmental protection to the director of agriculture, a permit to install, or a permit to operate shall submit to the director the information specified in divisions (A)(1) to (3) of this section prior to the transfer of the permit. The permit shall not be transferred as otherwise provided in division (I) of section 903.09 of the Revised Code if the director finds from the information submitted under divisions (A)(1) to (3) of this section, pertinent information submitted to the director, and other pertinent information obtained by the director at the director's discretion that the person, in the operation of ~~concentrated~~ animal feeding facilities, has a history of substantial noncompliance with the Federal Water Pollution Control Act, the "Safe Drinking Water Act," as defined in section 6109.01 of the Revised Code, any other applicable state laws pertaining to environmental protection, or the environmental laws of another country that indicates that the person lacks sufficient reliability, expertise, and competence to operate the concentrated animal feeding facility in substantial compliance with this chapter and rules adopted under it.

Sec. 905.32. (A) No person shall manufacture or distribute in this state any type of fertilizer until a license to manufacture or distribute has been obtained by the manufacturer or distributor from the department of agriculture upon payment of a five dollar fee:

- (1) For each fixed (permanent) location at which fertilizer is manufactured in this state;
- (2) For each mobile unit used to manufacture fertilizer in this state;
- (3) For each location out of the state from which fertilizer is distributed in this state to nonlicensees.

All licenses ~~expire on the thirtieth day of June of each~~ shall be valid for



one year beginning on the first day of December of a calendar year through the thirtieth day of November of the following calendar year. A renewal application for a license shall be submitted ~~no earlier than the first day of June each year and~~ no later than the thirtieth day of ~~June~~ November each year. A person who submits a renewal application for a license after the thirtieth day of ~~June~~ November shall include with the application a late filing fee of ten dollars.

(B) An application for license shall include:

- (1) The name and address of the licensee;
- (2) The name and address of each bulk distribution point in the state, not licensed for fertilizer manufacture and distribution.

The name and address shown on the license shall be shown on all labels, pertinent invoices, and bulk storage for fertilizers distributed by the licensee in this state.

(C) The licensee shall inform the director of agriculture in writing of additional distribution points established during the period of the license.

Sec. 905.33. (A) Except as provided in division (C) of this section, no person shall distribute in this state a specialty fertilizer until it is registered by the manufacturer or distributor with the department of agriculture. An application, in duplicate, for each brand and product name of each grade of specialty fertilizer shall be made on a form furnished by the director of agriculture and shall be accompanied with a fee of fifty dollars for each brand and product name of each grade. Labels for each brand and product name of each grade shall accompany the application. Upon the approval of an application by the director, a copy of the registration shall be furnished the applicant. All registrations ~~expire on the thirtieth day of June of each~~ shall be valid for one year beginning on the first day of December of a calendar year through the thirtieth day of November of the following calendar year.

(B) An application for registration shall include the following:

- (1) Name and address of the manufacturer or distributor;
- (2) The brand and product name;
- (3) The grade;
- (4) The guaranteed analysis;
- (5) The package sizes for persons that package fertilizers only in containers of ten pounds or less.

(C)(1) No person who engages in the business of applying custom mixed fertilizer to lawns, golf courses, recreation areas, or other real property that is not used for agricultural production shall be required to register the custom mixed fertilizer as a specialty fertilizer in accordance

with division (A) of this section if the fertilizer ingredients of the custom mixed fertilizer are registered as specialty fertilizers and the inspection fee described in division (A) of section 905.36 of the Revised Code is paid.

(2) No person who engages in the business of blending custom mixed fertilizer for use on lawns, golf courses, recreation areas, or other real property that is not used for agricultural production shall be required to register the custom mixed fertilizer as a specialty fertilizer in accordance with division (A) of this section if the facility holds a nonagricultural production custom mixed fertilizer blender license issued under section 905.331 of the Revised Code.

(D) A person who engages in the business of applying or blending custom mixed fertilizer as described in division (C) of this section shall maintain an original or a copy of an invoice or document of sale for all fertilizer the person applies or distributes for one year following the date of the application or distribution, and, upon the director's request, shall furnish the director with the invoice or document of sale for the director's review.

Sec. 905.331. No person who engages in the business of blending a custom mixed fertilizer for use on lawns, golf courses, recreation areas, or other real property that is not used for agricultural production shall fail to register a specialty fertilizer in accordance with division (A) of section 905.33 of the Revised Code unless the person has obtained ~~a~~ an annual nonagricultural production custom mixed fertilizer blender license from the director of agriculture.

A license issued under this section shall be valid from the first day of December of a calendar year through the thirtieth day of November of the following calendar year. A renewal application for a nonagricultural production custom mixed fertilizer blender license shall be submitted to the director ~~no earlier than the first day of June each year and~~ no later than the thirtieth day of ~~June~~ November each year and shall include the name and address of the applicant and of the premises where the blending occurs and a one-hundred-dollar fee. A person who submits a renewal application for a license after the thirtieth day of ~~June~~ November shall include with the application a late filing fee of ten dollars. All nonagricultural production custom mixed fertilizer blender licenses expire on the thirtieth day of ~~June~~ November each year.

A person holding a nonagricultural production custom mixed fertilizer blender license shall pay the inspection fees described in division (A) of section 905.36 of the Revised Code for each product being blended.

Sec. 905.36. (A) A licensee or registrant, except registrants who package specialty fertilizers only in containers of ten pounds or less, shall

pay the director of agriculture for all fertilizers distributed in this state an inspection fee at the rate of ~~twelve~~ twenty-five cents per ton or ~~thirteen~~ twenty-eight cents per metric ton. Licensees and registrants shall specify on an invoice whether the per ton inspection fee has been paid or whether payment of the fee is the responsibility of the purchaser of the fertilizer. The payment of this inspection fee by a licensee or registrant shall exempt all other persons from the payment of this fee.

(B) Every licensee or registrant shall file ~~a semiannual statement with the director an annual tonnage report~~ that includes the number of net tons or metric tons of fertilizer distributed to nonlicensees or nonregistrants in this state by grade; packaged; bulk, dry or liquid; ~~within thirty days after the thirtieth day of June, and within thirty days after the thirty-first day of December, respectively, of.~~ The report shall be filed on or before the thirtieth day of November of each calendar year and shall include data from the period beginning on the first day of November of the year preceding the year in which the report is due through the thirty-first day of October of the year in which the report is due. The licensee or registrant, except registrants who package specialty fertilizers only in containers of ten pounds or less, shall include with this statement the inspection fee at the rate stated in division (A) of this section. For a tonnage report that is not filed or payment of inspection fees that is not made ~~within ten days after due date on or before the thirtieth day of November of the applicable calendar year,~~ a penalty of fifty dollars or ten per cent of the amount due, whichever is greater, shall be assessed against the licensee or registrant. The amount of fees due, plus penalty, shall constitute a debt and become the basis of a judgment against the licensee or registrant. For tonnage reports found to be incorrect, a penalty of fifteen per cent of the amount due shall be assessed against the licensee or registrant and shall constitute a debt and become the basis of a judgment against the licensee or registrant.

(C) No information furnished under this section shall be disclosed by any employee of the department of agriculture in such a way as to divulge the operation of any person required to make such a report. The filing by a licensee or registrant of a sales volume tonnage statement required by division (B) of this section thereby grants permission to the director to verify the same with the records of the licensee or registrant.

Sec. 905.37. (A) The director of agriculture ~~shall~~ may distribute annual statements of fertilizer sales by grades of materials and mixed fertilizer by counties, in a manner prescribed by the director.

(B) The director ~~shall~~ may publish ~~at least~~ annually a report of the analysis of fertilizers inspected.

(C) The director may distribute a state fertilizer usage report by grade of materials and mixed fertilizers for each month.

Sec. 905.38. The commercial feed, fertilizer, seed, and lime inspection and laboratory fund is hereby created in the state treasury. All moneys collected by the director of agriculture under sections 905.31 to 905.50 of the Revised Code, shall be deposited into the fund. Moneys credited to the fund under this section and sections 905.66, 907.16, and 923.46 of the Revised Code shall be used for administering and enforcing this chapter and ~~Chapter~~ Chapters 907. and 923. of the Revised Code and rules adopted under them.

Sec. 905.381. The director of agriculture shall keep accurate accounts of all receipts and disbursements from the commercial feed, fertilizer, seed, and lime inspection and laboratory fund, and shall prepare, and provide upon request, an annual report classifying the receipts and disbursements as pertaining to either feed, fertilizer, seed, or lime.

Sec. 905.50. If the director of agriculture has taken an official sample of a fertilizer or mixed fertilizer and determined that it constitutes mislabeled fertilizer pursuant to rules adopted under section 905.40 of the Revised Code, the person who labeled the fertilizer or mixed fertilizer shall pay a penalty to the consumer of the mislabeled fertilizer or, if the consumer cannot be determined with reasonable diligence or is not available, to the director for deposit into the commercial feed, fertilizer, seed, and lime inspection and laboratory fund created under section 905.38 of the Revised Code. The amount of the penalty shall be calculated in accordance with either division (A) or (B) of this section, whichever method of calculation yields the largest amount.

(A)(1) A penalty required to be paid under this section may be calculated as follows:

(a) Five dollars for each percentage point of total nitrogen or phosphorus in the fertilizer that is below the percentage of nitrogen or phosphorus guaranteed on the label, multiplied by the number of tons of mislabeled fertilizer that have been sold to the consumer;

(b) Three dollars for each percentage point of potash in the fertilizer that is below the percentage of potash guaranteed on the label, multiplied by the number of tons of mislabeled fertilizer that have been sold to the consumer.

(2) In the case of a fertilizer that contains a quantity of nitrogen, phosphorus, or potash that is more than five percentage points below the percentages guaranteed on the label, the penalties calculated under division (A)(1) of this section shall be tripled.

(3) No penalty calculated under division (A) of this section shall be less

than twenty-five dollars.

(B) A penalty required to be paid under this section may be calculated by multiplying the market value of one unit of the mislabeled fertilizer by the number of units of the mislabeled fertilizer that have been sold to the consumer.

(C) Upon making a determination under this section that a person has mislabeled fertilizer or mixed fertilizer, the director shall determine the parties to whom the penalty imposed by this section is required to be paid and, in accordance with division (A) or (B) of this section, as applicable, shall calculate the amount of the penalty required to be paid to each such party. After completing those determinations and calculations, the director shall issue to the person who allegedly mislabeled the fertilizer or mixed fertilizer a notice of violation. The notice shall be accompanied by an order requiring, and specifying the manner of, payment of the penalty imposed by this section to the parties in the amounts set forth in the determinations and calculations required by this division. The order shall be issued in accordance with Chapter 119. of the Revised Code.

No person shall violate a term or condition of an order issued under this division.

Sec. 905.501. (A) As used in this section, "~~political~~:"

(1) "Political subdivision" means a county, township, or municipal corporation and any other body corporate and politic that is responsible for government activities in a geographic area smaller than that of the state.

(2) "Local legislation" includes, but is not limited to, an ordinance, resolution, regulation, rule, motion, or amendment that is enacted or adopted by a political subdivision.

(B)(1) No political subdivision shall regulate the registration, packaging, labeling, sale, storage, distribution, use, or application of fertilizer, or require a person licensed or registered under sections 905.31 to 905.99 of the Revised Code to obtain a license or permit to operate in a manner described in those sections, or to satisfy any other condition except as provided by a statute or rule of this state or of the United States.

(2) No political subdivision shall enact, adopt, or continue in effect local legislation relating to the registration, packaging, labeling, sale, storage, distribution, use, or application of fertilizers.

Sec. 905.66. All moneys collected by the director of agriculture under sections 905.51 to 905.65 of the Revised Code shall be deposited into the commercial feed, fertilizer, seed, and lime inspection and laboratory fund created under section 905.38 of the Revised Code.

The director shall prepare and provide a report concerning the fund in

accordance with section 905.381 of the Revised Code.

Sec. 907.111. (A) The department of agriculture has sole and exclusive authority to regulate the registration, labeling, sale, storage, transportation, distribution, notification of use, use, and planting of seed within the state. The regulation of seed is a matter of general statewide interest that requires uniform statewide regulation, and this chapter and rules adopted under it constitute a comprehensive plan with respect to all aspects of the regulation of seed within this state.

(B) No political subdivision shall do any of the following:

(1) Regulate the registration, labeling, sale, storage, transportation, distribution, notification of use, use, or planting of seed;

(2) Require a person who has been issued a permit or license under this chapter to obtain a permit or license to operate in a manner described in this chapter or to satisfy any other condition except as provided by a statute or rule of this state or of the United States;

(3) Require a person who has registered a legume inoculant under this chapter to register that inoculant in a manner described in this chapter or to satisfy any other condition except as provided by a statute or rule of this state or of the United States.

(C) No political subdivision shall enact, adopt, or continue in effect local legislation relating to the permitting or licensure of any person who is required to obtain a permit or license under this chapter or to the registration, labeling, sale, storage, transportation, distribution, notification of use, use, or planting of seed.

(D) As used in this section, "political subdivision" and "local legislation" have the same meanings as in section 905.501 of the Revised Code.

Sec. 907.16. All money collected by the director of agriculture under sections 907.01 to 907.17 of the Revised Code shall be deposited into the treasury of the state to the credit of the commercial feed, fertilizer, seed, and lime inspection and laboratory fund, which is hereby created in the state treasury. Money credited to the fund shall be used to administer and enforce those sections and rules adopted under them section 905.38 of the Revised Code.

Sec. 913.02. No person, firm, or corporation shall engage in the business of operating a cannery without obtaining a license for the operation of each cannery from the director of agriculture.

In order to obtain a license, an application shall be made on a form prescribed by the director and shall be accompanied by a fee of ~~one~~ two hundred dollars. The director shall thereupon cause an investigation to be

made. If the applicant is supplied with the facilities necessary for complying with sections 913.01 to 913.05 of the Revised Code and rules adopted under them, a license shall be issued and shall be effective until the thirtieth day of June, and shall become invalid on that date unless renewed. The fee for each renewal is ~~one~~ two hundred dollars. License fees and renewal fees shall be deposited to the credit of the food safety fund created in section 915.24 of the Revised Code.

The director may suspend or revoke any license for failure to comply with sections 913.01 to 913.05 of the Revised Code, or any rule or order adopted under those sections. In such event, the cannery immediately shall cease operation.

Sec. 913.23. (A) The director of agriculture may issue licenses as required by sections 913.22 to 913.28 of the Revised Code, may make the inspections and registrations required by those sections, and may prescribe the form of application to be filed under this section.

(B) No person shall manufacture or bottle for sale within this state any soft drink in closed containers unless the person has a license issued by the director. Upon receipt of an application for such a license, the director shall examine the products and the place of manufacture where the business is to be conducted, to determine whether the products and place comply with sections 913.22 to 913.28 of the Revised Code. Upon finding there is compliance, and upon payment of a license fee of ~~one~~ two hundred dollars, the director shall issue a license authorizing the applicant to manufacture or bottle for sale such soft drinks, subject to sections 913.22 to 913.28 of the Revised Code. The license shall expire on the last day of March of each year unless renewed.

(C) No soft drink that is manufactured or bottled out of the state shall be sold or offered for sale within this state unless the soft drink and the plant in which the soft drink is manufactured or bottled are found by the director to comply with sections 913.22 to 913.28 of the Revised Code, and ~~is~~ are registered by the director, which shall be upon a like application as provided in division (B) of this section.

An annual registration fee of ~~one~~ two hundred dollars shall be paid to the director by each applicant under this division. The registration shall be renewed annually, and the registration fee paid with the application for annual renewal.

Registration of out-of-state soft drink manufacturers or bottlers or syrup and extract manufacturers is not required if a reciprocal agreement is in effect whereby a soft drink manufacturer or bottler or syrup and extract manufacturer located in this state is not subject to a license or registration

fee by another state or a political subdivision thereof.

(D) No person, other than a manufacturer or bottler holding a soft drink plant license under this section, shall sell, offer for sale, use, or have in the person's possession with intent to sell, any soda water syrup or extract or soft drink syrup, to be used in making, drawing, or dispensing soda water or other soft drinks, without first registering the person's name and address, the name and address of the manufacturer of the syrup or extract, the number and variety of such syrups or extracts intended to be sold, and the trade name or brand of those products, with the director, together with such samples of the syrups or extracts as the director requests for analysis. The person also shall pay to the department of agriculture at the time of making registration a license fee of ~~fifty~~ one hundred dollars. No license shall be granted by the director unless the director determines that the syrup or extract is free from all harmful drugs and other ingredients that, as used, may be injurious to health. The registration shall be renewed annually upon like terms. If any manufacturer, bottler, agent, or seller is licensed or has registered the manufacturer's, bottler's, agent's, or seller's name and product as required by this section and has paid the manufacturer's, bottler's, agent's, or seller's fee, the manufacturer's, bottler's, agent's, or seller's distributor, retail agent, or retail seller using the products shall not be required to pay that fee. This section does not apply to local sellers of soft drinks as to syrups and extracts made by themselves for their own use exclusively.

(E) All moneys received under sections 913.22 to 913.28 of the Revised Code shall be deposited with the treasurer of state to the credit of the food safety fund created in section 915.24 of the Revised Code.

(F) The director may revoke any license or registration issued under sections 913.22 to 913.28 of the Revised Code, whenever the director determines that those sections have been violated. When a license has been revoked, the licensee shall discontinue the manufacture and sale of soft drinks or other products for which the license was issued. When a registration has been revoked, the registrant shall discontinue the sale within this state of the registrant's products until those sections have been complied with and a new license or registration has been issued. The director may suspend any such license or registration temporarily, pending compliance with such conditions required by those sections as the director prescribes.

Sec. 915.02. No person, firm, or corporation shall operate a cold-storage warehouse, for hire, without a license issued by the director of agriculture. ~~Such~~ A license shall be issued only on written application stating the location of ~~such~~ the warehouse. Upon receipt of the application the director shall cause an examination to be made into the sanitary conditions of ~~such~~



the warehouse. If it is found to be in a sanitary condition and properly equipped for the purpose of cold storage, the director shall cause a license to be issued authorizing the applicant to operate a warehouse. No license shall be issued until the applicant has paid to the director the sum of ~~one~~ two hundred dollars. ~~Such~~ A license shall be valid until the last day of March of each year and becomes invalid on that date unless renewed. A license shall be required for each separate warehouse building.

Sec. 915.16. The license fee for an establishment is ~~twenty-five~~ fifty dollars. Any operator operating in connection with a cold-storage warehouse holding a license under section 915.02 of the Revised Code is not required to secure an additional license under section 915.15 of the Revised Code so long as ~~he~~ the operator continues to be licensed as a cold-storage warehouse; but ~~he~~ the operator shall comply with sections 915.14 to 915.24, ~~inclusive~~, of the Revised Code, and all rules and regulations promulgated thereunder. The license issued shall be in such form as the department of agriculture prescribes. Licenses shall be valid until the last day of November following initial issuance or renewal and shall become invalid on that date unless renewed. The original license or a certified copy thereof shall be conspicuously displayed by the operator in the establishment.

Sec. 915.24. (A) There is hereby created in the state treasury the food safety fund. All of the following moneys shall be credited to the fund:

(1) Bakery registration fees and fines received under sections 911.02 to 911.20 of the Revised Code;

(2) Cannery license fees and renewal fees received under sections 913.01 to 913.05 of the Revised Code;

(3) Moneys received under sections 913.22 to 913.28 of the Revised Code;

(4) License fees, fines, and penalties recovered for the violation of sections 915.01 to 915.12 of the Revised Code;

(5) License fees collected under sections 915.14 to 915.23 of the Revised Code;

(6) License fees, other fees, and fines collected by or for the director of agriculture under Chapter 3717. of the Revised Code;

(7) Fees collected under section 3715.04 of the Revised Code for the issuance of certificates of health and freesale.

(B) The director of agriculture shall use the moneys deposited into the food safety fund to administer and enforce the laws pursuant to which the moneys were collected.

Sec. 921.02. (A) No person shall distribute a pesticide within this state unless the pesticide is registered with the director of agriculture under this

chapter. Registrations shall be issued for a period of time established by rule and shall be renewed in accordance with deadlines established by rule. Registration is not required if a pesticide is shipped from one plant or warehouse to another plant or warehouse operated by the same person and used solely at that plant or warehouse as a constituent part to make a pesticide that is registered under this chapter, or if the pesticide is distributed under the provisions of an experimental use permit issued under section 921.03 of the Revised Code or an experimental use permit issued by the United States environmental protection agency.

(B) The applicant for registration of a pesticide shall file a statement with the director on a form provided by the director, which shall include all of the following:

(1) The name and address of the applicant and the name and address of the person whose name will appear on the label, if other than the applicant's name;

(2) The brand and product name of the pesticide;

(3) Any necessary information required for completion of the department of agriculture's application for registration, including the agency registration number;

(4) A complete copy of the labeling accompanying the pesticide and a statement of all claims to be made for it, including the directions for use and the use classification as provided for in the federal act.

(C) The director, when the director considers it necessary in the administration of this chapter, may require the submission of the complete formula of any pesticide including the active and inert ingredients.

(D) The director may require a full description of the tests made and the results thereof upon which the claims are based for any pesticide. The director shall not consider any data submitted in support of an application, without permission of the applicant, in support of any other application for registration unless the other applicant first has offered to pay reasonable compensation for producing the test data to be relied upon and the data are not protected from disclosure by section 921.04 of the Revised Code. In the case of a renewal of registration, a statement shall be required only with respect to information that is different from that furnished when the pesticide was registered or last registered.

(E) The director may require any other information to be submitted with an application.

Any applicant may designate any portion of the required registration information as a trade secret or confidential business information. Upon receipt of any required registration information designated as a trade secret

or confidential business information, the director shall consider the designated information as confidential and shall not reveal or cause to be revealed any such designated information without the consent of the applicants, except to persons directly involved in the registration process described in this section or as required by law.

(F) ~~Each~~ Beginning January 1, 2007, each applicant shall pay a registration and inspection fee ~~established by rule of one hundred fifty dollars~~ for each product name and brand registered for the company whose name appears on the label. If an applicant files for a renewal of registration after the deadline established by rule, the applicant shall pay a penalty fee ~~established by rule of seventy-five dollars~~ for each product name and brand registered for the applicant. The penalty fee shall be added to the original fee and paid before the renewal registration is issued. In addition to any other remedy available under this chapter, if a pesticide that is not registered pursuant to this section is distributed within this state, the person required to register the pesticide shall do so and shall pay a penalty fee ~~established by rule of seventy-five dollars~~ for each product name and brand registered for the applicant. The penalty fee shall be added to the original fee of one hundred fifty dollars and paid before the registration is issued.

(G) Provided that the state is authorized by the administrator of the United States environmental protection agency to register pesticides to meet special local needs, the director shall require the information set forth under divisions (B), (C), (D), and (E) of this section and shall register any such pesticide after determining that all of the following conditions are met:

- (1) Its composition is such as to warrant the proposed claims for it.
- (2) Its labeling and other material required to be submitted comply with the requirements of the federal act and of this chapter, and rules adopted thereunder.
- (3) It will perform its intended function without unreasonable adverse effects on the environment.
- (4) When used in accordance with widespread and commonly recognized practice, it will not generally cause unreasonable adverse effects on the environment.
- (5) The classification for general or restricted use is in conformity with the federal act.

The director shall not make any lack of essentiality a criterion for denying the registration of any pesticide. When two pesticides meet the requirements of division (G) of this section, the director shall not register one in preference to the other.

(H)(1) The director may refuse to register a pesticide if the application

for registration fails to comply with this section.

(2) The director may suspend or revoke a pesticide registration after a hearing in accordance with Chapter 119. of the Revised Code for a pesticide that fails to meet the claims made for it on its label.

(3) The director may immediately suspend a pesticide registration, prior to a hearing, when the director believes that the pesticide poses an immediate hazard to human or animal health or a hazard to the environment. Not later than fifteen days after suspending the registration, the director shall determine whether the pesticide poses such a hazard. If the director determines that no hazard exists, the director shall lift the suspension of the registration. If the director determines that a hazard exists, the director shall revoke the registration in accordance with Chapter 119. of the Revised Code.

Sec. 921.16. (A) The director of agriculture shall adopt rules the director determines necessary for the effective enforcement and administration of this chapter. The rules may relate to, but are not limited to, the time, place, manner, and methods of application, materials, and amounts and concentrations of application of pesticides, may restrict or prohibit the use of pesticides in designated areas during specified periods of time, and shall encompass all reasonable factors that the director determines necessary to minimize or prevent damage to the environment. In addition, the rules shall establish the fees, deadlines, and time periods for registration, registration renewal, late registration renewal, and failure to register under section 921.02 of the Revised Code; the fees for registration, registration renewal, late registration renewal, and failure to register under section 921.02 of the Revised Code that shall apply until the fees that are established under that section take effect on January 1, 2007; and the fees, deadlines, and time periods for licensure and license renewal under sections 921.06, 921.09, 921.11, and 921.13 of the Revised Code. ~~The aggregate amount of the fees that initially are established by rule after the effective date of this amendment shall be designed to cover, but not exceed, the costs incurred by the department of agriculture in administering this chapter. Thereafter, the fees shall not be increased without the approval of the general assembly.~~

(B) The director shall adopt rules that establish a schedule of civil penalties for violations of this chapter, or any rule or order adopted or issued under it, provided that the civil penalty for a first violation shall not exceed five thousand dollars and the civil penalty for each subsequent violation shall not exceed ten thousand dollars. In determining the amount of a civil penalty for a violation, the director shall consider factors relevant to the severity of the violation, including past violations and the amount of actual

or potential damage to the environment or to human beings.

(C) The director shall adopt rules that set forth the conditions under which the director:

(1) Requires that notice or posting be given of a proposed application of a pesticide;

(2) Requires inspection, condemnation, or repair of equipment used to apply a pesticide;

(3) Will suspend, revoke, or refuse to issue any pesticide registration for a violation of this chapter;

(4) Requires safe handling, transportation, storage, display, distribution, and disposal of pesticides and their containers;

(5) Ensures the protection of the health and safety of agricultural workers storing, handling, or applying pesticides, and all residents of agricultural labor camps, as that term is defined in section 3733.41 of the Revised Code, who are living or working in the vicinity of pesticide-treated areas;

(6) Requires a record to be kept of all pesticide applications made by each commercial applicator and by any trained serviceperson acting under the commercial applicator's direct supervision and of all restricted use pesticide applications made by each private applicator and by any immediate family member or subordinate employee of that private applicator who is acting under the private applicator's direct supervision as required under section 921.14 of the Revised Code;

(7) Determines the pesticide-use categories of diagnostic inspections that must be conducted by a commercial applicator;

(8) Requires a record to be kept of all diagnostic inspections conducted by each commercial applicator and by any trained service person.

(D) The director shall prescribe standards for the licensure of applicators of pesticides consistent with those prescribed by the federal act and the regulations adopted under it or prescribe standards that are more restrictive than those prescribed by the federal act and the regulations adopted under it. The standards may relate to the use of a pesticide or to an individual's pesticide-use category.

The director shall take into consideration standards of the United States environmental protection agency.

(E) The director may adopt rules setting forth the conditions under which the director will:

(1) Collect and examine samples of pesticides or devices;

(2) Specify classes of devices that shall be subject to this chapter;

(3) Prescribe other necessary registration information.

(F) The director may adopt rules that do either or both of the following:

(1) Designate, in addition to those restricted uses so classified by the administrator of the United States environmental protection agency, restricted uses of pesticides for the state or for designated areas within the state and, if the director considers it necessary, to further restrict such use;

(2) Define what constitutes "acting under the instructions and control of a commercial applicator" as used in the definition of "direct supervision" in division (Q)(1) of section 921.01 of the Revised Code. In adopting a rule under division (F)(2) of this section, the director shall consider the factors associated with the use of pesticide in the various pesticide-use categories. Based on consideration of the factors, the director may define "acting under the instructions and control of a commercial applicator" to include communications between a commercial applicator and a trained serviceperson that are conducted via landline telephone or a means of wireless communication. Any rules adopted under division (F)(2) of this section shall be drafted in consultation with representatives of the pesticide industry.

(G) Except as provided in division (D) of this section, the director shall not adopt any rule under this chapter that is inconsistent with the requirements of the federal act and regulations adopted thereunder.

(H) The director, after notice and opportunity for hearing, may declare as a pest any form of plant or animal life, other than human beings and other than bacteria, viruses, and other microorganisms on or in living human beings or other living animals, that is injurious to health or the environment.

(I) The director may make reports to the United States environmental protection agency, in the form and containing the information the agency may require.

(J) The director shall adopt rules for the application, use, storage, and disposal of pesticides if, in the director's judgment, existing programs of the United States environmental protection agency necessitate such rules or pesticide labels do not sufficiently address issues or situations identified by the department of agriculture or interested state agencies.

(K) The director shall adopt rules establishing all of the following:

(1) Standards, requirements, and procedures for the examination and re-examination of commercial applicators and private applicators;

(2) With respect to training programs that the director may require commercial applicators and private applicators to complete:

(a) Standards and requirements that a training program must satisfy in order to be offered by the director or the director's representative or in order to be approved by the director if a third party wishes to offer it;

(b) Eligibility standards and requirements that must be satisfied by third parties who wish to provide the training programs;

(c) Procedures that third parties must follow in order to submit a proposed training program to the director for approval;

(d) Criteria that the director must consider when determining whether to authorize a commercial applicator or private applicator to participate in a training program instead of being required to pass a re-examination.

(3) Training requirements for a trained serviceperson.

(L) The director shall adopt all rules under this chapter in accordance with Chapter 119. of the Revised Code.

Sec. 923.44. (A)(1) Except as otherwise provided in divisions (A)(2), (3), and (4) of this section, the first distributor of a commercial feed shall pay the director of agriculture a semiannual inspection fee at the rate of ~~ten~~ twenty-five cents per ton, with a minimum payment of ~~ten~~ twenty-five dollars, on all commercial feeds distributed by ~~him~~ the first distributor in this state.

(2) The semiannual inspection fee required under division (A)(1) of this section shall not be paid by the first distributor of a commercial feed if the distribution is made to an exempt buyer who shall be responsible for the fee. The director shall establish an exempt list consisting of those buyers who are responsible for the fee.

(3) The semiannual inspection fee shall not be paid on a commercial feed if the fee has been paid by a previous distributor.

(4) The semiannual inspection fee shall not be paid on customer-formula feed if the fee has been paid on the commercial feeds ~~which that~~ are used as components in that customer-formula feed.

(B) Each distributor or exempt buyer who is required to pay a fee under division (A)(1) or (2) of this section shall file a semiannual statement with the director that includes the number of net tons of commercial feed distributed by ~~him~~ the distributor or exempt buyer in this state, within thirty days after the thirtieth day of June and within thirty days after the thirty-first day of December, respectively, of each calendar year.

The inspection fee at the rate stated in division (A)(1) of this section shall accompany the statement. For a tonnage report that is not filed or payment of inspection fees that is not made within fifteen days after the due date, a penalty of ten per cent of the amount due, with a minimum penalty of fifty dollars shall be assessed against the distributor or exempt buyer. The amount of fees due, plus penalty, shall constitute a debt and become the basis of a judgment against the distributor or exempt buyer.

(C) No information furnished under this section shall be disclosed by an

employee of the department of agriculture in such a way as to divulge the operation of any person required to make such a report.

Sec. 923.45. The director of agriculture ~~shall~~ may publish ~~at least~~ annually in such form as ~~he~~ the director considers proper:

(A) Information concerning the sale of commercial feed, including any production and use data ~~he~~ the director considers advisable, provided that the data does not disclose the operation of any manufacturer or distributor;

(B) A comparison of the analyses of official samples of commercial feeds distributed in this state with the guaranteed analyses on the label.

Sec. 923.46. All moneys collected by the director of agriculture under sections 923.41 to 923.55 of the Revised Code shall be deposited into the state treasury to the credit of the commercial feed, fertilizer, seed, and lime inspection and laboratory fund created in section 905.38 of the Revised Code. ~~Money credited to the fund shall be used only for administering and enforcing this chapter and Chapter 905. of the Revised Code and rules adopted under them.~~

The director shall prepare and provide a report concerning the fund in accordance with section 905.381 of the Revised Code.

Sec. 926.01. As used in this chapter:

(A) "Agricultural commodity" means barley, corn, oats, rye, grain sorghum, soybeans, wheat, sunflower, speltz, or any other agricultural crop ~~which~~ that the director of agriculture may designate by rule. "Agricultural commodity" does not mean any grain that is purchased for sale as seed.

(B) "Agricultural commodity handling" or "handling" means any of the following:

(1) Engaging in or participating in the business of purchasing ~~an~~ from producers agricultural ~~commodity for sale, resale, processing, or commodities~~ for any other use in the following volumes:

~~(a) In the case of purchases made from producers, more than excess of thirty thousand bushels annually;~~

~~(b) In the case of purchases made from agricultural commodity handlers, more than one hundred thousand bushels annually;~~

~~(c) In the case of total purchases made from producers combined with total purchases made from handlers, more than one hundred thousand bushels annually.~~

(2) Operating a warehouse as a bailee for the receiving, storing, shipping, or conditioning of an agricultural commodity;

(3) Receiving into a warehouse an agricultural commodity purchased under a delayed price agreement;

(4) Providing marketing functions, including storage, delayed price



marketing, deferred payment, feed agreements, or any other marketing transaction whereby control is exerted over the monetary proceeds of a producer's agricultural commodities by a person other than the producer.

(C) "Agricultural commodity handler" or "handler" means any person who is engaged in the business of agricultural commodity handling. ~~"Agricultural commodity handler" or "handler" does not include a person who does not handle agricultural commodities as a bailee and who purchases agricultural commodities in the following volumes:~~

~~(1) Thirty thousand or fewer bushels annually from producers;~~

~~(2) One hundred thousand or fewer bushels annually from agricultural commodity handlers.~~

~~A person who does not handle agricultural commodities as a bailee and who annually purchases thirty thousand or fewer bushels of agricultural commodities from producers and one hundred thousand or fewer bushels of agricultural commodities from agricultural commodity handlers shall be considered to be an agricultural commodity handler if the combined annual volume of purchases from the producers and the agricultural commodity handlers exceeds one hundred thousand bushels.~~

(D) "Depositor" means:

(1) Any person who delivers an agricultural commodity to a licensed handler for storage, conditioning, shipment, or sale;

(2) Any owner or legal holder of a ticket or receipt issued for an agricultural commodity who is a creditor of the licensed handler for the value of the agricultural commodity;

(3) Any licensed handler storing an agricultural commodity that the licensed handler owns solely, jointly, or in common with others in a warehouse owned or controlled by the licensed handler or any other licensed handler.

(E) "Receipt" means a warehouse receipt issued by a licensed handler.

(F) "Nonnegotiable receipt" means a receipt on which it is stated that the agricultural commodity received will be delivered to the depositor or to the order of any other person named in the receipt.

(G) "Negotiable receipt" means a receipt on which it is stated that the agricultural commodity received will be delivered to the bearer or to the order of any person named in the receipt.

(H) "Ticket" means a scale weight ticket, a load slip, or any evidence, other than a receipt, given to a depositor by a licensed handler upon delivery of an agricultural commodity to the handler.

(I) "Warehouse" means any building, bin, protected enclosure, or similar premises under the control of a licensed or unlicensed handler used for

receiving, storing, shipping, or handling an agricultural commodity.

(J) "Storage" means the deposit of an agricultural commodity into a warehouse either for the account of the licensed handler operating the warehouse or for the account of a depositor.

(K) "Producer" means any person who grows an agricultural commodity on land that the person owns or leases.

(L) "Agent" means any person, other than a producer, who delivers an agricultural commodity to a licensed handler, either for sale or for storage, for the account of the producer.

(M) "Agricultural commodity tester" or "tester" means a person who operates a moisture meter and other quality testing devices to determine the quality of an agricultural commodity.

(N) "Federally licensed grain inspector" means a person who is licensed by the United States department of agriculture under the "United States Grain Standards Act," 39 Stat. 482 (1916), 7 U.S.C. 71, as amended, to test and grade grain, as "grain" is defined in that act.

(O) "Bailee" means a person to whom an agricultural commodity is delivered in trust for storage in a warehouse with title remaining in the name of the depositor.

(P) "Bailor" means a person who delivers an agricultural commodity to a bailee in trust for storage in a warehouse with title remaining in the name of the depositor.

(Q) "Bailment agreement" means a bailor-bailee agreement between a depositor and a licensed handler as stated in the terms of a receipt that is issued for an agricultural commodity in storage and subject to the requirements of this chapter governing the use of a receipt.

(R) "Delayed price agreement" means a written executory contract executed by and between a licensed handler and a depositor that covers the sale and transfer of title of an agricultural commodity and states in its written terms the service charges and the method for pricing the commodity at a later date.

(S) "Delayed price marketing" means the sale and transfer of title of an agricultural commodity with the price to be established at a later date according to the terms of a delayed price agreement.

(T) "Deferred payment" means the deferral of payment to a depositor by a licensed handler for an agricultural commodity to which the licensed handler has taken title, for the purpose of deferring income of the depositor from one tax year to another.

(U) "Feed agreement" means a written contract executed by and between a licensed handler and a producer or depositor who delivers an

agricultural commodity to the licensed handler for storage whereby each of the following applies:

(1) The producer or depositor transfers title to the agricultural commodity to the licensed handler in exchange for a nominal sum;

(2) The producer, upon delivery of the agricultural commodity to the licensed handler, becomes a creditor of the licensed handler due to the lien that arises under section 926.021 of the Revised Code;

(3) All or part of the agricultural commodity is returned to the producer at a later date and used for feed purposes.

(V) Notwithstanding section 1.02 of the Revised Code, "and" shall not be read "or" and "or" shall not be read "and."

Sec. 927.69. To effect the purpose of sections 927.51 to 927.74 of the Revised Code, the director of agriculture or the director's authorized representative may:

(A) Make reasonable inspection of any premises in this state and any property therein or thereon;

(B) Stop and inspect in a reasonable manner, any means of conveyance moving within this state upon probable cause to believe it contains or carries any pest, host, commodity, or other article that is subject to sections 927.51 to 927.72 of the Revised Code;

(C) Conduct inspections of agricultural products that are required by other states, the United States department of agriculture, other federal agencies, or foreign countries to determine whether the products are infested. If, upon making such an inspection, the director or the director's authorized representative determines that an agricultural product is not infested, the director or the director's authorized representative may issue a certificate, as required by other states, the United States department of agriculture, other federal agencies, or foreign countries, indicating that the product is not infested.

If the director charges fees for any of the certificates, agreements, or inspections specified in this section, the fees shall be as follows:

(1) Phyto sanitary certificates, twenty-five dollars;

(2) Compliance agreements, twenty dollars;

(3) Solid wood packing certificates, twenty dollars;

(4) Agricultural products and their conveyances inspections, ~~sixty-five dollars~~ an amount equal to the hourly rate of pay in the highest step in the pay range, including fringe benefits, of a plant pest control specialist multiplied by the number of hours worked by such a specialist in conducting an inspection.

The director may adopt rules under section 927.52 of the Revised Code

that define the certificates, agreements, and inspections.

The fees shall be deposited into the state treasury to the credit of the pesticide program fund created in Chapter 921. of the Revised Code. Money credited to the fund shall be used to pay the costs incurred by the department of agriculture in administering this chapter, including employing a minimum of two additional inspectors.

Sec. 1111.04. (A) Prior to soliciting or engaging in trust business in this state, a trust company shall pledge to the treasurer of state interest bearing securities authorized in division (B) of this section, having a par value, not including unaccrued interest, of one hundred thousand dollars, and approved by the superintendent of financial institutions. The trust company may pledge the securities either by delivery to the treasurer of state or by placing the securities with a qualified trustee for safekeeping to the account of the treasurer of state, the corporate fiduciary, and any other person having an interest in the securities under Chapter 1109. of the Revised Code, as their respective interests may appear and be asserted by written notice to or demand upon the qualified trustee or by order of judgment of a court.

(B) Securities pledged by a trust company to satisfy the requirements of division (A) of this section shall be one or more of the following:

(1) Bonds, notes, or other obligations of or guaranteed by the United States or for which the full faith and credit of the United States is pledged for the payment of principal and interest;

(2) Bonds, notes, debentures, or other obligations or securities issued by any agency or instrumentality of the United States;

(3) General obligations of this or any other state of the United States or any subdivision of this or any other state of the United States.

(C) The treasurer of state shall accept delivery of securities pursuant to this section when accompanied by the superintendent's approval of the securities or the written receipt of a qualified trustee describing the securities and showing the superintendent's approval of the securities, and shall issue a written acknowledgment of the delivery of the securities or the qualified trustee's receipt and the superintendent's approval to the trust company.

(D) The superintendent shall approve securities to be pledged by a trust company pursuant to this section if the securities are all of the following:

(1) Interest bearing and of the value required by division (A) of this section;

(2) Of one or more of the kinds authorized by division (B) of this section and not a derivative of or merely an interest in any of those securities;

(3) Not in default.

(E) The treasurer of state shall, with the approval of the superintendent, permit a trust company to pledge securities in substitution for securities pledged pursuant to this section and the withdrawal of the securities substituted for so long as the securities remaining pledged satisfy the requirements of division (A) of this section. The treasurer of state shall permit a trust company to collect interest paid on securities pledged pursuant to this section so long as the trust company is solvent. The treasurer of state shall, with the approval of the superintendent, permit a trust company to withdraw securities pledged pursuant to this section when the trust company has ceased to solicit or engage in trust business in this state.

(F) For purposes of this section, a qualified trustee is a federal reserve bank located in this state, a branch of a federal reserve bank located in this state regardless of where the branch is located, a federal home loan bank, or a trust company as defined in section 1101.01 of the Revised Code, except a trust company may not act as a qualified trustee for securities it or any of its affiliates is pledging pursuant to this section.

(G) The superintendent, with the approval of the treasurer of state and the attorney general, shall prescribe the form of all receipts and acknowledgments provided for by this section, and upon request shall furnish a copy of each form, with the superintendent's certification attached, to each qualified trustee eligible to hold securities for safekeeping under this section.

Sec. 1327.511. All money collected under section 1327.50 of the Revised Code for services rendered by the department of agriculture in operating the type evaluation program shall be deposited in the state treasury to the credit of the metrology and scale certification fund, which is hereby created. Money credited to the fund shall be used to pay operating costs incurred by the department in administering the program.

Sec. 1502.02. (A) There is hereby created in the department of natural resources the division of recycling and litter prevention to be headed by the chief of recycling and litter prevention.

(B) There is hereby created in the state treasury the recycling and litter prevention fund, consisting of moneys distributed to it from fees, including the fee levied under division (A)(2) of section 3714.073 of the Revised Code, gifts, donations, grants, reimbursements, and other sources, including investment earnings.

(C) The chief of recycling and litter prevention shall do all of the following:

(1) Use moneys credited to the fund exclusively for the purposes set

forth in sections 1502.03, 1502.04, and 1502.05 of the Revised Code, with particular emphasis on programs relating to recycling;

(2) Expend for administration of the division not more than ten per cent of any fiscal year's appropriation to the division, excluding the amount assessed to the division for direct and indirect central support charges;

(3) Require recipients of grants under section 1502.05 of the Revised Code, as a condition of receiving and retaining them, to do all of the following:

(a) Create a separate account for the grants and any cash donations received that qualify for the donor credit allowed by section 5733.064 of the Revised Code;

(b) Make expenditures from the account exclusively for the purposes for which the grants were received;

(c) Use any auditing and accounting practices the chief considers necessary regarding the account;

(d) Report to the chief information regarding the amount and donor of cash donations received as described by section 5733.064 of the Revised Code;

(e) Use grants received to supplement and not to replace any existing funding for such purposes.

(4) Report to the tax commissioner information the chief receives pursuant to division (C)(3)(d) of this section.

Sec. 1509.06. (A) An application for a permit to drill a new well, drill an existing well deeper, reopen a well, convert a well to any use other than its original purpose, or plug back a well to a different source of supply shall be filed with the chief of the division of mineral resources management upon such form as the chief prescribes and shall contain each of the following that is applicable:

~~(A)~~(1) The name and address of the owner and, if a corporation, the name and address of the statutory agent;

~~(B)~~(2) The signature of the owner or the owner's authorized agent. When an authorized agent signs an application, it shall be accompanied by a certified copy of the appointment as such agent.

~~(C)~~(3) The names and addresses of all persons holding the royalty interest in the tract upon which the well is located or is to be drilled or within a proposed drilling unit;

~~(D)~~(4) The location of the tract or drilling unit on which the well is located or is to be drilled identified by section or lot number, city, village, township, and county;

~~(E)~~(5) Designation of the well by name and number;

~~(F)~~(6) The geological formation to be tested or used and the proposed total depth of the well;

~~(G)~~(7) The type of drilling equipment to be used;

~~(H)~~(8) If the well is for the injection of a liquid, identity of the geological formation to be used as the injection zone and the composition of the liquid to be injected;

~~(I)~~(9) For an application for a permit to drill a new well, a sworn statement that the applicant has provided notice of the application to the owner of each occupied dwelling unit that is located within five hundred feet of the surface location of the well if the surface location will be less than five hundred feet from the boundary of the drilling unit and more than fifteen occupied dwelling units are located less than five hundred feet from the surface location of the well, excluding any dwelling that is located on real property all or any portion of which is included in the drilling unit. The notice shall contain a statement that an application has been filed with the division of mineral resources management, identify the name of the applicant and the proposed well location, include the name and address of the division, and contain a statement that comments regarding the application may be sent to the division. The notice may be provided by hand delivery or regular mail. The identity of the owners of occupied dwelling units shall be determined using the tax records of the municipal corporation or county in which the dwelling unit is located as of the date of the notice.

~~(J)~~(10) A plan for restoration of the land surface disturbed by drilling operations. The plan shall provide for compliance with the restoration requirements of division (A) of section 1509.072 of the Revised Code and any rules adopted by the chief pertaining to that restoration.

~~(K)~~(11) A description by name or number of the county, township, and municipal corporation roads, streets, and highways that the applicant anticipates will be used for access to and egress from the well site;

~~(L)~~(12) Such other relevant information as the chief prescribes by rule.

Each application shall be accompanied by a map, on a scale not smaller than four hundred feet to the inch, prepared by an Ohio registered surveyor, showing the location of the well and containing such other data as may be prescribed by the chief. If the well is or is to be located within the excavations and workings of a mine, the map also shall include the location of the mine, the name of the mine, and the name of the person operating the mine.

(B) The chief shall cause a copy of the weekly circular prepared by the division to be provided to the county engineer of each county that contains active or proposed drilling activity. The weekly circular shall contain, in the

manner prescribed by the chief, the names of all applicants for permits, the location of each well or proposed well, the information required by division ~~(K)~~(A)(11) of this section, and any additional information the chief prescribes. In addition, the chief promptly shall transfer an electronic copy or facsimile, or if those methods are not available to a municipal corporation or township, a copy via regular mail, of a drilling permit application to the clerk of the legislative authority of the municipal corporation or to the clerk of the township in which the well or proposed well is or is to be located if the legislative authority of the municipal corporation or the board of township trustees has asked to receive copies of such applications and the appropriate clerk has provided the chief an accurate, current electronic mailing address or facsimile number, as applicable.

(C) The chief shall not issue a permit for at least ten days after the date of filing of the application for the permit unless, upon reasonable cause shown, the chief waives that period or a request for expedited review is filed under this section. However, the chief shall issue a permit within twenty-one days of the filing of the application unless the chief denies the application by order.

(D) An applicant may file a request with the chief for expedited review of a permit application if the well is not or is not to be located in a gas storage reservoir or reservoir protective area, as "reservoir protective area" is defined in section 1571.01 of the Revised Code. If the well is or is to be located in a coal bearing township, the application shall be accompanied by the affidavit of the landowner prescribed in section 1509.08 of the Revised Code.

In addition to a complete application for a permit that meets the requirements of this section and the permit fee prescribed by this section, a request for expedited review shall be accompanied by a separate nonrefundable filing fee of five hundred dollars. Upon the filing of a request for expedited review, the chief shall cause the county engineer of the county in which the well is or is to be located to be notified of the filing of the permit application and the request for expedited review by telephone or other means that in the judgment of the chief will provide timely notice of the application and request. The chief shall issue a permit within seven days of the filing of the request unless the chief denies the application by order. Notwithstanding the provisions of this section governing expedited review of permit applications, the chief may refuse to accept requests for expedited review if, in the chief's judgment, the acceptance of the requests would prevent the issuance, within twenty-one days of their filing, of permits for which applications are pending.



(E) A well shall be drilled and operated in accordance with the plans, sworn statements, and other information submitted in the approved application.

(F) The chief shall issue an order denying a permit if the chief finds that there is a substantial risk that the operation will result in violations of this chapter or rules adopted under it that will present an imminent danger to public health or safety or damage to the environment, provided that where the chief finds that terms or conditions to the permit can reasonably be expected to prevent such violations, the chief shall issue the permit subject to those terms or conditions, including, if applicable, terms and conditions regarding subjects identified in rules adopted under section 1509.03 of the Revised Code.

(G) Each application for a permit required by section 1509.05 of the Revised Code, except an application to plug back an existing well that is required by that section and an application for a well drilled or reopened for purposes of section 1509.22 of the Revised Code, also shall be accompanied by a nonrefundable fee ~~of two~~ as follows:

(1) Two hundred fifty dollars for a permit to conduct activities in a township with a population of fewer than five thousand;

(2) Five hundred dollars for a permit to conduct activities in a township with a population of five thousand or more, but fewer than ten thousand;

(3) Seven hundred fifty dollars for a permit to conduct activities in a township with a population of ten thousand or more, but fewer than fifteen thousand;

(4) One thousand dollars for a permit to conduct activities in either of the following:

(a) A township with a population of fifteen thousand or more;

(b) A municipal corporation regardless of population.

For purposes of calculating fee amounts, populations shall be determined using the most recent federal decennial census.

Each application for the revision or reissuance of a permit shall be accompanied by a nonrefundable fee of two hundred fifty dollars.

(H) The chief may order the immediate suspension of drilling, operating, or plugging activities after finding that any person is causing, engaging in, or maintaining a condition or activity that in the chief's judgment presents an imminent danger to public health or safety or results in or is likely to result in immediate substantial damage to natural resources or for nonpayment of ~~the~~ a fee required by this section. The chief may order the immediate suspension of the drilling or reopening of a well in a coal bearing township after determining that the drilling or reopening activities

present an imminent and substantial threat to public health or safety or to miners' health or safety. Before issuing any such order, the chief shall notify the owner in such manner as in the chief's judgment would provide reasonable notification that the chief intends to issue a suspension order. The chief may issue such an order without prior notification if reasonable attempts to notify the owner have failed, but in such an event notification shall be given as soon thereafter as practical. Within five calendar days after the issuance of the order, the chief shall provide the owner an opportunity to be heard and to present evidence that the condition or activity is not likely to result in immediate substantial damage to natural resources or does not present an imminent danger to public health or safety or to miners' health or safety, if applicable. In the case of activities in a coal bearing township, if the chief, after considering evidence presented by the owner, determines that the activities do not present such a threat, the chief shall revoke the suspension order. Notwithstanding any provision of this chapter, the owner may appeal a suspension order directly to the court of common pleas of the county in which the activity is located or, if in a coal bearing township, to the reclamation commission under section 1513.13 of the Revised Code.

Sec. 1509.072. No oil or gas well owner or agent of an oil or gas well owner shall fail to restore the land surface within the area disturbed in siting, drilling, completing, and producing the well as required in this section.

(A) Within five months after the date upon which the surface drilling of a well is commenced, the owner or the owner's agent, in accordance with the restoration plan filed under division ~~(H)~~(A)(10) of section 1509.06 of the Revised Code, shall fill all the pits for containing brine, other waste substances resulting, obtained, or produced in connection with exploration or drilling for, or production of, oil or gas, or oil that are not required by other state or federal law or regulation, and remove all concrete bases, drilling supplies, and drilling equipment. Within nine months after the date upon which the surface drilling of a well is commenced, the owner or the owner's agent shall grade or terrace and plant, seed, or sod the area disturbed that is not required in production of the well where necessary to bind the soil and prevent substantial erosion and sedimentation. If the chief of the division of mineral resources management finds that a pit used for containing brine, other waste substances, or oil is in violation of section 1509.22 of the Revised Code or rules adopted or orders issued under it, the chief may require the pit to be emptied and closed before expiration of the five-month restoration period.

(B) Within six months after a well that has produced oil or gas is plugged, or after the plugging of a dry hole, the owner or the owner's agent

shall remove all production and storage structures, supplies, and equipment, and any oil, salt water, and debris, and fill any remaining excavations. Within that period the owner or the owner's agent shall grade or terrace and plant, seed, or sod the area disturbed where necessary to bind the soil and prevent substantial erosion and sedimentation.

The owner shall be released from responsibility to perform any or all restoration requirements of this section on any part or all of the area disturbed upon the filing of a request for a waiver with and obtaining the written approval of the chief, which request shall be signed by the surface owner to certify the approval of the surface owner of the release sought. The chief shall approve the request unless the chief finds upon inspection that the waiver would be likely to result in substantial damage to adjoining property, substantial contamination of surface or underground water, or substantial erosion or sedimentation.

The chief, by order, may shorten the time periods provided for under division (A) or (B) of this section if failure to shorten the periods would be likely to result in damage to public health or the waters or natural resources of the state.

The chief, upon written application by an owner or an owner's agent showing reasonable cause, may extend the period within which restoration shall be completed under divisions (A) and (B) of this section, but not to exceed a further six-month period, except under extraordinarily adverse weather conditions or when essential equipment, fuel, or labor is unavailable to the owner or the owner's agent.

If the chief refuses to approve a request for waiver or extension, the chief shall do so by order.

Sec. 1509.31. Whenever the entire interest of an oil and gas lease is assigned or otherwise transferred, the assignor or transferor shall notify the holders of the royalty interests, and, if a well or wells exist on the lease, the division of mineral resources management, of the name and address of the assignee or transferee by certified mail, return receipt requested, not later than thirty days after the date of the assignment or transfer. When notice of any such assignment or transfer is required to be provided to the division, it shall be provided on a form prescribed and provided by the division and verified by both the assignor or transferor and by the assignee or transferee. The notice form applicable to assignments or transfers of a well to the owner of the surface estate of the tract on which the well is located shall contain a statement informing the landowner that the well may require periodic servicing to maintain its productivity; that, upon assignment or transfer of the well to the landowner, the landowner becomes responsible for

compliance with the requirements of this chapter and rules adopted under it, including, without limitation, the proper disposal of brine obtained from the well, the plugging of the well when it becomes incapable of producing oil or gas, and the restoration of the well site; and that, upon assignment or transfer of the well to the landowner, the landowner becomes responsible for the costs of compliance with the requirements of this chapter and rules adopted under it and the costs for operating and servicing the well.

The owner holding a permit under section 1509.05 of the Revised Code is responsible for all obligations and liabilities imposed by this chapter and any rules, orders, and terms and conditions of a permit adopted or issued under it, and no assignment or transfer by the owner relieves the owner of the obligations and liabilities until and unless the assignee or transferee files with the division the information described in divisions (A)(1), ~~(B)(2)~~, ~~(C)(3)~~, ~~(D)(4)~~, ~~(E)(5)~~, ~~(J)(10)~~, ~~(K)(11)~~, and ~~(L)(12)~~ of section 1509.06 of the Revised Code; obtains liability insurance coverage required by section 1509.07 of the Revised Code, except when none is required by that section; and executes and files a surety bond, negotiable certificates of deposit or irrevocable letters of credit, or cash, as described in that section. Instead of a bond, but only upon acceptance by the chief of the division of mineral resources management, the assignee or transferee may file proof of financial responsibility, described in section 1509.07 of the Revised Code. Section 1509.071 of the Revised Code applies to the surety bond, cash, and negotiable certificates of deposit and irrevocable letters of credit described in this section. Unless the chief approves a modification, each assignee or transferee shall operate in accordance with the plans and information filed by the permit holder pursuant to section 1509.06 of the Revised Code.

Sec. 1515.14. Within the limits of funds appropriated to the department of natural resources and the soil and water conservation district assistance fund created in this section, there shall be paid in each calendar year to each local soil and water conservation district an amount not to exceed one dollar for each one dollar received in accordance with section 1515.10 of the Revised Code, received from tax levies in excess of the ten-mill levy limitation approved for the benefit of local soil and water conservation districts, or received from an appropriation by a municipal corporation or a township to a maximum of eight thousand dollars, provided that the Ohio soil and water conservation commission may approve payment to a district in an amount in excess of eight thousand dollars in any calendar year upon receipt of a request and justification from the district. The county auditor shall credit such payments to the special fund established pursuant to section 1515.10 of the Revised Code for the local soil and water conservation

district. The department may make advances at least quarterly to each district on the basis of the estimated contribution of the state to each district. Moneys received by each district shall be expended for the purposes of the district.

For the purpose of providing money to soil and water conservation districts under this section, there is hereby created in the state treasury the soil and water conservation district assistance fund consisting of money credited to it under section 3714.073 of the Revised Code.

Sec. 1517.02. There is hereby created in the department of natural resources the division of natural areas and preserves, which shall be administered by the chief of natural areas and preserves. The chief shall take an oath of office and shall file in the office of the secretary of state a bond signed by the chief and by a surety approved by the governor for a sum fixed pursuant to section 121.11 of the Revised Code.

The chief shall administer a system of nature preserves and wild, scenic, and recreational river areas. The chief shall establish a system of nature preserves through acquisition and dedication of natural areas of state or national significance, which shall include, but not be limited to, areas ~~which~~ that represent characteristic examples of Ohio's natural landscape types and its natural vegetation and geological history. The chief shall encourage landowners to dedicate areas of unusual significance as nature preserves, and shall establish and maintain a registry of natural areas of unusual significance.

The chief may supervise, operate, protect, and maintain wild, scenic, and recreational river areas, as designated by the director of natural resources. The chief may cooperate with federal agencies administering any federal program concerning wild, scenic, or recreational river areas.

~~The chief may, with the approval of the director, enter into an agreement with the United States department of commerce under the "Coastal Zone Management Act of 1972," 86 Stat. 1280, 16 U.S.C.A. 1451, as amended, for the purpose of receiving grants to continue the management, operation, research, and programming at old woman creek national estuarine research reserve.~~

The chief shall do the following:

- (A) Formulate policies and plans for the acquisition, use, management, and protection of nature preserves;
- (B) Formulate policies for the selection of areas suitable for registration;
- (C) Formulate policies for the dedication of areas as nature preserves;
- (D) Prepare and maintain surveys and inventories of natural areas and habitats of rare and endangered species of plants and animals;

(E) Adopt rules for the use, visitation, and protection of nature preserves, "natural areas owned or managed through easement, license, or lease by the department and administered by the division," and lands owned "or managed through easement, license, or lease" by the department and administered by the division ~~which~~ that are within or adjacent to any wild, scenic, or recreational river area, in accordance with Chapter 119. of the Revised Code;

(F) Provide facilities and improvements within the state system of nature preserves that are necessary for their visitation, use, restoration, and protection and do not impair their natural character;

(G) Provide interpretive programs and publish and disseminate information pertaining to nature preserves and natural areas for their visitation and use;

(H) Conduct and grant permits to qualified persons for the conduct of scientific research and investigations within nature preserves;

(I) Establish an appropriate system for marking nature preserves;

(J) Publish and submit to the governor and the general assembly a biennial report of the status and condition of each nature preserve, activities conducted within each preserve, and plans and recommendations for natural area preservation.

Sec. 1521.062. (A) All dams, dikes, and levees constructed in this state and not exempted by this section or by the chief of the division of water under section 1521.06 of the Revised Code shall be inspected periodically by the chief ~~to~~, except for classes of dams that, in accordance with rules adopted under this section, are required to be inspected by registered professional engineers who have been approved for that purpose by the chief. The inspection shall ensure that continued operation and use of the dam, dike, or levee does not constitute a hazard to life, health, or property. Periodic inspections shall not be required of the following structures:

(1) A dam that is less than ten feet in height and has a storage capacity of not more than fifty acre-feet at the elevation of the top of the dam, as determined by the chief. For the purposes of this section, the height of a dam shall be measured from the natural stream bed or lowest ground elevation at the downstream or outside limit of the dam to the elevation of the top of the dam.

(2) A dam, regardless of height, that has a storage capacity of not more than fifteen acre-feet at the elevation of the top of the dam, as determined by the chief;

(3) A dam, regardless of storage capacity, that is six feet or less in height, as determined by the chief;

(4) A dam, dike, or levee belonging to a class exempted by the chief;

(5) A dam, dike, or levee that has been exempted in accordance with rules adopted under section 1521.064 of the Revised Code.

(B) In accordance with rules adopted under this section, the owner of a dam that is in a class of dams that is designated in the rules for inspection by registered professional engineers shall obtain the services of a registered professional engineer who has been approved by the chief to conduct the periodic inspection of dams pursuant to schedules and other standards and procedures established in the rules. The registered professional engineer shall prepare a report of the inspection in accordance with the rules and provide the inspection report to the dam owner who shall submit it to the chief. A dam that is designated under the rules for inspection by a registered professional engineer but that is not inspected within a five-year period may be inspected by the chief at the owner's expense.

(C) Intervals between periodic inspections shall be determined by the chief, but shall not exceed five years. ~~The chief may use inspection reports prepared for the owner of the dam, dike, or levee by a registered professional engineer.~~

~~(C) The owner~~ (D) In the case of a dam, dike, or levee that the chief inspects, the chief shall be furnished furnish a report of each the inspection and to the owner of the dam, dike, or levee. With regard to a dam, dike, or levee that has been inspected, either by the chief or by a registered professional engineer, and that is the subject of an inspection report prepared or received by the chief, the chief shall be informed of inform the owner of any required repairs, maintenance, investigations, and other remedial and operational measures by the chief. The chief shall order the owner to perform such repairs, maintenance, investigations, or other remedial or operational measures as he the chief considers necessary to safeguard life, health, or property. The order shall permit the owner a reasonable time in which to perform the needed repairs, maintenance, investigations, or other remedial measures, and the cost thereof shall be borne by the owner. All orders of the chief are subject to appeal as provided in Chapter 119. of the Revised Code. The attorney general, upon written request of the chief, may bring an action for an injunction against any person who violates this section or to enforce an order of the chief made pursuant to this section.

~~(D)~~(E) The owner of a dam, dike, or levee shall monitor, maintain, and operate the structure and its appurtenances safely in accordance with state rules, terms and conditions of permits, orders, and other requirements issued pursuant to this section or section 1521.06 of the Revised Code. The owner

shall fully and promptly notify the division of water and other responsible authorities of any condition ~~which~~ that threatens the safety of the structure and shall take all necessary actions to safeguard life, health, and property.

~~(E)~~(F) Before commencing the repair, improvement, alteration, or removal of a dam, dike, or levee, the owner shall file an application including plans, specifications, and other required information with the division and shall secure written approval of the application by the chief. Emergency actions by the owner required to safeguard life, health, or property are exempt from this requirement. The chief may, by rule, define maintenance, repairs, or other remedial measures of a routine nature ~~which~~ that are exempt from this requirement.

~~(F)~~(G) The chief may remove or correct, at the expense of the owner, any unsafe structures found to be constructed or maintained in violation of this section or section 1521.06 of the Revised Code. In the case of an owner other than a governmental agency, the cost of removal or correction of any unsafe structure, together with a description of the property on which the unsafe structure is located, shall be certified by the chief to the county auditor and placed by the county auditor upon the tax duplicate. This cost is a lien upon the lands from the date of entry and shall be collected as other taxes and returned to the division. In the case of an owner that is a governmental agency, the cost of removal or correction of any unsafe structure shall be recoverable from the owner by appropriate action in a court of competent jurisdiction.

~~(G)~~(H) If the condition of any dam, dike, or levee is found, in the judgment of the chief, to be so dangerous to the safety of life, health, or property as not to permit time for the issuance and enforcement of an order relative to repair, maintenance, or operation, the chief shall employ any of the following remedial means necessary to protect life, health, and property:

- (1) Lower the water level of the lake or reservoir by releasing water;
- (2) Completely drain the lake or reservoir;
- (3) Take such other measures or actions as ~~he~~ the chief considers necessary to safeguard life, health, and property.

The chief shall continue in full charge and control of the dam, dike, or levee until the structure is rendered safe. The cost of the remedy shall be recoverable from the owner of the structure by appropriate action in a court of competent jurisdiction.

~~(H)~~(I) The chief may accept and expend gifts, bequests, and grants from the United States government or from any other public or private source and may contract with the United States government or any other agency or entity for the purpose of carrying out the dam safety functions set forth in



this section and section 1521.06 of the Revised Code.

(J) In accordance with Chapter 119. of the Revised Code, the chief shall adopt, and may amend or rescind, rules that do all of the following:

(1) Designate classes of dams for which dam owners must obtain the services of a registered professional engineer to periodically inspect the dams and to prepare reports of the inspections for submittal to the chief;

(2) Establish standards in accordance with which the chief must approve or disapprove registered professional engineers to inspect dams together with procedures governing the approval process;

(3) Establish schedules, standards, and procedures governing periodic inspections and standards and procedures governing the preparation and submittal of inspection reports;

(4) Establish provisions regarding the enforcement of this section and rules adopted under it.

Sec. 1531.27. The chief of the division of wildlife shall pay to the treasurers of the several counties wherein lands owned by the state and administered by the division are ~~situate~~ located an annual amount determined in the following manner: in each such county one per cent of the total value of such lands exclusive of improvements, as shown on the auditor's records of taxable value of real property existing at the time when the state acquired the tract or tracts comprising ~~such~~ the lands.

~~Such~~ The payments shall be made from funds accruing to the division ~~of wildlife from the sale of hunting or fishing licenses and federal wildlife restoration funds, and the~~ from fines, penalties, and forfeitures deposited into the state treasury to the credit of the wildlife fund created in section 1531.17 of the Revised Code. The allocation of amounts to be paid from ~~such those~~ sources shall be determined by the director of natural resources.

~~Such~~ The payments to the treasurers of the several counties shall be credited to the fund for school purposes within the school districts wherein ~~such the~~ the lands are ~~situate~~ located.

Sec. 1533.10. Except as provided in this section or division (A)(2) of section 1533.12 of the Revised Code, no person shall hunt any wild bird or wild quadruped without a hunting license. Each day that any person hunts within the state without procuring such a license constitutes a separate offense. Except as otherwise provided in this section, every applicant for a hunting license who is a resident of the state and ~~sixteen~~ eighteen years of age or more shall procure a resident hunting license, the fee for which shall be eighteen dollars, unless the rules adopted under division (B) of section 1533.12 of the Revised Code provide for issuance of a resident hunting license to the applicant free of charge. Except as provided in rules adopted

under division (B)(2) of that section, each applicant who is a resident of this state and who at the time of application is sixty-six years of age or older shall procure a special senior hunting license, the fee for which shall be one-half of the regular hunting license fee. Every applicant who is under the age of ~~sixteen~~ eighteen years shall procure a special youth hunting license, the fee for which shall be one-half of the regular hunting license fee. The owner of lands in the state and the owner's children of any age and grandchildren under eighteen years of age may hunt on the lands without a hunting license. The tenant and children of the tenant, residing on lands in the state, may hunt on them without a hunting license. ~~Every~~ Except as otherwise provided in division (A)(1) of section 1533.12 of the Revised Code, every applicant for a hunting license who is a nonresident of the state and who is ~~sixteen~~ eighteen years of age or older shall procure a nonresident hunting license, the fee for which shall be one hundred twenty-four dollars, unless the applicant is a resident of a state that is a party to an agreement under section 1533.91 of the Revised Code, in which case the fee shall be eighteen dollars.

The chief of the division of wildlife may issue a small game hunting license expiring three days from the effective date of the license to a nonresident of the state, the fee for which shall be thirty-nine dollars. No person shall take or possess deer, wild turkeys, fur-bearing animals, ducks, geese, brant, or any nongame animal while possessing only a small game hunting license. A small game hunting license does not authorize the taking or possessing of ducks, geese, or brant without having obtained, in addition to the small game hunting license, a wetlands habitat stamp as provided in section 1533.112 of the Revised Code. A small game hunting license does not authorize the taking or possessing of deer, wild turkeys, or fur-bearing animals. A nonresident of the state who wishes to take or possess deer, wild turkeys, or fur-bearing animals in this state shall procure, respectively, a special deer or wild turkey permit as provided in section 1533.11 of the Revised Code or a fur taker permit as provided in section 1533.111 of the Revised Code in addition to a nonresident hunting license or a special youth hunting license, as applicable, as provided in this section.

No person shall procure or attempt to procure a hunting license by fraud, deceit, misrepresentation, or any false statement.

This section does not authorize the taking and possessing of deer or wild turkeys without first having obtained, in addition to the hunting license required by this section, a special deer or wild turkey permit as provided in section 1533.11 of the Revised Code or the taking and possessing of ducks, geese, or brant without first having obtained, in addition to the hunting

license required by this section, a wetlands habitat stamp as provided in section 1533.112 of the Revised Code.

This section does not authorize the hunting or trapping of fur-bearing animals without first having obtained, in addition to a hunting license required by this section, a fur taker permit as provided in section 1533.111 of the Revised Code.

No hunting license shall be issued unless it is accompanied by a written explanation of the law in section 1533.17 of the Revised Code and the penalty for its violation, including a description of terms of imprisonment and fines that may be imposed.

No hunting license shall be issued unless the applicant presents to the agent authorized to issue the license a previously held hunting license or evidence of having held such a license in content and manner approved by the chief, a certificate of completion issued upon completion of a hunter education and conservation course approved by the chief, or evidence of equivalent training in content and manner approved by the chief.

No person shall issue a hunting license to any person who fails to present the evidence required by this section. No person shall purchase or obtain a hunting license without presenting to the issuing agent the evidence required by this section. Issuance of a hunting license in violation of the requirements of this section is an offense by both the purchaser of the illegally obtained hunting license and the clerk or agent who issued the hunting license. Any hunting license issued in violation of this section is void.

The chief, with approval of the wildlife council, shall adopt rules prescribing a hunter education and conservation course for first-time hunting license buyers and for volunteer instructors. The course shall consist of subjects including, but not limited to, hunter safety and health, use of hunting implements, hunting tradition and ethics, the hunter and conservation, the law in section 1533.17 of the Revised Code along with the penalty for its violation, including a description of terms of imprisonment and fines that may be imposed, and other law relating to hunting. Authorized personnel of the division or volunteer instructors approved by the chief shall conduct such courses with such frequency and at such locations throughout the state as to reasonably meet the needs of license applicants. The chief shall issue a certificate of completion to each person who successfully completes the course and passes an examination prescribed by the chief.

Sec. 1533.11. (A) Except as provided in this section, no person shall hunt deer on lands of another without first obtaining an annual special deer

permit. Except as provided in this section, no person shall hunt wild turkeys on lands of another without first obtaining an annual special wild turkey permit. Each applicant for a special deer or wild turkey permit shall pay an annual fee of twenty-three dollars for each permit unless the rules adopted under division (B) of section 1533.12 of the Revised Code provide for issuance of a deer or wild turkey permit to the applicant free of charge. Except as provided in rules adopted under division (B)(2) of that section, each applicant who is a resident of this state and who at the time of application is sixty-six years of age or older shall procure a special senior deer or wild turkey permit, the fee for which shall be one-half of the regular special deer or wild turkey permit fee. Each applicant who is under the age of ~~sixteen~~ eighteen years shall procure a special youth deer or wild turkey permit, the fee for which shall be one-half of the regular special deer or wild turkey permit fee. Except as provided in division (A)(2) of section 1533.12 of the Revised Code, a deer or wild turkey permit shall run concurrently with the hunting license. The money received shall be paid into the state treasury to the credit of the wildlife fund, created in section 1531.17 of the Revised Code, exclusively for the use of the division of wildlife in the acquisition and development of land for deer or wild turkey management, for investigating deer or wild turkey problems, and for the stocking, management, and protection of deer or wild turkey. Every person, while hunting deer or wild turkey on lands of another, shall carry the person's special deer or wild turkey permit and exhibit it to any enforcement officer so requesting. Failure to so carry and exhibit such a permit constitutes an offense under this section. The chief of the division of wildlife shall adopt any additional rules the chief considers necessary to carry out this section and section 1533.10 of the Revised Code.

The owner and the children of the owner of lands in this state may hunt deer or wild turkey thereon without a special deer or wild turkey permit. The tenant and children of the tenant may hunt deer or wild turkey on lands where they reside without a special deer or wild turkey permit.

(B) A special deer or wild turkey permit is not transferable. No person shall carry a special deer or wild turkey permit issued in the name of another person.

(C) The wildlife refunds fund is hereby created in the state treasury. The fund shall consist of money received from application fees for special deer permits that are not issued. Money in the fund shall be used to make refunds of such application fees.

Sec. 1533.111. Except as provided in this section or division (A)(2) of section 1533.12 of the Revised Code, no person shall hunt or trap

fur-bearing animals on land of another without first obtaining an annual fur taker permit. Each applicant for a fur taker permit shall pay an annual fee of fourteen dollars for the permit, except as otherwise provided in this section or unless the rules adopted under division (B) of section 1533.12 of the Revised Code provide for issuance of a fur taker permit to the applicant free of charge. Except as provided in rules adopted under division (B)(2) of that section, each applicant who is a resident of this state and who at the time of application is sixty-six years of age or older shall procure a special senior fur taker permit, the fee for which shall be one-half of the regular fur taker permit fee. Each applicant ~~who is a resident of the state and~~ under the age of ~~sixteen~~ eighteen years shall procure a special youth fur taker permit, the fee for which shall be one-half of the regular fur taker permit fee. The fur taker permit shall run concurrently with the hunting license. The money received shall be paid into the state treasury to the credit of the fund established in section 1533.15 of the Revised Code.

No fur taker permit shall be issued unless it is accompanied by a written explanation of the law in section 1533.17 of the Revised Code and the penalty for its violation, including a description of terms of imprisonment and fines that may be imposed.

No fur taker permit shall be issued unless the applicant presents to the agent authorized to issue a fur taker permit a previously held hunting license or trapping or fur taker permit or evidence of having held such a license or permit in content and manner approved by the chief of the division of wildlife, a certificate of completion issued upon completion of a trapper education course approved by the chief, or evidence of equivalent training in content and manner approved by the chief.

No person shall issue a fur taker permit to any person who fails to present the evidence required by this section. No person shall purchase or obtain a fur taker permit without presenting to the issuing agent the evidence required by this section. Issuance of a fur taker permit in violation of the requirements of this section is an offense by both the purchaser of the illegally obtained permit and the clerk or agent who issued the permit. Any fur taker permit issued in violation of this section is void.

The chief, with approval of the wildlife council, shall adopt rules prescribing a trapper education course for first-time fur taker permit buyers and for volunteer instructors. The course shall consist of subjects that include, but are not limited to, trapping techniques, animal habits and identification, trapping tradition and ethics, the trapper and conservation, the law in section 1533.17 of the Revised Code along with the penalty for its violation, including a description of terms of imprisonment and fines that

may be imposed, and other law relating to trapping. Authorized personnel of the division of wildlife or volunteer instructors approved by the chief shall conduct the courses with such frequency and at such locations throughout the state as to reasonably meet the needs of permit applicants. The chief shall issue a certificate of completion to each person who successfully completes the course and passes an examination prescribed by the chief.

Every person, while hunting or trapping fur-bearing animals on lands of another, shall carry the person's fur taker permit ~~affixed to the person's hunting license~~ with the person's signature written ~~across the face of~~ on the permit. Failure to carry such a signed permit constitutes an offense under this section. The chief shall adopt any additional rules the chief considers necessary to carry out this section.

The owner and the children of the owner of lands in this state may hunt or trap fur-bearing animals thereon without a fur taker permit. The tenant and children of the tenant may hunt or trap fur-bearing animals on lands where they reside without a fur taker permit.

A fur taker permit is not transferable. No person shall carry a fur taker permit issued in the name of another person.

A fur taker permit entitles a nonresident to take from this state fur-bearing animals taken and possessed by the nonresident as provided by law or division rule.

Sec. 1533.112. Except as provided in this section or unless otherwise provided by division rule, no person shall hunt ducks, geese, or brant on the lands of another without first obtaining an annual wetlands habitat stamp. The annual fee for the wetlands habitat stamp shall be fourteen dollars for each stamp unless the rules adopted under division (B) of section 1533.12 provide for issuance of a wetlands habitat stamp to the applicant free of charge.

Moneys received from the stamp fee shall be paid into the state treasury to the credit of the wetlands habitat fund, which is hereby established. Moneys shall be paid from the fund on the order of the director of natural resources for the following purposes:

(A) Sixty per cent for projects that the division approves for the acquisition, development, management, or preservation of waterfowl areas within the state;

(B) Forty per cent for contribution by the division to an appropriate nonprofit organization for the acquisition, development, management, or preservation of lands and waters within the United States or Canada that provide or will provide habitat for waterfowl with migration routes that cross this state.

No moneys derived from the issuance of wetlands habitat stamps shall be spent for purposes other than those specified by this section. All investment earnings of the fund shall be credited to the fund.

Wetlands habitat stamps shall be furnished by and in a form prescribed by the chief of the division of wildlife and issued by clerks and other agents authorized to issue licenses and permits under section 1533.13 of the Revised Code. The record of stamps kept by the clerks and other agents shall be uniform throughout the state, in such form or manner as the director prescribes, and open at all reasonable hours to the inspection of any person. Unless otherwise provided by rule, each stamp shall remain in force until midnight of the thirty-first day of August next ensuing. Wetlands habitat stamps may be issued in any manner to any person on any date, whether or not that date is within the period in which they are effective.

Every person to whom this section applies, while hunting ducks, geese, or brant, shall carry an unexpired wetlands habitat stamp that is validated by the person's signature written on the stamp in ink and shall exhibit the stamp to any enforcement officer so requesting. No person shall fail to carry and exhibit the person's stamp.

A wetlands habitat stamp is not transferable.

The chief shall establish a procedure to obtain subject matter to be printed on the wetlands habitat stamp and shall use, dispose of, or distribute the subject matter as the chief considers necessary. The chief also shall adopt rules necessary to administer this section.

This section does not apply to persons under sixteen years of age nor to persons exempted from procuring a hunting license under section 1533.10 or division (A)(2) of section 1533.12 of the Revised Code.

Sec. 1533.12. (A)(1) Except as otherwise provided in division (A)(2) of this section, every person on active duty in the armed forces of the United States who is stationed in this state and who wishes to engage in an activity for which a license, permit, or stamp is required under this chapter first shall obtain the requisite license, permit, or stamp. Such a person is eligible to obtain a resident hunting or fishing license regardless of whether the person qualifies as a resident of this state. To obtain a resident hunting or fishing license, the person shall present a card or other evidence identifying the person as being on active duty in the armed forces of the United States and as being stationed in this state.

(2) Every person on active duty in the armed forces of the United States, while on leave or furlough, may take or catch fish of the kind lawfully permitted to be taken or caught within the state, may hunt any wild bird or wild quadruped lawfully permitted to be hunted within the state, and may

trap fur-bearing animals lawfully permitted to be trapped within the state, without procuring a fishing license, a hunting license, a fur taker permit, or a wetlands habitat stamp required by this chapter, provided that the person shall carry on the person when fishing, hunting, or trapping, a card or other evidence identifying the person as being on active duty in the armed forces of the United States, and provided that the person is not otherwise violating any of the hunting, fishing, and trapping laws of this state.

In order to hunt deer or wild turkey, any such person shall obtain a special deer or wild turkey permit, as applicable, under section 1533.11 of the Revised Code. However, the person need not obtain a hunting license in order to obtain such a permit.

(B) The chief of the division of wildlife shall provide by rule adopted under section 1531.10 of the Revised Code all of the following:

(1) Every resident of this state with a disability that has been determined by the veterans administration to be permanently and totally disabling, who receives a pension or compensation from the veterans administration, and who received an honorable discharge from the armed forces of the United States, and every veteran to whom the registrar of motor vehicles has issued a set of license plates under section 4503.41 of the Revised Code, shall be issued an annual fishing license, hunting license, fur taker permit, deer or wild turkey permit, or wetlands habitat stamp, or any combination of those licenses, permits, and stamp, free of charge when application is made to the chief in the manner prescribed by and on forms provided by the chief.

(2) Every resident of the state who was born on or before December 31, 1937, shall be issued an annual fishing license, hunting license, fur taker permit, deer or wild turkey permit, or wetlands habitat stamp, or any combination of those licenses, permits, and stamp, free of charge when application is made to the chief in the manner prescribed by and on forms provided by the chief.

(3) Every resident of state or county institutions, charitable institutions, and military homes in this state shall be issued an annual fishing license free of charge when application is made to the chief in the manner prescribed by and on forms provided by the chief.

(4) Any mobility impaired or blind person, as defined in section 955.011 of the Revised Code, who is a resident of this state and who is unable to engage in fishing without the assistance of another person shall be issued an annual fishing license free of charge when application is made to the chief in the manner prescribed by and on forms provided by the chief. The person who is assisting the mobility impaired or blind person may assist in taking or catching fish of the kind permitted to be taken or caught without



procuring the license required under section 1533.32 of the Revised Code, provided that only one line is used by both persons.

(5) As used in division (B)(5) of this section, "prisoner of war" means any regularly appointed, enrolled, enlisted, or inducted member of the military forces of the United States who was captured, separated, and incarcerated by an enemy of the United States.

Any person who has been a prisoner of war, was honorably discharged from the military forces, and is a resident of this state shall be issued an annual fishing license, hunting license, fur taker permit, or wetlands habitat stamp, or any combination of those licenses, permits, and stamp, free of charge when application is made to the chief in the manner prescribed by and on forms provided by the chief.

(C) The chief shall adopt rules pursuant to section 1531.08 of the Revised Code designating not more than two days, which need not be consecutive, in each year as "free sport fishing days" on which any resident may exercise the privileges accorded the holder of a fishing license issued under section 1533.32 of the Revised Code without procuring such a license, provided that the person is not otherwise violating any of the fishing laws of this state.

Sec. 1533.32. Except as provided in this section or division (A)(2) or (C) of section 1533.12 of the Revised Code, no person, including nonresidents, shall take or catch any fish by angling in any of the waters in the state or engage in fishing in those waters without a license. No person shall take or catch frogs or turtles without a valid fishing license, except as provided in this section. Persons fishing in privately owned ponds, lakes, or reservoirs to or from which fish are not accustomed to migrate are exempt from the license requirements set forth in this section. Persons fishing in privately owned ponds, lakes, or reservoirs that are open to public fishing through an agreement or lease with the division of wildlife shall comply with the license requirements set forth in this section.

The fee for an annual license shall be thirty-nine dollars for a resident of a state that is not a party to an agreement under section 1533.91 of the Revised Code. The fee for an annual license shall be eighteen dollars for a resident of a state that is a party to such an agreement. The fee for an annual license for residents of this state shall be eighteen dollars unless the rules adopted under division (B) of section 1533.12 of the Revised Code provide for issuance of a resident fishing license to the applicant free of charge. Except as provided in rules adopted under division (B)(2) of that section, each applicant who is a resident of this state and who at the time of application is sixty-six years of age or older shall procure a special senior

fishing license, the fee for which shall be one-half of the annual resident fishing license fee.

Any person under the age of sixteen years may take or catch frogs and turtles and take or catch fish by angling without a license.

The chief of the division of wildlife may issue a tourist's license expiring three days from the effective date of the license to a resident of a state that is not a party to an agreement under section 1533.91 of the Revised Code. The fee for a tourist's license shall be eighteen dollars.

The chief shall adopt rules under section 1531.10 of the Revised Code providing for the issuance of a one-day fishing license to a resident of this state or of any other state. The fee for such a license shall be fifty-five per cent of the amount established under this section for a tourist's license, rounded up to the nearest whole dollar. A one-day fishing license shall allow the holder to take or catch fish by angling in the waters in the state, engage in fishing in those waters, or take or catch frogs or turtles in those waters for one day without obtaining an annual license or a tourist's license under this section. At the request of a holder of a one-day fishing license who wishes to obtain an annual license, a clerk or agent authorized to issue licenses under section 1533.13 of the Revised Code, not later than the last day on which the one-day license would be valid if it were an annual license, shall credit the amount of the fee paid for the one-day license toward the fee charged for the annual license if so authorized by the chief. The clerk or agent shall issue the annual license upon presentation of the one-day license and payment of a fee in an amount equal to the difference between the fee for the annual license and the fee for the one-day license.

Unless otherwise provided by division rule, each annual license shall begin on the first day of March of the current year and expire on the last day of February of the following year.

No person shall alter a fishing license or possess a fishing license that has been altered.

No person shall procure or attempt to procure a fishing license by fraud, deceit, misrepresentation, or any false statement.

Owners of land over, through, upon, or along which any water flows or stands, except where the land is in or borders on state parks or state-owned lakes, together with the members of the immediate families of such owners, may take frogs and turtles and may take or catch fish of the kind permitted to be taken or caught therefrom without procuring a license provided for in this section. This exemption extends to tenants actually residing upon such lands and to the members of the immediate families of the tenants. Residents

of state or county institutions, charitable institutions, and military homes in this state may take frogs and turtles without procuring the required license, provided that a member of the institution or home has an identification card, which shall be carried on that person when fishing.

Every fisher required to be licensed, while fishing or taking or attempting to take frogs or turtles, shall carry the license and exhibit it to any person. Failure to so carry and exhibit the license constitutes an offense under this section.

Sec. 1541.03. All lands and waters dedicated and set apart for state park purposes shall be under the control and management of the division of parks and recreation, which shall protect, maintain, and keep them in repair. The division shall have the following powers over all such lands and waters:

(A) To make alterations and improvements;

(B) To construct and maintain dikes, wharves, landings, docks, dams, and other works;

(C) To construct and maintain roads and drives in, around, upon, and to the lands and waters to make them conveniently accessible and useful to the public;

(D) ~~To~~ Except as otherwise provided in this section, to adopt, amend, and rescind, in accordance with Chapter 119. of the Revised Code, rules necessary for the proper management of state parks, bodies of water, and the lands adjacent to them under its jurisdiction and control, including the following:

(1) Governing opening and closing times and dates of the parks;

(2) Establishing fees and charges for ~~admission to state parks and for use of facilities in them~~ state parks;

(3) Governing camps, camping, and fees for camps and camping;

(4) Governing the application for and rental of, rental fees for, and the use of cabins;

(5) Relating to public use of state park lands, and governing the operation of motor vehicles, including speeds, and parking on those lands;

(6) Governing all advertising within state parks and the requirements for the operation of places selling tangible personal property and control of food service sales on lands and waters under the control of the division, which rules shall establish uniform requirements;

(7) Providing uniform standards relating to the size, type, location, construction, and maintenance of structures and devices used for fishing or moorage of watercraft, rowboats, sailboats, and powercraft, as those terms are defined in section 1547.01 of the Revised Code, over waters under the control of the division and establishing reasonable fees for the construction

of and annual use permits for those structures and devices;

(8) Governing state beaches, swimming, inflatable devices, and fees for them;

(9) Governing the removal and disposition of any watercraft, rowboat, sailboat, or powercraft, as those terms are defined in section 1547.01 of the Revised Code, left unattended for more than seven days on any lands or waters under the control of the division;

(10) Governing the establishment and collection of check collection charges for checks that are returned to the division or dishonored for any reason.

The division shall adopt rules under this section establishing a discount program for all persons who are issued a golden buckeye card under section 173.06 of the Revised Code. The discount program shall provide a discount for all park services and rentals, but shall not provide a discount for the purchase of merchandise.

The division shall not adopt rules establishing fees or charges for parking a motor vehicle in a state park or for admission to a state park.

Every resident of this state with a disability that has been determined by the veterans administration to be permanently and totally disabling, who receives a pension or compensation from the veterans administration, and who received an honorable discharge from the armed forces of the United States, and every veteran to whom the registrar of motor vehicles has issued a set of license plates under section 4503.41 of the Revised Code, shall be exempt from the fees for camping, provided that the resident or veteran carries in the state park such evidence of the resident's or veteran's disability as the chief of the division of parks and recreation prescribes by rule.

~~Every~~ Unless otherwise provided by division rule, every resident of this state who is sixty-five years of age or older or who is permanently and totally disabled and who furnishes evidence of that age or disability in a manner prescribed by division rule shall be charged one-half of the regular fee for camping, except on the weekends and holidays designated by the division. ~~Such a person, and~~ shall not be charged more than ninety per cent of the regular charges for state recreational facilities, equipment, services, and food service operations utilized by the person at any time of year, whether maintained or operated by the state or leased for operation by another entity.

As used in this section, "food service operations" means restaurants that are owned by the department of natural resources at Hocking Hills, Lake Hope, Malabar Farm, and Rocky Fork state parks or are part of a state park lodge. "Food service operations" does not include automatic vending

machines, concession stands, or snack bars.

As used in this section, "prisoner of war" means any regularly appointed, enrolled, enlisted, or inducted member of the military forces of the United States who was captured, separated, and incarcerated by an enemy of the United States. Any person who has been a prisoner of war, was honorably discharged from the military forces, and is a resident of this state is exempt from the fees for camping. To claim this exemption, the person shall present written evidence in the form of a record of separation, a letter from one of the military forces of the United States, or such other evidence as the chief prescribes by rule that satisfies the eligibility criteria established by this section.

Sec. 1547.721. As used in sections 1547.721 to 1547.726 of the Revised Code:

(A) "Eligible project" means a project that involves the acquisition, construction, establishment, reconstruction, rehabilitation, renovation, enlargement, improvement, equipping, furnishing, or development of either of the following:

(1) Marine recreational facilities;

(2) Refuge harbors and other projects for the harboring, mooring, docking, launching, and storing of light draft vessels.

(B) "Marine recreational facilities," "refuge harbors," "light draft vessels," and "allowable costs" have the meanings established in rules adopted under section 1547.723 of the Revised Code.

(C) "Revolving loan program" means the loan program established under sections 1547.721 to 1547.726 of the Revised Code.

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

Sec. 1547.722. There is hereby created in the state treasury the watercraft revolving loan fund consisting of money appropriated or transferred to it, money received and credited to the fund under section 1547.726 of the Revised Code, and any grants, gifts, or contributions of moneys received for deposit to the credit of the fund.

The director of natural resources shall use money in the watercraft revolving loan fund for the purpose of making loans under section 1547.724 of the Revised Code for eligible projects and taking actions under sections 1547.721 to 1547.726 of the Revised Code necessary to fulfill that purpose. The director may establish separate accounts in the fund for particular projects or otherwise. Income from the investment of money in the fund shall be credited to the fund, and, if the director so requires, to particular accounts in the fund.

Sec. 1547.723. (A) The director of natural resources shall adopt rules under Chapter 119. of the Revised Code that the director determines to be necessary for the implementation of the revolving loan program. The rules shall include a definition of what constitutes "allowable costs" of an eligible project for purposes of the program together with a definition of "marine recreational facilities," "refuge harbors," and "light draft vessels," respectively.

(B) The director may delegate any of the director's duties or responsibilities under sections 1547.721 to 1547.726 of the Revised Code to the chief of the division of watercraft.

Sec. 1547.724. (A) With the approval of the controlling board, and subject to the other applicable provisions of sections 1547.721 to 1547.726 of the Revised Code, the director of natural resources may lend moneys in the watercraft revolving loan fund to public or private entities for the purpose of paying the allowable costs of an eligible project. Loans shall be made under this division only if the director determines that all of the following apply:

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

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

(3) The repayment of the loan will be adequately secured by a mortgage, lien, assignment, or pledge at a level of priority as the director may require;

(4) The amount of the loan does not exceed ninety per cent of the total cost of the project.

(B) The determinations of the director under division (A) of this section shall be conclusive for purposes of the validity of a loan commitment evidenced by a loan agreement signed by the director. Further, the director's determinations that a project constitutes an eligible project and that the costs of such a project are allowable costs, together with all other determinations relevant to the project or to an action taken or agreement entered into under sections 1547.721 to 1547.726 of the Revised Code shall be conclusive for purposes of the validity and enforceability of rights of parties arising from actions taken and agreements entered into under those sections.

(C) The director may take any actions necessary or appropriate with respect to a loan made under this section, including facilitating the collection of amounts due on a loan.

Sec. 1547.725. For purposes of the revolving loan program, the director of natural resources may do any of the following:

(A) Establish fees, charges, rates of interest, times of payment of interest and principal, and other terms, conditions, and provisions of and

security for loans made from the watercraft revolving loan fund that the director determines to be appropriate and in furtherance of the purpose for which the loans are made;

(B) Retain the services of or employ financial consultants, appraisers, consulting engineers, superintendents, managers, construction and accounting experts, attorneys, and employees, agents, and independent contractors that the director determines to be necessary and fix the compensation for their services;

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

(D) Enter into appropriate agreements with other governmental entities to provide for all of the following:

(1) Payment of allowable costs related to the development of eligible projects for which loans have been made from the watercraft revolving loan fund;

(2) Any governmental action a governmental entity is authorized to take, including undertaking on behalf and at the request of the director any action that the director is authorized to undertake pursuant to sections 1547.721 to 1547.725 of the Revised Code;

(3) The operation of facilities associated with eligible projects.

All state agencies shall cooperate with and provide assistance to the director as is necessary for the administration of sections 1547.721 to 1547.726 of the Revised Code.

Sec. 1547.726. All money received by the state from the repayment of loans made from the watercraft revolving loan fund, including interest, fees, and charges associated with such loans, shall be deposited to the credit of the watercraft revolving loan fund.

Sec. 1548.06. (A)(1) Application for a certificate of title for a watercraft or outboard motor shall be made upon a form prescribed by the chief of the division of watercraft and shall be sworn to before a notary public or other officer empowered to administer oaths. The application shall be filed with the clerk of any court of common pleas. An application for a certificate of title may be filed electronically by any electronic means approved by the chief in any county with the clerk of the court of common pleas of that county. The application shall be accompanied by the fee prescribed in section 1548.10 of the Revised Code. The fee shall be retained by the clerk who issues the certificate of title and shall be distributed in accordance with that section. If a clerk of a court of common pleas, other than the clerk of the

court of common pleas of an applicant's county of residence, issues a certificate of title to the applicant, the clerk shall transmit data related to the transaction to the automated title processing system.

(2) If a certificate of title previously has been issued for the watercraft or outboard motor, the application for a certificate of title also shall be accompanied by the certificate of title duly assigned unless otherwise provided in this chapter. If a certificate of title previously has not been issued for the watercraft or outboard motor in this state, the application, unless otherwise provided in this chapter, shall be accompanied by a manufacturer's or importer's certificate; by a sworn statement of ownership if the watercraft or outboard motor was purchased by the applicant on or before October 9, 1963, or if the watercraft is less than fourteen feet long with a permanently affixed mechanical means of propulsion and was purchased by the applicant on or before January 1, 2000; or by a certificate of title, bill of sale, or other evidence of ownership required by the law of another state from which the watercraft or outboard motor was brought into this state. Evidence of ownership of a watercraft or outboard motor for which an Ohio certificate of title previously has not been issued and which watercraft or outboard motor does not have permanently affixed to it a manufacturer's serial number shall be accompanied by the certificate of assignment of a hull identification number assigned by the chief as provided in section 1548.07 of the Revised Code.

(3) The clerk shall retain the evidence of title presented by the applicant and on which the certificate of title is issued, except that, if an application for a certificate of title is filed electronically, by a vendor on behalf of a purchaser of a watercraft or outboard motor, the clerk shall retain the completed electronic record to which the vendor converted the certificate of title application and other required documents. The chief, after consultation with the attorney general, shall adopt rules that govern the location at which, and the manner in which, are stored the actual application and all other documents relating to the sale of a watercraft or outboard motor when a vendor files the application for a certificate of title electronically on behalf of a purchaser.

(B) The clerk shall use reasonable diligence in ascertaining whether the facts in the application are true by checking the application and documents accompanying it or the electronic record to which a vendor converted the application and accompanying documents with the records of watercraft and outboard motors in the clerk's office. If the clerk is satisfied that the applicant is the owner of the watercraft or outboard motor and that the application is in the proper form, the clerk shall issue a physical certificate



of title over the clerk's signature and sealed with the clerk's seal unless the applicant specifically requests the clerk not to issue a physical certificate of title and instead to issue an electronic certificate of title. However, if the evidence indicates and an investigation shows that one or more Ohio titles already exist for the watercraft or outboard motor, the chief may cause the redundant title or titles to be canceled.

(C) In the case of the sale of a watercraft or outboard motor by a vendor to a general purchaser or user, the certificate of title shall be obtained in the name of the purchaser by the vendor upon application signed by the purchaser. In all other cases, the certificate shall be obtained by the purchaser. In all cases of transfer of watercraft or outboard motors, the application for certificate of title shall be filed within thirty days after the later of the date of purchase or assignment of ownership of the watercraft or outboard motor. If the application for certificate of title is not filed within thirty days after the later of the date of purchase or assignment of ownership of the watercraft or outboard motor, the clerk shall charge a late penalty fee of five dollars in addition to the fee prescribed by section 1548.10 of the Revised Code. The clerk shall retain the entire amount of each late penalty fee.

(D) The clerk shall refuse to accept an application for certificate of title unless the applicant either tenders with the application payment of all taxes levied by or pursuant to Chapter 5739. or 5741. of the Revised Code based on the applicant's county of residence less, in the case of a sale by a vendor, any discount to which the vendor is entitled under section 5739.12 of the Revised Code, or submits any of the following:

~~(A)~~(1) A receipt issued by the tax commissioner or a clerk of courts showing payment of the tax;

~~(B)~~(2) A copy of the unit certificate of exemption completed by the purchaser at the time of sale as provided in section 5739.03 of the Revised Code;

~~(C)~~(3) An exemption certificate, in a form prescribed by the tax commissioner, that specifies why the purchase is not subject to the tax imposed by Chapter 5739. or 5741. of the Revised Code.

Payment of the tax shall be in accordance with rules issued by the tax commissioner, and the clerk shall issue a receipt in the form prescribed by the tax commissioner to any applicant who tenders payment of the tax with the application for the certificate of title.

(E)(1) For receiving and disbursing the taxes paid to the clerk by a resident of the clerk's county, the clerk may retain a poundage fee of one and one one-hundredth per cent of the taxes collected, which shall be paid

into the certificate of title administration fund created by section 325.33 of the Revised Code. The clerk shall not retain a poundage fee from payments of taxes by persons who do not reside in the clerk's county.

(2) A clerk, however, may retain from the taxes paid to the clerk an amount equal to the poundage fees associated with certificates of title issued by other clerks of courts of common pleas to applicants who reside in the first clerk's county. The chief of the division of watercraft, in consultation with the tax commissioner and the clerks of the courts of common pleas, shall develop a report from the automated title processing system that informs each clerk of the amount of the poundage fees that the clerk is permitted to retain from those taxes because of certificates of title issued by the clerks of other counties to applicants who reside in the first clerk's county.

(F) In the case of casual sales of watercraft or outboard motors that are subject to the tax imposed by Chapter 5739. or 5741. of the Revised Code, the purchase price for the purpose of determining the tax shall be the purchase price on an affidavit executed and filed with the clerk by the vendor on a form to be prescribed by the chief, which shall be prima-facie evidence of the price for the determination of the tax. In addition to the information required by section 1548.08 of the Revised Code, each certificate of title shall contain in bold lettering the following notification and statements: "WARNING TO TRANSFEROR AND TRANSFEREE (SELLER AND BUYER). You are required by law to state the true selling price. A false statement is a violation of section 2921.13 of the Revised Code and is punishable by six months imprisonment or a fine of up to one thousand dollars, or both. All transfers are audited by the department of taxation. The seller and buyer must provide any information requested by the department of taxation. The buyer may be assessed any additional tax found to be due."

~~The clerk shall forward all payments of taxes, less poundage fees, to the treasurer of state in a manner to be prescribed by the tax commissioner and shall furnish information to the commissioner as the commissioner may require.~~ (G) Each county clerk of courts shall forward to the treasurer of state all sales and use tax collections resulting from sales of titled watercraft and outboard motors during a calendar week on or before the Friday following the close of that week. If, on any Friday, the offices of the clerk of courts or the state are not open for business, the tax shall be forwarded to the treasurer of state on or before the next day on which the offices are open. Every remittance of tax under this division shall be accompanied by a remittance report in such form as the tax commissioner prescribes. Upon

receipt of a tax remittance and remittance report, the treasurer of state shall date stamp the report and forward it to the tax commissioner. If the tax due for any week is not remitted by a clerk of courts as required under this division, the clerk shall forfeit the poundage fees for the sales made during that week. The treasurer of state may require the clerks of courts to transmit tax collections and remittance reports electronically.

(H) For purposes of a transfer of a certificate of title, if the clerk is satisfied that a secured party has discharged a lien but has not canceled the lien notation with a clerk, the clerk may cancel the lien notation on the automated title processing system and notify the clerk of the county of origin.

(I) Every clerk shall have the capability to transact by electronic means all procedures and transactions relating to the issuance of watercraft or outboard motor certificates of title that are described in the Revised Code as being accomplished by electronic means.

Sec. 1707.01. As used in this chapter:

(A) Whenever the context requires it, "division" or "division of securities" may be read as "director of commerce" or as "commissioner of securities."

(B) "Security" means any certificate or instrument, or any oral, written, or electronic agreement, understanding, or opportunity, that represents title to or interest in, or is secured by any lien or charge upon, the capital, assets, profits, property, or credit of any person or of any public or governmental body, subdivision, or agency. It includes shares of stock, certificates for shares of stock, an uncertificated security, membership interests in limited liability companies, voting-trust certificates, warrants and options to purchase securities, subscription rights, interim receipts, interim certificates, promissory notes, all forms of commercial paper, evidences of indebtedness, bonds, debentures, land trust certificates, fee certificates, leasehold certificates, syndicate certificates, endowment certificates, interests in or under profit-sharing or participation agreements, interests in or under oil, gas, or mining leases, preorganization or reorganization subscriptions, preorganization certificates, reorganization certificates, interests in any trust or pretended trust, any investment contract, any life settlement interest, any instrument evidencing a promise or an agreement to pay money, warehouse receipts for intoxicating liquor, and the currency of any government other than those of the United States and Canada, but sections 1707.01 to 1707.45 of the Revised Code do not apply to the sale of real estate.

(C)(1) "Sale" has the full meaning of "sale" as applied by or accepted in courts of law or equity, and includes every disposition, or attempt to

dispose, of a security or of an interest in a security. "Sale" also includes a contract to sell, an exchange, an attempt to sell, an option of sale, a solicitation of a sale, a solicitation of an offer to buy, a subscription, or an offer to sell, directly or indirectly, by agent, circular, pamphlet, advertisement, or otherwise.

(2) "Sell" means any act by which a sale is made.

(3) The use of advertisements, circulars, or pamphlets in connection with the sale of securities in this state exclusively to the purchasers specified in division (D) of section 1707.03 of the Revised Code is not a sale when the advertisements, circulars, and pamphlets describing and offering those securities bear a readily legible legend in substance as follows: "This offer is made on behalf of dealers licensed under sections 1707.01 to 1707.45 of the Revised Code, and is confined in this state exclusively to institutional investors and licensed dealers."

(4) The offering of securities by any person in conjunction with a licensed dealer by use of advertisement, circular, or pamphlet is not a sale if that person does not otherwise attempt to sell securities in this state.

(5) Any security given with, or as a bonus on account of, any purchase of securities is conclusively presumed to constitute a part of the subject of that purchase and has been "sold."

(6) "Sale" by an owner, pledgee, or mortgagee, or by a person acting in a representative capacity, includes sale on behalf of such party by an agent, including a licensed dealer or salesperson.

(D) "Person," except as otherwise provided in this chapter, means a natural person, firm, partnership, limited partnership, partnership association, syndicate, joint-stock company, unincorporated association, trust or trustee except where the trust was created or the trustee designated by law or judicial authority or by a will, and a corporation or limited liability company organized under the laws of any state, any foreign government, or any political subdivision of a state or foreign government.

(E)(1) "Dealer," except as otherwise provided in this chapter, means every person, other than a salesperson, who engages or professes to engage, in this state, for either all or part of the person's time, directly or indirectly, either in the business of the sale of securities for the person's own account, or in the business of the purchase or sale of securities for the account of others in the reasonable expectation of receiving a commission, fee, or other remuneration as a result of engaging in the purchase and sale of securities. "Dealer" does not mean any of the following:

(a) Any issuer, including any officer, director, employee, or trustee of, or member or manager of, or partner in, or any general partner of, any

issuer, that sells, offers for sale, or does any act in furtherance of the sale of a security that represents an economic interest in that issuer, provided no commission, fee, or other similar remuneration is paid to or received by the issuer for the sale;

(b) Any licensed attorney, public accountant, or firm of such attorneys or accountants, whose activities are incidental to the practice of the attorney's, accountant's, or firm's profession;

(c) Any person that, for the account of others, engages in the purchase or sale of securities that are issued and outstanding before such purchase and sale, if a majority or more of the equity interest of an issuer is sold in that transaction, and if, in the case of a corporation, the securities sold in that transaction represent a majority or more of the voting power of the corporation in the election of directors;

(d) Any person that brings an issuer together with a potential investor and whose compensation is not directly or indirectly based on the sale of any securities by the issuer to the investor;

(e) Any bank;

(f) Any person that the division of securities by rule exempts from the definition of "dealer" under division (E)(1) of this section.

(2) "Licensed dealer" means a dealer licensed under this chapter.

(F)(1) "Salesman" or "salesperson" means every natural person, other than a dealer, who is employed, authorized, or appointed by a dealer to sell securities within this state.

(2) The general partners of a partnership, and the executive officers of a corporation or unincorporated association, licensed as a dealer are not salespersons within the meaning of this definition, nor are such clerical or other employees of an issuer or dealer as are employed for work to which the sale of securities is secondary and incidental; but the division of securities may require a license from any such partner, executive officer, or employee if it determines that protection of the public necessitates the licensing.

(3) "Licensed salesperson" means a salesperson licensed under this chapter.

(G) "Issuer" means every person who has issued, proposes to issue, or issues any security.

(H) "Director" means each director or trustee of a corporation, each trustee of a trust, each general partner of a partnership, except a partnership association, each manager of a partnership association, and any person vested with managerial or directory power over an issuer not having a board of directors or trustees.

(I) "Incorporator" means any incorporator of a corporation and any organizer of, or any person participating, other than in a representative or professional capacity, in the organization of an unincorporated issuer.

(J) "Fraud," "fraudulent," "fraudulent acts," "fraudulent practices," or "fraudulent transactions" means anything recognized on or after July 22, 1929, as such in courts of law or equity; any device, scheme, or artifice to defraud or to obtain money or property by means of any false pretense, representation, or promise; any fictitious or pretended purchase or sale of securities; and any act, practice, transaction, or course of business relating to the purchase or sale of securities that is fraudulent or that has operated or would operate as a fraud upon the seller or purchaser.

(K) Except as otherwise specifically provided, whenever any classification or computation is based upon "par value," as applied to securities without par value, the average of the aggregate consideration received or to be received by the issuer for each class of those securities shall be used as the basis for that classification or computation.

(L)(1) "Intangible property" means patents, copyrights, secret processes, formulas, services, good will, promotion and organization fees and expenses, trademarks, trade brands, trade names, licenses, franchises, any other assets treated as intangible according to generally accepted accounting principles, and securities, accounts receivable, or contract rights having no readily determinable value.

(2) "Tangible property" means all property other than intangible property and includes securities, accounts receivable, and contract rights, when the securities, accounts receivable, or contract rights have a readily determinable value.

(M) "Public utilities" means those utilities defined in sections 4905.02, 4905.03, 4907.02, and 4907.03 of the Revised Code; in the case of a foreign corporation, it means those utilities defined as public utilities by the laws of its domicile; and in the case of any other foreign issuer, it means those utilities defined as public utilities by the laws of the situs of its principal place of business. The term always includes railroads whether or not they are so defined as public utilities.

(N) "State" means any state of the United States, any territory or possession of the United States, the District of Columbia, and any province of Canada.

(O) "Bank" means any bank, trust company, savings and loan association, savings bank, or credit union that is incorporated or organized under the laws of the United States, any state of the United States, Canada, or any province of Canada and that is subject to regulation or supervision by

that country, state, or province.

(P) "Include," when used in a definition, does not exclude other things or persons otherwise within the meaning of the term defined.

(Q)(1) "Registration by description" means that the requirements of section 1707.08 of the Revised Code have been complied with.

(2) "Registration by qualification" means that the requirements of sections 1707.09 and 1707.11 of the Revised Code have been complied with.

(3) "Registration by coordination" means that there has been compliance with section 1707.091 of the Revised Code. Reference in this chapter to registration by qualification also shall be deemed to include registration by coordination unless the context otherwise indicates.

(R) "Intoxicating liquor" includes all liquids and compounds that contain more than three and two-tenths per cent of alcohol by weight and are fit for use for beverage purposes.

(S) "Institutional investor" means any corporation, bank, insurance company, pension fund or pension fund trust, employees' profit-sharing fund or employees' profit-sharing trust, any association engaged, as a substantial part of its business or operations, in purchasing or holding securities, or any trust in respect of which a bank is trustee or cotrustee. "Institutional investor" does not include any business entity formed for the primary purpose of evading sections 1707.01 to 1707.45 of the Revised Code.

(T) "Securities Act of 1933," 48 Stat. 74, 15 U.S.C. 77a, "Securities Exchange Act of 1934," 48 Stat. 881, 15 U.S.C. 78a, "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 1, "Investment Advisers Act of 1940," 54 Stat. 847, 15 U.S.C. 80b, and "Investment Company Act of 1940," 54 Stat. 789, 15 U.S.C. 80a mean the federal statutes of those names as amended before or after March 18, 1999.

(U) "Securities and exchange commission" means the securities and exchange commission established by the Securities Exchange Act of 1934.

(V)(1) "Control bid" means the purchase of or offer to purchase any equity security of a subject company from a resident of this state if either of the following applies:

(a) After the purchase of that security, the offeror would be directly or indirectly the beneficial owner of more than ten per cent of any class of the issued and outstanding equity securities of the issuer.

(b) The offeror is the subject company, there is a pending control bid by a person other than the issuer, and the number of the issued and outstanding shares of the subject company would be reduced by more than ten per cent.

(2) For purposes of division (V)(1) of this section, "control bid" does

not include any of the following:

(a) A bid made by a dealer for the dealer's own account in the ordinary course of business of buying and selling securities;

(b) An offer to acquire any equity security solely in exchange for any other security, or the acquisition of any equity security pursuant to an offer, for the sole account of the offeror, in good faith and not for the purpose of avoiding the provisions of this chapter, and not involving any public offering of the other security within the meaning of Section 4 of Title I of the "Securities Act of 1933," 48 Stat. 77, 15 U.S.C.A. 77d(2), as amended;

(c) Any other offer to acquire any equity security, or the acquisition of any equity security pursuant to an offer, for the sole account of the offeror, from not more than fifty persons, in good faith and not for the purpose of avoiding the provisions of this chapter.

(W) "Offeror" means a person who makes, or in any way participates or aids in making, a control bid and includes persons acting jointly or in concert, or who intend to exercise jointly or in concert any voting rights attached to the securities for which the control bid is made and also includes any subject company making a control bid for its own securities.

(X)(1) "Investment adviser" means any person who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities, or who, for compensation and as a part of regular business, issues or promulgates analyses or reports concerning securities.

(2) "Investment adviser" does not mean any of the following:

(a) Any attorney, accountant, engineer, or teacher, whose performance of investment advisory services described in division (X)(1) of this section is solely incidental to the practice of the attorney's, accountant's, engineer's, or teacher's profession;

(b) A publisher of any bona fide newspaper, news magazine, or business or financial publication of general and regular circulation;

(c) A person who acts solely as an investment adviser representative;

(d) A bank holding company, as defined in the "Bank Holding Company Act of 1956," 70 Stat. 133, 12 U.S.C. 1841, that is not an investment company;

(e) A bank, or any receiver, conservator, or other liquidating agent of a bank;

(f) Any licensed dealer or licensed salesperson whose performance of investment advisory services described in division (X)(1) of this section is solely incidental to the conduct of the dealer's or salesperson's business as a



licensed dealer or licensed salesperson and who receives no special compensation for the services;

(g) Any person, the advice, analyses, or reports of which do not relate to securities other than securities that are direct obligations of, or obligations guaranteed as to principal or interest by, the United States, or securities issued or guaranteed by corporations in which the United States has a direct or indirect interest, and that have been designated by the secretary of the treasury as exempt securities as defined in the "Securities Exchange Act of 1934," 48 Stat. 881, 15 U.S.C. 78c;

(h) Any person that is excluded from the definition of investment adviser pursuant to section 202(a)(11)(A) to (E) of the "Investment Advisers Act of 1940," 15 U.S.C. 80b-2(a)(11), or that has received an order from the securities and exchange commission under section 202(a)(11)(F) of the "Investment Advisers Act of 1940," 15 U.S.C. 80b-2(a)(11)(F), declaring that the person is not within the intent of section 202(a)(11) of the Investment Advisers Act of 1940.

(i) A person who acts solely as a state retirement system investment officer or as a bureau of workers' compensation chief investment officer;

(j) Any other person that the division designates by rule, if the division finds that the designation is necessary or appropriate in the public interest or for the protection of investors or clients and consistent with the purposes fairly intended by the policy and provisions of this chapter.

(Y)(1) "Subject company" means an issuer that satisfies both of the following:

(a) Its principal place of business or its principal executive office is located in this state, or it owns or controls assets located within this state that have a fair market value of at least one million dollars.

(b) More than ten per cent of its beneficial or record equity security holders are resident in this state, more than ten per cent of its equity securities are owned beneficially or of record by residents in this state, or more than one thousand of its beneficial or record equity security holders are resident in this state.

(2) The division of securities may adopt rules to establish more specific application of the provisions set forth in division (Y)(1) of this section. Notwithstanding the provisions set forth in division (Y)(1) of this section and any rules adopted under this division, the division, by rule or in an adjudicatory proceeding, may make a determination that an issuer does not constitute a "subject company" under division (Y)(1) of this section if appropriate review of control bids involving the issuer is to be made by any regulatory authority of another jurisdiction.

(Z) "Beneficial owner" includes any person who directly or indirectly through any contract, arrangement, understanding, or relationship has or shares, or otherwise has or shares, the power to vote or direct the voting of a security or the power to dispose of, or direct the disposition of, the security. "Beneficial ownership" includes the right, exercisable within sixty days, to acquire any security through the exercise of any option, warrant, or right, the conversion of any convertible security, or otherwise. Any security subject to any such option, warrant, right, or conversion privilege held by any person shall be deemed to be outstanding for the purpose of computing the percentage of outstanding securities of the class owned by that person, but shall not be deemed to be outstanding for the purpose of computing the percentage of the class owned by any other person. A person shall be deemed the beneficial owner of any security beneficially owned by any relative or spouse or relative of the spouse residing in the home of that person, any trust or estate in which that person owns ten per cent or more of the total beneficial interest or serves as trustee or executor, any corporation or entity in which that person owns ten per cent or more of the equity, and any affiliate or associate of that person.

(AA) "Offeree" means the beneficial or record owner of any security that an offeror acquires or offers to acquire in connection with a control bid.

(BB) "Equity security" means any share or similar security, or any security convertible into any such security, or carrying any warrant or right to subscribe to or purchase any such security, or any such warrant or right, or any other security that, for the protection of security holders, is treated as an equity security pursuant to rules of the division of securities.

(CC)(1) "Investment adviser representative" means a supervised person of an investment adviser, provided that the supervised person has more than five clients who are natural persons other than excepted persons defined in division (EE) of this section, and that more than ten per cent of the supervised person's clients are natural persons other than excepted persons defined in division (EE) of this section. "Investment adviser representative" does not mean any of the following:

(a) A supervised person that does not on a regular basis solicit, meet with, or otherwise communicate with clients of the investment adviser;

(b) A supervised person that provides only investment advisory services described in division (X)(1) of this section by means of written materials or oral statements that do not purport to meet the objectives or needs of specific individuals or accounts;

(c) Any other person that the division designates by rule, if the division finds that the designation is necessary or appropriate in the public interest or

for the protection of investors or clients and is consistent with the provisions fairly intended by the policy and provisions of this chapter.

(2) For the purpose of the calculation of clients in division (CC)(1) of this section, a natural person and the following persons are deemed a single client: Any minor child of the natural person; any relative, spouse, or relative of the spouse of the natural person who has the same principal residence as the natural person; all accounts of which the natural person or the persons referred to in division (CC)(2) of this section are the only primary beneficiaries; and all trusts of which the natural person or persons referred to in division (CC)(2) of this section are the only primary beneficiaries. Persons who are not residents of the United States need not be included in the calculation of clients under division (CC)(1) of this section.

(3) If subsequent to March 18, 1999, amendments are enacted or adopted defining "investment adviser representative" for purposes of the Investment Advisers Act of 1940 or additional rules or regulations are promulgated by the securities and exchange commission regarding the definition of "investment adviser representative" for purposes of the Investment Advisers Act of 1940, the division of securities shall, by rule, adopt the substance of the amendments, rules, or regulations, unless the division finds that the amendments, rules, or regulations are not necessary for the protection of investors or in the public interest.

(DD) "Supervised person" means a natural person who is any of the following:

(1) A partner, officer, or director of an investment adviser, or other person occupying a similar status or performing similar functions with respect to an investment adviser;

(2) An employee of an investment adviser;

(3) A person who provides investment advisory services described in division (X)(1) of this section on behalf of the investment adviser and is subject to the supervision and control of the investment adviser.

(EE) "Excepted person" means a natural person to whom any of the following applies:

(1) Immediately after entering into the investment advisory contract with the investment adviser, the person has at least seven hundred fifty thousand dollars under the management of the investment adviser.

(2) The investment adviser reasonably believes either of the following at the time the investment advisory contract is entered into with the person:

(a) The person has a net worth, together with assets held jointly with a spouse, of more than one million five hundred thousand dollars.

(b) The person is a qualified purchaser as defined in division (FF) of this

section.

(3) Immediately prior to entering into an investment advisory contract with the investment adviser, the person is either of the following:

(a) An executive officer, director, trustee, general partner, or person serving in a similar capacity, of the investment adviser;

(b) An employee of the investment adviser, other than an employee performing solely clerical, secretarial, or administrative functions or duties for the investment adviser, which employee, in connection with the employee's regular functions or duties, participates in the investment activities of the investment adviser, provided that, for at least twelve months, the employee has been performing such nonclerical, nonsecretarial, or nonadministrative functions or duties for or on behalf of the investment adviser or performing substantially similar functions or duties for or on behalf of another company.

If subsequent to March 18, 1999, amendments are enacted or adopted defining "excepted person" for purposes of the Investment Advisers Act of 1940 or additional rules or regulations are promulgated by the securities and exchange commission regarding the definition of "excepted person" for purposes of the Investment Advisers Act of 1940, the division of securities shall, by rule, adopt the substance of the amendments, rules, or regulations, unless the division finds that the amendments, rules, or regulations are not necessary for the protection of investors or in the public interest.

(FF)(1) "Qualified purchaser" means either of the following:

(a) A natural person who owns not less than five million dollars in investments as defined by rule by the division of securities;

(b) A natural person, acting for the person's own account or accounts of other qualified purchasers, who in the aggregate owns and invests on a discretionary basis, not less than twenty-five million dollars in investments as defined by rule by the division of securities.

(2) If subsequent to March 18, 1999, amendments are enacted or adopted defining "qualified purchaser" for purposes of the Investment Advisers Act of 1940 or additional rules or regulations are promulgated by the securities and exchange commission regarding the definition of "qualified purchaser" for purposes of the Investment Advisers Act of 1940, the division of securities shall, by rule, adopt the amendments, rules, or regulations, unless the division finds that the amendments, rules, or regulations are not necessary for the protection of investors or in the public interest.

(GG)(1) "Purchase" has the full meaning of "purchase" as applied by or accepted in courts of law or equity and includes every acquisition of, or

attempt to acquire, a security or an interest in a security. "Purchase" also includes a contract to purchase, an exchange, an attempt to purchase, an option to purchase, a solicitation of a purchase, a solicitation of an offer to sell, a subscription, or an offer to purchase, directly or indirectly, by agent, circular, pamphlet, advertisement, or otherwise.

(2) "Purchase" means any act by which a purchase is made.

(3) Any security given with, or as a bonus on account of, any purchase of securities is conclusively presumed to constitute a part of the subject of that purchase.

(HH) "Life settlement interest" means the entire interest or any fractional interest in an insurance policy or certificate of insurance, or in an insurance benefit under such a policy or certificate, that is the subject of a life settlement contract.

For purposes of this division, "life settlement contract" means an agreement for the purchase, sale, assignment, transfer, devise, or bequest of any portion of the death benefit or ownership of any life insurance policy or contract, in return for consideration or any other thing of value that is less than the expected death benefit of the life insurance policy or contract. "Life settlement contract" includes a viatical settlement contract as defined in section 3916.01 of the Revised Code, but does not include any of the following:

(1) A loan by an insurer under the terms of a life insurance policy, including, but not limited to, a loan secured by the cash value of the policy;

(2) An agreement with a bank that takes an assignment of a life insurance policy as collateral for a loan;

(3) The provision of accelerated benefits as defined in section 3915.21 of the Revised Code;

(4) Any agreement between an insurer and a reinsurer;

(5) An agreement by an individual to purchase an existing life insurance policy or contract from the original owner of the policy or contract, if the individual does not enter into more than one life settlement contract per calendar year;

(6) The initial purchase of an insurance policy or certificate of insurance from its owner by a viatical settlement provider, as defined in section 3916.01 of the Revised Code, that is licensed under Chapter 3916. of the Revised Code.

(II) "State retirement system" means the public employees retirement system, Ohio police and fire pension fund, state teachers retirement system, school employees retirement system, and state highway patrol retirement system.

(JJ) "State retirement system investment officer" means an individual employed by a state retirement system as a chief investment officer, assistant investment officer, or the person in charge of a class of assets or in a position that is substantially equivalent to chief investment officer, assistant investment officer, or person in charge of a class of assets.

(KK) "Bureau of workers' compensation chief investment officer" means an individual employed by the bureau of workers' compensation as a chief investment officer in a position that is substantially equivalent to a chief investment officer.

Sec. 1707.164. (A) No person shall act as a bureau of workers' compensation chief investment officer unless the person is licensed as a bureau of workers' compensation chief investment officer by the division of securities.

(B) No bureau of workers' compensation chief investment officer shall act as a dealer, salesperson, investment advisor, or investment advisor representative.

Sec. 1707.165. (A) Application for a bureau of workers' compensation chief investment officer's license shall be made in accordance with this section by filing with the division of securities the information, materials, and forms specified in rules adopted by the division.

(B) The division may investigate any applicant for a license and may require any additional information as it considers necessary to determine the applicant's business repute and qualifications to act as a chief investment officer. If the application for a bureau of workers' compensation chief investment officer's license involves investigation outside of this state, the applicant may be required by the division to advance sufficient funds to pay any of the actual expenses of the investigation. The division shall furnish the applicant with an itemized statement of the expenses the applicant is required to pay.

(C) The division shall by rule require an applicant for a bureau of workers' compensation chief investment officer's license to pass an examination designated by the division or achieve a specified professional designation unless the applicant meets both of the following requirements:

(1) Acts as a bureau of workers' compensation chief investment officer on the effective date of this section;

(2) Has experience or education acceptable to the division.

(D) If the division finds that the applicant is of good business repute, appears to be qualified to act as a bureau of workers' compensation chief investment officer, and has complied with this chapter and rules adopted by the division under this chapter, the division, upon receipt of the fees

prescribed by division (B) of section 1707.17 of the Revised Code, shall issue to the applicant a license authorizing the applicant to act as a bureau of workers' compensation chief investment officer.

Sec. 1707.17. (A)(1) The license of every dealer in and salesperson of securities shall expire on the thirty-first day of December of each year, and may be renewed upon the filing with the division of securities of an application for renewal, and the payment of the fee prescribed in this section. The division shall give notice, without unreasonable delay, of its action on any application for renewal of a dealer's or salesperson's license.

(2) The license of every investment adviser and investment adviser representative licensed under section 1707.141 or 1707.161 of the Revised Code shall expire on the thirty-first day of December of each year. The licenses may be renewed upon the filing with the division of an application for renewal, and the payment of the fee prescribed in division (B) of this section. The division shall give notice, without unreasonable delay, of its action on any application for renewal.

(3) An investment adviser required to make a notice filing under division (B) of section 1707.141 of the Revised Code annually shall file with the division the notice filing and the fee prescribed in division (B) of this section, no later than the thirty-first day of December of each year.

(4) The license of every state retirement system investment officer licensed under section 1707.163 of the Revised Code and the license of a bureau of workers' compensation chief investment officer issued under section 1707.165 of the Revised Code shall expire on the thirtieth day of June of each year. The licenses may be renewed on the filing with the division of an application for renewal, and the payment of the fee prescribed in division (B) of this section. The division shall give notice, without unreasonable delay, of its action on any application for renewal.

(B)(1) The fee for each dealer's license, and for each annual renewal thereof, shall be one hundred dollars.

(2) The fee for each salesperson's license, and for each annual renewal thereof, shall be fifty dollars.

(3) The fee for each investment adviser's license, and for each annual renewal thereof, shall be fifty dollars.

(4) The fee for each investment adviser notice filing required by division (B) of section 1707.141 of the Revised Code shall be fifty dollars.

(5) The fee for each investment adviser representative's license, and for each annual renewal thereof, shall be thirty-five dollars.

(6) The fee for each state retirement system investment officer's license, and for each annual renewal thereof, shall be fifty dollars.

(7) The fee for a bureau of workers' compensation chief investment officer's license, and for each annual renewal thereof, shall be fifty dollars.

(C) A dealer's, salesperson's, investment adviser's, investment adviser representative's, bureau of workers' compensation chief investment officer's, or state retirement system investment officer's license may be issued at any time for the remainder of the calendar year. In that event, the annual fee shall not be reduced.

Sec. 1707.19. (A) An original license, or a renewal thereof, applied for by a dealer or salesperson of securities, or by an investment adviser, investment adviser representative, bureau of workers' compensation chief investment officer, or state retirement system investment officer, may be refused, and any such license granted may be suspended and, after notice and hearing in accordance with Chapter 119. of the Revised Code, may be revoked, by the division of securities, if the division determines that the applicant or the licensed dealer, salesperson, investment adviser, investment adviser representative, bureau of workers' compensation chief investment officer, or state retirement system investment officer:

- (1) Is not of good business repute;
- (2) Is conducting an illegitimate or fraudulent business;
- (3) Is, in the case of a dealer or investment adviser, insolvent;
- (4) Has knowingly violated any provision of sections 1707.01 to 1707.45 of the Revised Code, or any regulation or order made thereunder;
- (5) Has knowingly made a false statement of a material fact or an omission of a material fact in an application for a license, in a description or application that has been filed, or in any statement made to the division under such sections;
- (6) Has refused to comply with any lawful order or requirement of the division under section 1707.23 of the Revised Code;
- (7) Has been guilty of any fraudulent act in connection with the sale of any securities or in connection with acting as an investment adviser, investment adviser representative, bureau of workers' compensation chief investment officer, or state retirement system investment officer;
- (8) Conducts business in purchasing or selling securities at such variations from the existing market as in the light of all the circumstances are unconscionable;
- (9) Conducts business in violation of such rules and regulations as the division prescribes for the protection of investors, clients, or prospective clients;
- (10)(a) Has failed to furnish to the division any information with respect to the purchases or sales of securities within this state that may be



reasonably requested by the division as pertinent to the protection of investors in this state.

(b) Has failed to furnish to the division any information with respect to acting as an investment adviser, investment adviser representative, bureau of workers' compensation chief investment officer, or state retirement system investment officer within this state that may be reasonably requested by the division.

(B) For the protection of investors the division may prescribe reasonable rules defining fraudulent, evasive, deceptive, or grossly unfair practices or devices in the purchase or sale of securities.

(C) For the protection of investors, clients, or prospective clients, the division may prescribe reasonable rules regarding the acts and practices of an investment adviser or an investment adviser representative.

(D) Pending any investigation or hearing provided for in sections 1707.01 to 1707.45 of the Revised Code, the division may order the suspension of any dealer's, salesperson's, investment adviser's, investment adviser representative's, bureau of workers' compensation chief investment officer's, or state retirement system investment officer's license by notifying the party concerned of such suspension and the cause for it. If it is a salesperson whose license is suspended, the division shall also notify the dealer employing the salesperson. If it is an investment adviser representative whose license is suspended, the division also shall notify the investment adviser with whom the investment adviser representative is employed or associated. If it is a state retirement system investment officer whose license is suspended, the division shall also notify the state retirement system with whom the state retirement system investment officer is employed. If it is a bureau of workers' compensation chief investment officer whose license is suspended, the division shall also notify the bureau of workers' compensation.

(E)(1) The suspension or revocation of the dealer's license suspends the licenses of all the dealer's salespersons.

(2) The suspension or revocation of the investment adviser's license suspends the licenses of all the investment adviser's investment adviser representatives. The suspension or revocation of an investment adviser's registration under section 203 of the "Investment Advisers Act of 1940," 15 U.S.C. 80b-3, suspends the licenses of all the investment adviser's investment adviser representatives.

(F) It is sufficient cause for refusal, revocation, or suspension of the license in case of a partnership, partnership association, corporation, or unincorporated association if any general partner of the partnership,

manager of the partnership association, or executive officer of the corporation or unincorporated association is not of good business repute or has been guilty of any act or omission which would be cause for refusing or revoking the license of an individual dealer, salesperson, investment adviser, or investment adviser representative.

Sec. 1707.20. (A) The division of securities may adopt, amend, and rescind such rules, forms, and orders as are necessary to carry out sections 1707.01 to 1707.45 of the Revised Code, including rules and forms governing registration statements, applications, and reports, and defining any terms, whether or not used in sections 1707.01 to 1707.45 of the Revised Code, insofar as the definitions are not inconsistent with these sections. For the purpose of rules and forms, the division may classify securities, persons, and matters within its jurisdiction, and prescribe different requirements for different classes.

(B) No rule, form, or order may be made, amended, or rescinded unless the division finds that the action is necessary or appropriate in the public interest or for the protection of investors, clients, prospective clients, ~~or~~ state retirement systems, or the workers' compensation system and consistent with the purposes fairly intended by the policy and provisions of sections 1707.01 to 1707.45 of the Revised Code. In prescribing rules and forms and in otherwise administering sections 1707.01 to 1707.45 of the Revised Code, the division may cooperate with the securities administrators of the other states and the securities and exchange commission with a view of effectuating the policy of this section to achieve maximum uniformity in the form and content of registration statements, applications, reports, and overall securities regulation wherever practicable.

(C) The division may by rule or order prescribe:

(1) The form and content of financial statements required under sections 1707.01 to 1707.45 of the Revised Code;

(2) The circumstances under which consolidated financial statements shall be filed;

(3) Whether any required financial statements shall be certified by independent or certified public accountants. All financial statements shall be prepared in accordance with generally accepted accounting practices.

(D) All rules and forms of the division shall be published; and in addition to fulfilling the requirements of Chapter 119. of the Revised Code, the division shall prescribe, and shall publish and make available its rules regarding the sale of securities, the administration of sections 1707.01 to 1707.45 of the Revised Code, and the procedure and practice before the division.

(E) No provision of sections 1707.01 to 1707.45 of the Revised Code imposing any liability applies to any act done or omitted in good faith in conformity with any rule, form, or order of the division of securities, notwithstanding that the rule, form, or order may later be amended or rescinded or be determined by judicial or other authority to be invalid for any reason, except that the issuance of an order granting effectiveness to a registration under section 1707.09 or 1707.091 of the Revised Code for the purposes of this division shall not be deemed an order other than as the establishment of the fact of registration.

Sec. 1707.22. Whenever a dealer's, salesperson's, investment adviser's, investment adviser representative's, bureau of workers' compensation chief investment officer's, or state retirement system investment officer's license has been refused, suspended, or revoked, or a renewal thereof has been denied, by the division of securities, or whenever the division has refused to qualify securities or has suspended or revoked the registration of any particular security by description or by qualification, or the right to buy, sell, or deal in any particular security whether it is registered or qualified or exempt, or whether the transactions in it are registered or exempt, the aggrieved party may appeal in accordance with Chapter 119. of the Revised Code.

An order sustaining the refusal of the division to grant or renew a dealer's, salesperson's, investment adviser's, investment adviser representative's, bureau of workers' compensation chief investment officer's, or state retirement system investment officer's license or to grant qualification of securities, or an order sustaining the division in suspending or revoking a dealer's, salesperson's, investment adviser's, investment adviser representative's, bureau of workers' compensation chief investment officer's, or state retirement system investment officer's license, the registration of any particular security by description or by qualification, or the right to buy, sell, or deal in any particular security, shall not bar, after ten days from the order, a new registration by description, or a new application of the plaintiff for such a license or qualification or for a withdrawal of a revocation or suspension; nor shall an order in favor of the plaintiff prevent the division, after proper notice and hearing, from thereafter revoking or suspending such license, registration, or right to buy, sell, or deal in a particular security, for any proper cause which may, after the order, accrue or be discovered.

Sec. 1707.23. Whenever it appears to the division of securities, from its files, upon complaint, or otherwise, that any person has engaged in, is engaged in, or is about to engage in any practice declared to be illegal or

prohibited by this chapter or rules adopted under this chapter by the division, or defined as fraudulent in this chapter or rules adopted under this chapter by the division, or any other deceptive scheme or practice in connection with the sale of securities, or acting as a dealer, a salesperson, an investment adviser, investment adviser representative, bureau of workers' compensation chief investment officer, or state retirement system investment officer or when the division believes it to be in the best interests of the public and necessary for the protection of investors, the division may do any of the following:

(A) Require any person to file with it, on such forms as it prescribes, an original or additional statement or report in writing, under oath or otherwise, as to any facts or circumstances concerning the issuance, sale, or offer for sale of securities within this state by the person, as to the person's acts or practices as a dealer, a salesperson, an investment adviser, investment adviser representative, bureau of workers' compensation chief investment officer, or state retirement system investment officer within this state, and as to other information as it deems material or relevant thereto;

(B) Examine any investment adviser, investment adviser representative, state retirement system investment officer, bureau of workers' compensation chief investment officer, or any seller, dealer, salesperson, or issuer of any securities, and any of their agents, employees, partners, officers, directors, members, or shareholders, wherever located, under oath; and examine and produce records, books, documents, accounts, and papers as the division deems material or relevant to the inquiry;

(C) Require the attendance of witnesses, and the production of books, records, and papers, as are required either by the division or by any party to a hearing before the division, and for that purpose issue a subpoena for any witness, or a subpoena duces tecum to compel the production of any books, records, or papers. The subpoena shall be served by personal service or by certified mail, return receipt requested. If the subpoena is returned because of inability to deliver, or if no return is received within thirty days of the date of mailing, the subpoena may be served by ordinary mail. If no return of ordinary mail is received within thirty days after the date of mailing, service shall be deemed to have been made. If the subpoena is returned because of inability to deliver, the division may designate a person or persons to effect either personal or residence service upon the witness. The person designated to effect personal or residence service under this division may be the sheriff of the county in which the witness resides or may be found or any other duly designated person. The fees and mileage of the person serving the subpoena shall be the same as those allowed by the courts

of common pleas in criminal cases, and shall be paid from the funds of the division. Fees and mileage for the witness shall be the same as those allowed for witnesses by the courts of common pleas in criminal cases, and shall be paid from the funds of the division upon request of the witness following the hearing.

(D) Initiate criminal proceedings under section 1707.042 or 1707.44 of the Revised Code or rules adopted under those sections by the division by laying before the prosecuting attorney of the proper county any evidence of criminality which comes to its knowledge; and in the event of the neglect or refusal of the prosecuting attorney to prosecute such violations, or at the request of the prosecuting attorney, the division shall submit the evidence to the attorney general, who may proceed in the prosecution with all the rights, privileges, and powers conferred by law on prosecuting attorneys, including the power to appear before grand juries and to interrogate witnesses before such grand juries.

(E) Require any dealers immediately to furnish to the division copies of prospectuses, circulars, or advertisements respecting securities that they publish or generally distribute, or require any investment advisers immediately to furnish to the division copies of brochures, advertisements, publications, analyses, reports, or other writings that they publish or distribute;

(F) Require any dealers to mail to the division, prior to sale, notices of intention to sell, in respect to all securities which are not exempt under section 1707.02 of the Revised Code, or which are sold in transactions not exempt under section 1707.03 or 1707.04 of the Revised Code;

(G) Issue and cause to be served by certified mail upon all persons affected an order requiring the person or persons to cease and desist from the acts or practices appearing to the division to constitute violations of this chapter or rules adopted under this chapter by the division. The order shall state specifically the section or sections of this chapter or the rule or rules adopted under this chapter by the division that appear to the division to have been violated and the facts constituting the violation. If after the issuance of the order it appears to the division that any person or persons affected by the order have engaged in any act or practice from which the person or persons shall have been required, by the order, to cease and desist, the director of commerce may apply to the court of common pleas of any county for, and upon proof of the validity of the order of the division, the delivery of the order to the person or persons affected, and of the illegality and the continuation of the acts or practices that are the subject of the order, the court may grant an injunction implementing the order of the division.

(H) Issue and initiate contempt proceedings in this state regarding subpoenas and subpoenas duces tecum at the request of the securities administrator of another state, if it appears to the division that the activities for which the information is sought would violate this chapter if the activities had occurred in this state.

(I) The remedies provided by this section are cumulative and concurrent with any other remedy provided in this chapter, and the exercise of one remedy does not preclude or require the exercise of any other remedy.

Sec. 1707.25. In case any person fails to file any statement or report required by sections 1707.01 to 1707.45 of the Revised Code, to obey any subpoena the issuance of which is provided for in those sections, or to produce books, records, or papers, give testimony, or answer questions, as required by those sections, the director of commerce may apply to a court of common pleas of any county for, and upon proof of such failure the court may grant, an injunction restraining the acting as an investment adviser, investment adviser representative, bureau of workers' compensation chief investment officer, or state retirement system investment officer, or the issuance, sale, or offer for sale of any securities by the person or by its agents, employees, partners, officers, directors, or shareholders, until such failure has been remedied and other relief as the facts may warrant has been had. Such injunctive relief is available in addition to the other remedies provided for in sections 1707.01 to 1707.45 of the Revised Code.

Where the person refusing to comply with such order of court is an issuer of securities, the court may enjoin the sale by any dealer of any securities of the issuer, and the division of securities may revoke the qualification of the securities of the issuer, or suspend or revoke the sale of any securities of the issuer which have been registered by description, and such securities shall not thereafter be sold by any dealer until the order of the court or of the division is withdrawn.

Sec. 1707.261. (A) If a court of common pleas grants an injunction pursuant to section 1707.26 of the Revised Code, after consultation with the attorney general the director of commerce may request that court to order the defendant or defendants that are subject to the injunction to make restitution or rescission to any purchaser or holder of securities damaged by the defendant's or defendants' violation of any provision of sections 1707.01 to 1707.45 of the Revised Code.

(B) If the court of common pleas is satisfied with the sufficiency of the director's request for restitution or rescission under division (A) of this section and with the sufficiency of the proof of a substantial violation of any provision of sections 1707.01 to 1707.45 of the Revised Code, or of the use

of any act, practice, or transaction declared to be illegal or prohibited or defined as fraudulent by those sections or rules adopted under those sections by the division of securities, to the material prejudice of a purchaser or holder of securities, the court may order the defendant or defendants subject to the injunction to make restitution or rescission to any purchaser or holder of securities damaged by the defendant's or defendants' violation of sections 1707.01 to 1707.45 of the Revised Code.

(C) A court order granting restitution or rescission based upon a request made pursuant to division (A) of this section shall meet the requirements of division (B) of this section and may not be based solely upon a final order issued by the division of securities pursuant to Chapter 119. of the Revised Code or upon an action to enforce a final order issued by the division pursuant to that chapter. Notwithstanding the foregoing provision, a request for restitution or rescission pursuant to division (A) of this section may concern the same acts, practices, or transactions that were, or may later be, the subject of a division of securities action for a violation of any provision of sections 1707.01 to 1707.45 of the Revised Code. If a request for restitution or rescission pursuant to division (A) of this section concerns the same acts, practices, or transactions that were the subject of a final order issued by the division of securities pursuant to Chapter 119. of the Revised Code, the court shall review the request in accordance with division (B) of this section, and the standard of review in section 119.12 of the Revised Code shall not apply to the request.

(D) No purchaser or holder of securities who is entitled to restitution or rescission under this section shall recover, pursuant to this section or any other proceeding, a total amount in excess of the person's purchase price for the securities sold in violation of sections 1707.01 to 1707.45 of the Revised Code.

(E)(1) If a court of common pleas grants an injunction pursuant to section 1707.26 of the Revised Code against any state retirement system investment officer, after consultation with the attorney general, the director of commerce may request that court to order the state retirement system investment officer or officers that are subject to the injunction to make restitution to the state retirement system damaged by the state retirement system investment officer's or officers' violation of any provision of sections 1707.01 to 1707.45 of the Revised Code.

(2) If the court of common pleas is satisfied with the sufficiency of the director's request for restitution under division (E)(1) of this section and with the sufficiency of the proof of a substantial violation of any provision of sections 1707.01 to 1707.45 of the Revised Code, or of the use of any act,

practice, or transaction declared to be illegal or prohibited or defined as fraudulent by those sections or rules adopted under those sections by the division of securities, to the material prejudice of a state retirement system, the court may order the state retirement system investment officer or officers subject to the injunction to make restitution to the state retirement system damaged by the state retirement system investment officer's or officers' violation of sections 1707.01 to 1707.45 of the Revised Code. A request for restitution pursuant to division (E)(1) of this section may concern the same acts, practices, or transactions that were, or may later be, the subject of a division of securities action for a violation of any provision of section 1707.01 to 1707.45 of the Revised Code.

(F)(1) If a court of common pleas grants an injunction pursuant to section 1707.26 of the Revised Code against a bureau of workers' compensation chief investment officer, after consultation with the attorney general, the director of commerce may request that court to order the bureau of workers' compensation chief investment officer who is subject to the injunction to make restitution to the bureau of workers' compensation damaged by the bureau of workers' compensation chief investment officer's violation of any provision of sections 1707.01 to 1707.45 of the Revised Code.

(2) If the court of common pleas is satisfied with the sufficiency of the director's request for restitution under division (F)(1) of this section and with the sufficiency of the proof of a substantial violation of any provision of sections 1707.01 to 1707.45 of the Revised Code, or of the use of any act, practice, or transaction declared to be illegal or prohibited or defined as fraudulent by those sections or rules adopted under those sections by the division of securities, to the material prejudice of the bureau of workers' compensation, the court may order the bureau of workers' compensation chief investment officer subject to the injunction to make restitution to the bureau of workers' compensation damaged by the bureau of workers' compensation chief investment officer's violation of sections 1707.01 to 1707.45 of the Revised Code. A request for restitution pursuant to division (F)(1) of this section may concern the same acts, practices, or transactions that were, or may later be, the subject of a division of securities action for a violation of any provision of section 1707.01 to 1707.45 of the Revised Code.

Sec. 1707.431. For purposes of this section, the following persons shall not be deemed to have effected, participated in, or aided the seller in any way in making, a sale or contract of sale in violation of sections 1707.01 to 1707.45 of the Revised Code:



(A) Any attorney, accountant, or engineer whose performance is incidental to the practice of the person's profession;

(B) Any person, other than an investment adviser, investment adviser representative, bureau of workers' compensation chief investment officer, or state retirement system investment officer, who brings any issuer together with any potential investor, without receiving, directly or indirectly, a commission, fee, or other remuneration based on the sale of any securities by the issuer to the investor. Remuneration received by the person solely for the purpose of offsetting the reasonable out-of-pocket costs incurred by the person shall not be deemed a commission, fee, or other remuneration.

Any person claiming exemption under this division for a publicly advertised meeting shall file a notice with the division of securities indicating an intent to cause or hold such a meeting at least twenty-one days prior to the meeting. The division may, upon receipt of such notice, issue an order denying the availability of an exemption under this division not more than fourteen days after receipt of the notice based on a finding that the applicant is not entitled to the exemption. Notwithstanding the notice described in this section, a failure to file the notice does not create a presumption that a person was participating in or aiding in the making of a sale or contract of sale in violation of this chapter.

(C) Any person whom the division exempts from this provision by rule.

Sec. 1707.44. (A)(1) No person shall engage in any act or practice that violates division (A), (B), or (C) of section 1707.14 of the Revised Code, and no salesperson shall sell securities in this state without being licensed pursuant to section 1707.16 of the Revised Code.

(2) No person shall engage in any act or practice that violates division (A) of section 1707.141 or section 1707.161 of the Revised Code.

(3) No person shall engage in any act or practice that violates section 1707.162 of the Revised Code.

(4) No person shall engage in any act or practice that violates section 1707.164 of the Revised Code.

(B) No person shall knowingly make or cause to be made any false representation concerning a material and relevant fact, in any oral statement or in any prospectus, circular, description, application, or written statement, for any of the following purposes:

(1) Registering securities or transactions, or exempting securities or transactions from registration, under this chapter;

(2) Securing the qualification of any securities under this chapter;

(3) Procuring the licensing of any dealer, salesperson, investment adviser, investment adviser representative, bureau of workers' compensation

chief investment officer, or state retirement system investment officer under this chapter;

(4) Selling any securities in this state;

(5) Advising for compensation, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities;

(6) Submitting a notice filing to the division under division (X) of section 1707.03 or section 1707.092 or 1707.141 of the Revised Code.

(C) No person shall knowingly sell, cause to be sold, offer for sale, or cause to be offered for sale, any security which comes under any of the following descriptions:

(1) Is not exempt under section 1707.02 of the Revised Code, nor the subject matter of one of the transactions exempted in section 1707.03, 1707.04, or 1707.34 of the Revised Code, has not been registered by coordination or qualification, and is not the subject matter of a transaction that has been registered by description;

(2) The prescribed fees for registering by description, by coordination, or by qualification have not been paid in respect to such security;

(3) The person has been notified by the division, or has knowledge of the notice, that the right to buy, sell, or deal in such security has been suspended or revoked, or that the registration by description, by coordination, or by qualification under which it may be sold has been suspended or revoked;

(4) The offer or sale is accompanied by a statement that the security offered or sold has been or is to be in any manner indorsed by the division.

(D) No person who is an officer, director, or trustee of, or a dealer for, any issuer, and who knows such issuer to be insolvent in that the liabilities of the issuer exceed its assets, shall sell any securities of or for any such issuer, without disclosing the fact of the insolvency to the purchaser.

(E) No person with intent to aid in the sale of any securities on behalf of the issuer, shall knowingly make any representation not authorized by such issuer or at material variance with statements and documents filed with the division by such issuer.

(F) No person, with intent to deceive, shall sell, cause to be sold, offer for sale, or cause to be offered for sale, any securities of an insolvent issuer, with knowledge that such issuer is insolvent in that the liabilities of the issuer exceed its assets, taken at their fair market value.

(G) No person in purchasing or selling securities shall knowingly engage in any act or practice that is, in this chapter, declared illegal, defined as fraudulent, or prohibited.

(H) No licensed dealer shall refuse to buy from, sell to, or trade with

any person because the person appears on a blacklist issued by, or is being boycotted by, any foreign corporate or governmental entity, nor sell any securities of or for any issuer who is known in relation to the issuance or sale of the securities to have engaged in such practices.

(I) No dealer in securities, knowing that the dealer's liabilities exceed the reasonable value of the dealer's assets, shall accept money or securities, except in payment of or as security for an existing debt, from a customer who is ignorant of the dealer's insolvency, and thereby cause the customer to lose any part of the customer's securities or the value of those securities, by doing either of the following without the customer's consent:

(1) Pledging, selling, or otherwise disposing of such securities, when the dealer has no lien on or any special property in such securities;

(2) Pledging such securities for more than the amount due, or otherwise disposing of such securities for the dealer's own benefit, when the dealer has a lien or indebtedness on such securities.

It is an affirmative defense to a charge under this division that, at the time the securities involved were pledged, sold, or disposed of, the dealer had in the dealer's possession or control, and available for delivery, securities of the same kinds and in amounts sufficient to satisfy all customers entitled to the securities, upon demand and tender of any amount due on the securities.

(J) No person, with purpose to deceive, shall make, issue, publish, or cause to be made, issued, or published any statement or advertisement as to the value of securities, or as to alleged facts affecting the value of securities, or as to the financial condition of any issuer of securities, when the person knows that such statement or advertisement is false in any material respect.

(K) No person, with purpose to deceive, shall make, record, or publish or cause to be made, recorded, or published, a report of any transaction in securities which is false in any material respect.

(L) No dealer shall engage in any act that violates the provisions of section 15(c) or 15(g) of the "Securities Exchange Act of 1934," 48 Stat. 881, 15 U.S.C.A. 78o(c) or (g), or any rule or regulation promulgated by the securities and exchange commission thereunder. If, subsequent to October 11, 1994, additional amendments to section 15(c) or 15(g) are adopted, or additional rules or regulations are promulgated pursuant to such sections, the division of securities shall, by rule, adopt the amendments, rules, or regulations, unless the division finds that the amendments, rules, or regulations are not necessary for the protection of investors or in the public interest.

(M)(1) No investment adviser or investment adviser representative shall

do any of the following:

- (a) Employ any device, scheme, or artifice to defraud any person;
- (b) Engage in any act, practice, or course of business that operates or would operate as a fraud or deceit upon any person;

- (c) In acting as principal for the investment adviser's or investment adviser representative's own account, knowingly sell any security to or purchase any security from a client, or in acting as salesperson for a person other than such client, knowingly effect any sale or purchase of any security for the account of such client, without disclosing to the client in writing before the completion of the transaction the capacity in which the investment adviser or investment adviser representative is acting and obtaining the consent of the client to the transaction. Division (M)(1)(c) of this section does not apply to any investment adviser registered with the securities and exchange commission under section 203 of the "Investment Advisers Act of 1940," 15 U.S.C. 80b-3, or to any transaction with a customer of a licensed dealer or salesperson if the licensed dealer or salesperson is not acting as an investment adviser or investment adviser representative in relation to the transaction.

- (d) Engage in any act, practice, or course of business that is fraudulent, deceptive, or manipulative. The division of securities may adopt rules reasonably designed to prevent such acts, practices, or courses of business that are fraudulent, deceptive, or manipulative.

- (2) No investment adviser or investment adviser representative licensed or required to be licensed under this chapter shall take or have custody of any securities or funds of any person, except as provided in rules adopted by the division.

- (3) In the solicitation of clients or prospective clients, no person shall make any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made not misleading in light of the circumstances under which the statements were made.

- (N) No person knowingly shall influence, coerce, manipulate, or mislead any person engaged in the preparation, compilation, review, or audit of financial statements to be used in the purchase or sale of securities for the purpose of rendering the financial statements materially misleading.

- (O) No state retirement system investment officer shall do any of the following:

- (1) Employ any device, scheme, or artifice to defraud any state retirement system;

- (2) Engage in any act, practice, or course of business that operates or would operate as a fraud or deceit on any state retirement system;

(3) Engage in any act, practice, or course of business that is fraudulent, deceptive, or manipulative. The division of securities may adopt rules reasonably designed to prevent such acts, practices, or courses of business as are fraudulent, deceptive, or manipulative;

(4) Knowingly fail to comply with any policy adopted regarding the officer established pursuant to section 145.094, 742.104, 3307.043, 3309.043, or ~~5505.066~~ 5505.065 of the Revised Code.

(P) No bureau of workers' compensation chief investment officer shall do any of the following:

(1) Employ any device, scheme, or artifice to defraud the workers' compensation system;

(2) Engage in any act, practice, or course of business that operates or would operate as a fraud or deceit on the workers' compensation system;

(3) Engage in any act, practice, or course of business that is fraudulent, deceptive, or manipulative. The division of securities may adopt rules reasonably designed to prevent such acts, practices, or courses of business as are fraudulent, deceptive, or manipulative;

(4) Knowingly fail to comply with any policy adopted regarding the officer established pursuant to section 4123.441 of the Revised Code.

Sec. 1707.46. The principal executive officer of the division of securities shall be the commissioner of securities, who shall be appointed by the director of commerce. The commissioner of securities shall enforce all the laws and administrative rules enacted or adopted to regulate the sale of bonds, stocks, and other securities and to prevent fraud in such sales. The commissioner also shall enforce all the laws and administrative rules enacted or adopted to regulate investment advisers, investment adviser representatives, ~~and~~ state retirement system investment officers, and the bureau of workers' compensation chief investment officer and to prevent fraud in their acts, practices, and transactions.

The commissioner shall be paid at a rate not less than pay range 47 set out in schedule E-2 of section 124.152 of the Revised Code, to be paid as other operating expenses of the division.

Sec. 1711.52. The advisory council on amusement ride safety shall:

(A) Study any subject pertaining to amusement ride safety, including administrative, engineering, and technical subjects, and make findings and recommendations to the director of agriculture;

(B) Prior to the ~~promulgation~~ adoption of any rules or amendments to those rules under division (B) of section 1711.53 and division (B) of section 1711.551 of the Revised Code, study the proposed rules to be ~~promulgated~~ adopted by the director regarding amusement ride safety, advise the director,

and make findings and recommendations to the director;

(C) Not later than December 31, 2006, prepare and submit a report to the governor, the speaker and the minority leader of the house of representatives, the president and the minority leader of the senate, and the director concerning the advisory council's recommendations for alternative funding sources for the amusement ride safety program established under this chapter.

The director shall make available to the advisory council any information, reports, and studies requested by the advisory council.

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

(2) For each amusement ride found to comply with the rules adopted by the director under division (B) of this section and division (B) of section 1711.551 of the Revised Code, the director shall issue an annual permit, provided that evidence of liability insurance coverage for the amusement ride as required by section 1711.54 of the Revised Code is on file with the department.

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

(B) The director, in accordance with Chapter 119. of the Revised Code, shall adopt rules providing for a schedule of fines, with no fine exceeding

five thousand dollars, for violations of sections 1711.50 to 1711.57 of the Revised Code or any rules adopted under this division and for the classification of amusement rides and rules for the safe operation and inspection of all amusement rides as are necessary for amusement ride safety and for the protection of the general public. Rules adopted by the director for the safe operation and inspection of amusement rides shall be reasonable and based upon generally accepted engineering standards and practices. In adopting rules under this section, the director may adopt by reference, in whole or in part, the national fire code or the national electrical code (NEC) prepared by the national fire protection association, the standards of the American society for testing and materials (ASTM) or the American national standards institute (ANSI), or any other principles, tests, or standards of nationally recognized technical or scientific authorities. Insofar as is practicable and consistent with sections 1711.50 to 1711.57 of the Revised Code, rules adopted under this division shall be consistent with the rules of other states. The department shall cause sections 1711.50 to 1711.57 of the Revised Code and the rules adopted in accordance with this division and division (B) of section 1711.551 of the Revised Code to be published in pamphlet form and a copy to be furnished without charge to each owner of an amusement ride who holds a current permit or is an applicant therefor.

(C) With respect to an application for a permit for an amusement ride, an owner may apply to the director for a waiver or modification of any rule adopted under division (B) of this section if there are practical difficulties or unnecessary hardships for the amusement ride to comply with the rules. Any application shall set forth the reasons for the request. The director, with the approval of the advisory council on amusement ride safety, may waive or modify the application of a rule to any amusement ride if the public safety is secure. Any authorization by the director under this division shall be in writing and shall set forth the conditions under which the waiver or modification is authorized, and the department shall retain separate records of all proceedings under this division.

(D)(1) The director shall employ and provide for training of a chief inspector and additional inspectors and employees as may be necessary to administer and enforce sections 1711.50 to 1711.57 of the Revised Code. The director may appoint or contract with other persons to perform inspections of amusement rides, provided that the persons meet the qualifications for inspectors established by rules adopted under division (B) of this section and are not owners, or employees of owners, of any amusement ride subject to inspection under sections 1711.50 to 1711.57 of

the Revised Code. No person shall inspect an amusement ride who, within six months prior to the date of inspection, was an employee of the owner of the ride.

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

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

(E)(1) Except as otherwise provided in division (E)(1) of this section, the department shall charge the following amusement ride fees:

Permit	<del>\$ 50</del> <u>\$ 150</u>
Annual inspection and reinspection per ride:	
Kiddie rides	\$ 100
Roller coaster	\$ 950
Aerial lifts or bungee jumping facilities	\$ 450
Go karts	\$ 5
Other rides	\$ 160
Midseason operational inspection per ride	\$ 25
Expedited inspection per ride	\$ 100
Failure to cancel scheduled inspection per ride	\$ 100
Failure to have amusement ride ready for inspection per ride	\$100

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

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

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

(2) All fees and fines collected by the department under sections



1711.50 to 1711.57 of the Revised Code shall be deposited in the state treasury to the credit of the amusement ride inspection fund, which is hereby created, and shall be used only for the purpose of administering and enforcing sections 1711.11 and 1711.50 to 1711.57 of the Revised Code.

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

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

(F) A reinspection of an amusement ride shall take place if an accident occurs, if the owner of the ride or the chief officer of the fair, festival, or event where the ride is operating requests a reinspection, or if the reinspection is required by division (F) of section 1711.55 of the Revised Code.

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

(H) The department may annually conduct a midseason operational inspection of every amusement ride upon which it conducts an annual inspection pursuant to division (A) of this section. The midseason operational inspection is in addition to any other inspection or reinspection of the amusement ride as may be required pursuant to sections 1711.50 to 1711.57 of the Revised Code. The owner of an amusement ride shall submit to the department, at the time determined by the department, the midseason

operational inspection fee specified in division (E) of this section. The director, in accordance with Chapter 119. of the Revised Code, shall adopt rules specifying the time period during which the department will conduct midseason operational inspections.

Sec. 1711.531. (A) No person shall operate an amusement ride powered from an electric light company source unless the amusement ride operates through a fusible switch, enclosed circuit breaker, or panelboard that has been:

(1) Rated by the underwriters laboratories for service entrance applications;

(2) Installed in compliance with the national electrical code;

(3) Metered through a meter installed by the electric light company.

(B) An amusement ride owner shall not use an electric light company source as described in division (A) of this section unless the owner has written certification that the fusible switch, enclosed circuit breaker, or panelboard satisfies the requirements established in divisions (A)(1) to (3) of this section and that is issued by a person certified under section 3783.03 or licensed under section 4740.06 of the Revised Code. The owner shall make the certificate available to the director of agriculture upon request.

(C) This section does not apply to either of the following types of amusement rides:

(1) Rides that do not require electrical current;

(2) Rides that the director exempts in rules the director adopts.

(D) A person licensed pursuant to section 4740.06 of the Revised Code, when conducting an inspection pursuant to this section, is not violating section 3783.06 of the Revised Code.

(E) As used in this section, "electric light company" has the same meaning as in section 4905.03 of the Revised Code.

Sec. 1713.03. The Ohio board of regents shall establish standards for certificates of authorization to be issued to institutions as defined in section 1713.01 of the Revised Code, to private institutions exempt from regulation under Chapter 3332. of the Revised Code as prescribed in section 3333.046 of the Revised Code, and to schools holding certificates of registration issued by the state board of career colleges and schools pursuant to division (C) of section 3332.05 of the Revised Code. A certificate of authorization may permit an institution or school to award one or more types of degrees.

The standards for a certificate of authorization may include, for various types of institutions, schools, or degrees, minimum qualifications for faculty, library, laboratories, and other facilities as adopted and published by the Ohio board of regents. The standards shall be adopted by the board

pursuant to Chapter 119. of the Revised Code.

An institution or school shall apply to the board for a certificate of authorization on forms containing such information as is prescribed by the board. Each institution or school with a certificate of authorization shall file an annual report with the board in such form and containing such information as the board prescribes.

The board shall adopt a rule under Chapter 119. of the Revised Code establishing fees to pay the cost of reviewing an application for a certificate of authorization, which the institution or school shall pay when it applies for a certificate of authorization, and establishing fees, which an institution or school shall pay, for any further reviews the board determines necessary upon examining an institution's or school's annual report.

Sec. 1751.03. (A) Each application for a certificate of authority under this chapter shall be verified by an officer or authorized representative of the applicant, shall be in a format prescribed by the superintendent of insurance, and shall set forth or be accompanied by the following:

(1) A certified copy of the applicant's articles of incorporation and all amendments to the articles of incorporation;

(2) A copy of any regulations adopted for the government of the corporation, any bylaws, and any similar documents, and a copy of all amendments to these regulations, bylaws, and documents. The corporate secretary shall certify that these regulations, bylaws, documents, and amendments have been properly adopted or approved.

(3) A list of the names, addresses, and official positions of the persons responsible for the conduct of the applicant, including all members of the board, the principal officers, and the person responsible for completing or filing financial statements with the department of insurance, accompanied by a completed original biographical affidavit and release of information for each of these persons on forms acceptable to the department;

(4) A full and complete disclosure of the extent and nature of any contractual or other financial arrangement between the applicant and any provider or a person listed in division (A)(3) of this section, including, but not limited to, a full and complete disclosure of the financial interest held by any such provider or person in any health care facility, provider, or insurer that has entered into a financial relationship with the health insuring corporation;

(5) A description of the applicant, its facilities, and its personnel, including, but not limited to, the location, hours of operation, and telephone numbers of all contracted facilities;

(6) The applicant's projected annual enrollee population over a

three-year period;

(7) A clear and specific description of the health care plan or plans to be used by the applicant, including a description of the proposed providers, procedures for accessing care, and the form of all proposed and existing contracts relating to the administration, delivery, or financing of health care services;

(8) A copy of each type of evidence of coverage and identification card or similar document to be issued to subscribers;

(9) A copy of each type of individual or group policy, contract, or agreement to be used;

(10) The schedule of the proposed contractual periodic prepayments or premium rates, or both, accompanied by appropriate supporting data;

(11) A financial plan which provides a three-year projection of operating results, including the projected expenses, income, and sources of working capital;

(12) The enrollee complaint procedure to be utilized as required under section 1751.19 of the Revised Code;

(13) A description of the procedures and programs to be implemented on an ongoing basis to assure the quality of health care services delivered to enrollees, including, if applicable, a description of a quality assurance program complying with the requirements of sections 1751.73 to 1751.75 of the Revised Code;

(14) A statement describing the geographic area or areas to be served, by county;

(15) A copy of all solicitation documents;

(16) A balance sheet and other financial statements showing the applicant's assets, liabilities, income, and other sources of financial support;

(17) A description of the nature and extent of any reinsurance program to be implemented, and a demonstration that errors and omission insurance and, if appropriate, fidelity insurance, will be in place upon the applicant's receipt of a certificate of authority;

(18) Copies of all proposed or in force related-party or intercompany agreements with an explanation of the financial impact of these agreements on the applicant. If the applicant intends to enter into a contract for managerial or administrative services, with either an affiliated or an unaffiliated person, the applicant shall provide a copy of the contract and a detailed description of the person to provide these services. The description shall include that person's experience in managing or administering health care plans, a copy of that person's most recent audited financial statement, and a completed biographical affidavit on a form acceptable to the

superintendent for each of that person's principal officers and board members and for any additional employee to be directly involved in providing managerial or administrative services to the health insuring corporation. If the person to provide managerial or administrative services is affiliated with the health insuring corporation, the contract must provide for payment for services based on actual costs.

(19) A statement from the applicant's board that the admitted assets of the applicant have not been and will not be pledged or hypothecated;

(20) A statement from the applicant's board that the applicant will submit monthly financial statements during the first year of operations;

(21) The name and address of the applicant's Ohio statutory agent for service of process, notice, or demand;

(22) Copies of all documents the applicant filed with the secretary of state;

(23) The location of those books and records of the applicant that must be maintained, which books and records shall be maintained in Ohio if the applicant is a domestic corporation, and which may be maintained either in the applicant's state of domicile or in Ohio if the applicant is a foreign corporation;

(24) The applicant's federal identification number, corporate address, and mailing address;

(25) An internal and external organizational chart;

(26) A list of the assets representing the initial net worth of the applicant;

(27) If the applicant has a parent company, the parent company's guaranty, on a form acceptable to the superintendent, that the applicant will maintain Ohio's minimum net worth. If no parent company exists, a statement regarding the availability of future funds if needed.

(28) The names and addresses of the applicant's actuary and external auditors;

(29) If the applicant is a foreign corporation, a copy of the most recent financial statements filed with the insurance regulatory agency in the applicant's state of domicile;

(30) If the applicant is a foreign corporation, a statement from the insurance regulatory agency of the applicant's state of domicile stating that the regulatory agency has no objection to the applicant applying for an Ohio license and that the applicant is in good standing in the applicant's state of domicile;

(31) Any other information that the superintendent may require;

(32) Documentation acceptable to the superintendent of the bond or

securities required by section 1751.271 of the Revised Code.

(B)(1) A health insuring corporation, unless otherwise provided for in this chapter or in section 3901.321 of the Revised Code, shall file a timely notice with the superintendent describing any change to the corporation's articles of incorporation or regulations, or any major modification to its operations as set out in the information required by division (A) of this section that affects any of the following:

- (a) The solvency of the health insuring corporation;
- (b) The health insuring corporation's continued provision of services that it has contracted to provide;
- (c) The manner in which the health insuring corporation conducts its business.

(2) If the change or modification is to be the result of an action to be taken by the health insuring corporation, the notice shall be filed with the superintendent prior to the health insuring corporation taking the action. The action shall be deemed approved if the superintendent does not disapprove it within sixty days of filing.

(3) The filing of a notice pursuant to division (B)(1) or (2) of this section shall also serve as the submission of a notice when required for the superintendent's review for purposes of section 3901.341 of the Revised Code, if the notice contains all of the information that section 3901.341 of the Revised Code requires for such submissions and a copy of any written agreement. The filing of such a notice, for the purpose of satisfying this division and section 3901.341 of the Revised Code, shall be subject to the sixty-day review period of division (B)(2) of this section.

(C)(1) No health insuring corporation shall expand its approved service area until a copy of the request for expansion, accompanied by documentation of the network of providers, forms of all proposed or existing provider contracts relating to the delivery of health care services, a schedule of proposed contractual periodic prepayments and premium rates for group contracts accompanied by appropriate supporting data, enrollment projections, plan of operation, and any other changes have been filed with the superintendent.

(2) Within ten calendar days after receipt of a complete filing under division (C)(1) of this section, the superintendent shall refer the appropriate jurisdictional issues to the director of health if required pursuant to section 1751.04 of the Revised Code.

(3) Within seventy-five days after the superintendent's receipt of a complete filing under division (C)(1) of this section, the superintendent shall determine whether the plan for expansion is lawful, fair, and reasonable.

~~The~~ If a referral is required pursuant to section 1751.04 of the Revised Code, the superintendent may not make a determination until the superintendent has received the director's certification of compliance, which the director shall furnish within forty-five days after ~~the~~ referral under division (C)(2) of this section. The director shall not certify that the requirements of section 1751.04 of the Revised Code are not met, unless the applicant has been given an opportunity for a hearing as provided in division (D) of section 1751.04 of the Revised Code. The forty-five-day and seventy-five-day review periods provided for in division (C)(3) of this section shall cease to run as of the date on which the notice of the applicant's right to request a hearing is mailed and shall remain suspended until the director issues a final certification.

(4) If the superintendent has not approved or disapproved all or a portion of a service area expansion within the seventy-five-day period provided for in division (C)(3) of this section, the filing shall be deemed approved.

(5) Disapproval of all or a portion of the filing shall be effected by written notice, which shall state the grounds for the order of disapproval and shall be given in accordance with Chapter 119. of the Revised Code.

Sec. 1751.04. (A) ~~Upon~~ Except as provided by division (F) of this section, upon the receipt by the superintendent of insurance of a complete application for a certificate of authority to establish or operate a health insuring corporation, which application sets forth or is accompanied by the information and documents required by division (A) of section 1751.03 of the Revised Code, the superintendent shall transmit copies of the application and accompanying documents to the director of health.

(B) The director shall review the application and accompanying documents and make findings as to whether the applicant for a certificate of authority has done all of the following with respect to any basic health care services and supplemental health care services to be furnished:

(1) Demonstrated the willingness and potential ability to ensure that all basic health care services and supplemental health care services described in the evidence of coverage will be provided to all its enrollees as promptly as is appropriate and in a manner that assures continuity;

(2) Made effective arrangements to ensure that its enrollees have reliable access to qualified providers in those specialties that are generally available in the geographic area or areas to be served by the applicant and that are necessary to provide all basic health care services and supplemental health care services described in the evidence of coverage;

(3) Made appropriate arrangements for the availability of short-term

health care services in emergencies within the geographic area or areas to be served by the applicant, twenty-four hours per day, seven days per week, and for the provision of adequate coverage whenever an out-of-area emergency arises;

(4) Made appropriate arrangements for an ongoing evaluation and assurance of the quality of health care services provided to enrollees, including, if applicable, the development of a quality assurance program complying with the requirements of sections 1751.73 to 1751.75 of the Revised Code, and the adequacy of the personnel, facilities, and equipment by or through which the services are rendered;

(5) Developed a procedure to gather and report statistics relating to the cost and effectiveness of its operations, the pattern of utilization of its services, and the quality, availability, and accessibility of its services.

(C) Within ninety days of the director's receipt of the application for issuance of a certificate of authority, the director shall certify to the superintendent whether or not the applicant meets the requirements of division (B) of this section and sections 3702.51 to 3702.62 of the Revised Code. If the director certifies that the applicant does not meet these requirements, the director shall specify in what respects it is deficient. However, the director shall not certify that the requirements of this section are not met unless the applicant has been given an opportunity for a hearing.

(D) If the applicant requests a hearing, the director shall hold a hearing before certifying that the applicant does not meet the requirements of this section. The hearing shall be held in accordance with Chapter 119. of the Revised Code.

(E) The ninety-day review period provided for under division (C) of this section shall cease to run as of the date on which the notice of the applicant's right to request a hearing is mailed and shall remain suspended until the director issues a final certification order.

(F) Nothing in this section requires the director to review or make findings with regard to an application and accompanying documents to establish or operate a health insuring corporation to cover solely recipients of assistance under the medicaid program operated pursuant to Chapter 5111. of the Revised Code.

Sec. 1751.05. (A) The superintendent of insurance shall issue or deny a certificate of authority to ~~establish or operate a~~ health insuring corporations within the deadlines specified as follows:

(1) For a health insuring corporation ~~to any corporation~~ filing an application pursuant to section 1751.03 of the Revised Code ~~within~~, forty-five days of from the superintendent's receipt of the certification from



the director of health under division (C) of section 1751.04 of the Revised Code;

(2) For a health insuring corporation that covers solely recipients of assistance under the medicaid program operated pursuant to Chapter 5111. of the Revised Code, one hundred thirty-five days from the superintendent's receipt of a complete application and accompanying documents.

(B) A certificate of authority shall be issued upon payment of the application fee prescribed in section 1751.44 of the Revised Code if the superintendent is satisfied that the following conditions are met:

(1) The persons responsible for the conduct of the affairs of the applicant are competent, trustworthy, and possess good reputations.

(2) The director certifies, in accordance with division (C) of section 1751.04 of the Revised Code, that the organization's proposed plan of operation meets the requirements of division (B) of that section and sections 3702.51 to 3702.62 of the Revised Code. If, after the director has certified compliance, the application is amended in a manner that affects its approval under section 1751.04 of the Revised Code, the superintendent shall request the director to review and recertify the amended plan of operation. Within forty-five days of receipt of the amended plan from the superintendent, the director shall certify to the superintendent, pursuant to section 1751.04 of the Revised Code, whether or not the amended plan meets the requirements of section 1751.04 of the Revised Code. The superintendent's forty-five-day review period shall cease to run as of the date on which the amended plan is transmitted to the director and shall remain suspended until the superintendent receives a new certification from the director.

(3) The applicant constitutes an appropriate mechanism to effectively provide or arrange for the provision of the basic health care services, supplemental health care services, or specialty health care services to be provided to enrollees.

(4) The applicant is financially responsible, complies with section 1751.28 of the Revised Code, and may reasonably be expected to meet its obligations to enrollees and prospective enrollees. In making this determination, the superintendent may consider:

(a) The financial soundness of the applicant's arrangements for health care services, including the applicant's proposed contractual periodic prepayments or premiums and the use of copayments and deductibles;

(b) The adequacy of working capital;

(c) Any agreement with an insurer, a government, or any other person for insuring the payment of the cost of health care services or providing for automatic applicability of an alternative coverage in the event of

discontinuance of the health insuring corporation's operations;

(d) Any agreement with providers or health care facilities for the provision of health care services;

(e) Any deposit of securities submitted in accordance with section 1751.27 of the Revised Code as a guarantee that the obligations will be performed.

(5) The applicant has submitted documentation of an arrangement to provide health care services to its enrollees until the expiration of the enrollees' contracts with the applicant if a health care plan or the operations of the health insuring corporation are discontinued prior to the expiration of the enrollees' contracts. An arrangement to provide health care services may be made by using any one, or any combination, of the following methods:

(a) The maintenance of insolvency insurance;

(b) A provision in contracts with providers and health care facilities, but no health insuring corporation shall rely solely on such a provision for more than thirty days;

(c) An agreement with other health insuring corporations or insurers, providing enrollees with automatic conversion rights upon the discontinuation of a health care plan or the health insuring corporation's operations;

(d) Such other methods as approved by the superintendent.

(6) Nothing in the applicant's proposed method of operation, as shown by the information submitted pursuant to section 1751.03 of the Revised Code or by independent investigation, will cause harm to an enrollee or to the public at large, as determined by the superintendent.

(7) Any deficiencies certified by the director have been corrected.

(8) The applicant has deposited securities as set forth in section 1751.27 of the Revised Code.

~~(B)(C)~~ If an applicant elects to fulfill the requirements of division (A)(5) of this section through an agreement with other health insuring corporations or insurers, the agreement shall require those health insuring corporations or insurers to give thirty days' notice to the superintendent prior to cancellation or discontinuation of the agreement for any reason.

~~(C)(D)~~ A certificate of authority shall be denied only after compliance with the requirements of section 1751.36 of the Revised Code.

Sec. 1751.271. (A) Each health insuring corporation that provides coverage to medicaid recipients shall post a performance bond in the amount of three million dollars as security to fulfill the obligations of the health insuring corporation to pay claims of contracted providers for covered health care services provided to medicaid recipients. The bond shall be

payable to the department of insurance in the event that the health insuring corporation is placed in rehabilitation or liquidation proceedings under Chapter 3903. of the Revised Code, and shall become a special deposit subject to section 3903.14 or 3903.421 of the Revised Code, as applicable. In lieu of the performance bond, a medicaid health insuring corporation may deposit securities with the superintendent of insurance, acceptable to the superintendent, in the amount of three million dollars, to satisfy the bonding requirements of this section. Upon rehabilitation or liquidation, the securities shall become a special deposit subject to sections 3903.14 and 3903.421 of the Revised Code, as applicable. The health insuring corporation shall receive the interest on the deposited securities as long as the health insuring corporation remains solvent.

(B) The bond shall be issued by a surety company licensed with the department of insurance. The bond or deposit, or any replacement bond or deposit, shall be in a form acceptable to the superintendent, and shall remain in effect during the duration of the medicaid health insuring corporation's license and thereafter until all claims against the medicaid health insuring corporation have been paid in full.

(C) Documentation of the bond acceptable to the superintendent of insurance shall be filed with the superintendent prior to the issuance of a certificate of authority. Annually, thirty days prior to the renewal of its certificate of authority, every medicaid health insuring corporation shall furnish the superintendent of insurance with evidence that the required bond is still in effect.

(D) As used in this section:

(1) "Contracted provider" means a provider that has a contract with a medicaid health insuring corporation to provide covered health care services to medicaid recipients.

(2) "Medicaid health insuring corporation" means a health insuring corporation that provides health insurance coverage or otherwise assumes claims liabilities for medicaid recipients.

(3) "Medicaid recipient" means a person eligible for assistance under the medicaid program operated pursuant to Chapter 5111. of the Revised Code.

Sec. 1901.26. (A) Subject to division (E) of this section, costs in a municipal court shall be fixed and taxed as follows:

(1) The municipal court shall require an advance deposit for the filing of any new civil action or proceeding when required by division (A)(9) of this section, and in all other cases, by rule, shall establish a schedule of fees and costs to be taxed in any civil or criminal action or proceeding.

(2) The municipal court, by rule, may require an advance deposit for the

filing of any civil action or proceeding and publication fees as provided in section 2701.09 of the Revised Code. The court may waive the requirement for advance deposit upon affidavit or other evidence that a party is unable to make the required deposit.

(3) When a jury trial is demanded in any civil action or proceeding, the party making the demand may be required to make an advance deposit as fixed by rule of court, unless, upon affidavit or other evidence, the court concludes that the party is unable to make the required deposit. If a jury is called, the fees of a jury shall be taxed as costs.

(4) In any civil or criminal action or proceeding, witnesses' fees shall be fixed in accordance with sections 2335.06 and 2335.08 of the Revised Code.

(5) A reasonable charge for driving, towing, carting, storing, keeping, and preserving motor vehicles and other personal property recovered or seized in any proceeding may be taxed as part of the costs in a trial of the cause, in an amount that shall be fixed by rule of court.

(6) Chattel property seized under any writ or process issued by the court shall be preserved pending final disposition for the benefit of all persons interested and may be placed in storage when necessary or proper for that preservation. The custodian of any chattel property so stored shall not be required to part with the possession of the property until a reasonable charge, to be fixed by the court, is paid.

(7) The municipal court, as it determines, may refund all deposits and advance payments of fees and costs, including those for jurors and summoning jurors, when they have been paid by the losing party.

(8) Charges for the publication of legal notices required by statute or order of court may be taxed as part of the costs, as provided by section 7.13 of the Revised Code.

(B)(1) The municipal court may determine that, for the efficient operation of the court, additional funds are necessary to acquire and pay for special projects of the court including, but not limited to, the acquisition of additional facilities or the rehabilitation of existing facilities, the acquisition of equipment, the hiring and training of staff, community service programs, mediation or dispute resolution services, the employment of magistrates, the training and education of judges, acting judges, and magistrates, and other related services. Upon that determination, the court by rule may charge a fee, in addition to all other court costs, on the filing of each criminal cause, civil action or proceeding, or judgment by confession.

If the municipal court offers a special program or service in cases of a specific type, the municipal court by rule may assess an additional charge in a case of that type, over and above court costs, to cover the special program

or service. The municipal court shall adjust the special assessment periodically, but not retroactively, so that the amount assessed in those cases does not exceed the actual cost of providing the service or program.

All moneys collected under division (B) of this section shall be paid to the county treasurer if the court is a county-operated municipal court or to the city treasurer if the court is not a county-operated municipal court for deposit into either a general special projects fund or a fund established for a specific special project. Moneys from a fund of that nature shall be disbursed upon an order of the court in an amount no greater than the actual cost to the court of a project. If a specific fund is terminated because of the discontinuance of a program or service established under division (B) of this section, the municipal court may order that moneys remaining in the fund be transferred to an account established under this division for a similar purpose.

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

(a) "Criminal cause" means a charge alleging the violation of a statute or ordinance, or subsection of a statute or ordinance, that requires a separate finding of fact or a separate plea before disposition and of which the defendant may be found guilty, whether filed as part of a multiple charge on a single summons, citation, or complaint or as a separate charge on a single summons, citation, or complaint. "Criminal cause" does not include separate violations of the same statute or ordinance, or subsection of the same statute or ordinance, unless each charge is filed on a separate summons, citation, or complaint.

(b) "Civil action or proceeding" means any civil litigation that must be determined by judgment entry.

(C) The municipal court shall collect in all its divisions except the small claims division the sum of ~~fifteen~~ twenty-six dollars as additional filing fees in each new civil action or proceeding for the charitable public purpose of providing financial assistance to legal aid societies that operate within the state and to support the office of the state public defender. The municipal court shall collect in its small claims division the sum of ~~seven~~ eleven dollars as additional filing fees in each new civil action or proceeding for the charitable public purpose of providing financial assistance to legal aid societies that operate within the state and to support the office of the state public defender. This division does not apply to any execution on a judgment, proceeding in aid of execution, or other post-judgment proceeding arising out of a civil action. The filing fees required to be collected under this division shall be in addition to any other court costs imposed in the action or proceeding and shall be collected at the time of the

filing of the action or proceeding. The court shall not waive the payment of the additional filing fees in a new civil action or proceeding unless the court waives the advanced payment of all filing fees in the action or proceeding. All such moneys collected during a month shall be transmitted on or before the first business twentieth day of each the following month by the clerk of the court to the treasurer of state in a manner prescribed by the treasurer of state or by the Ohio legal assistance foundation. ~~The moneys then shall be deposited by the~~ treasurer of state shall deposit four per cent of the funds collected under this division to the credit of the civil case filing fee fund established under section 120.07 of the Revised Code and ninety-six per cent of the funds collected under this division to the credit of the legal aid fund established under section 120.52 of the Revised Code.

The court may retain up to one per cent of the moneys it collects under this division to cover administrative costs, including the hiring of any additional personnel necessary to implement this division.

(D) In the Cleveland municipal court, reasonable charges for investigating titles of real estate to be sold or disposed of under any writ or process of the court may be taxed as part of the costs.

(E) Under the circumstances described in sections 2969.21 to 2969.27 of the Revised Code, the clerk of the municipal court shall charge the fees and perform the other duties specified in those sections.

Sec. 1901.31. The clerk and deputy clerks of a municipal court shall be selected, be compensated, give bond, and have powers and duties as follows:

(A) There shall be a clerk of the court who is appointed or elected as follows:

(1)(a) Except in the Akron, Barberton, Cuyahoga Falls, ~~Medina~~, Toledo, Hamilton county, Portage county, and Wayne county municipal courts, if the population of the territory equals or exceeds one hundred thousand at the regular municipal election immediately preceding the expiration of the term of the present clerk, the clerk shall be nominated and elected by the qualified electors of the territory in the manner that is provided for the nomination and election of judges in section 1901.07 of the Revised Code.

The clerk so elected shall hold office for a term of six years, which term shall commence on the first day of January following the clerk's election and continue until the clerk's successor is elected and qualified.

(b) In the Hamilton county municipal court, the clerk of courts of Hamilton county shall be the clerk of the municipal court and may appoint an assistant clerk who shall receive the compensation, payable out of the treasury of Hamilton county in semimonthly installments, that the board of

county commissioners prescribes. The clerk of courts of Hamilton county, acting as the clerk of the Hamilton county municipal court and assuming the duties of that office, shall receive compensation at one-fourth the rate that is prescribed for the clerks of courts of common pleas as determined in accordance with the population of the county and the rates set forth in sections 325.08 and 325.18 of the Revised Code. This compensation shall be paid from the county treasury in semimonthly installments and is in addition to the annual compensation that is received for the performance of the duties of the clerk of courts of Hamilton county, as provided in sections 325.08 and 325.18 of the Revised Code.

(c) In the Portage county and Wayne county municipal courts, the clerks of courts of Portage county and Wayne county shall be the clerks, respectively, of the Portage county and Wayne county municipal courts and may appoint a chief deputy clerk for each branch that is established pursuant to section 1901.311 of the Revised Code and assistant clerks as the judges of the municipal court determine are necessary, all of whom shall receive the compensation that the legislative authority prescribes. The clerks of courts of Portage county and Wayne county, acting as the clerks of the Portage county and Wayne county municipal courts and assuming the duties of these offices, shall receive compensation payable from the county treasury in semimonthly installments at one-fourth the rate that is prescribed for the clerks of courts of common pleas as determined in accordance with the population of the county and the rates set forth in sections 325.08 and 325.18 of the Revised Code.

(d) Except as otherwise provided in division (A)(1)(d) of this section, in the Akron municipal court, candidates for election to the office of clerk of the court shall be nominated by primary election. The primary election shall be held on the day specified in the charter of the city of Akron for the nomination of municipal officers. Notwithstanding section 3513.257 of the Revised Code, the nominating petitions of independent candidates shall be signed by at least two hundred fifty qualified electors of the territory of the court.

The candidates shall file a declaration of candidacy and petition, or a nominating petition, whichever is applicable, not later than four p.m. of the seventy-fifth day before the day of the primary election, in the form prescribed by section 3513.07 or 3513.261 of the Revised Code. The declaration of candidacy and petition, or the nominating petition, shall conform to the applicable requirements of section 3513.05 or 3513.257 of the Revised Code.

If no valid declaration of candidacy and petition is filed by any person

for nomination as a candidate of a particular political party for election to the office of clerk of the Akron municipal court, a primary election shall not be held for the purpose of nominating a candidate of that party for election to that office. If only one person files a valid declaration of candidacy and petition for nomination as a candidate of a particular political party for election to that office, a primary election shall not be held for the purpose of nominating a candidate of that party for election to that office, and the candidate shall be issued a certificate of nomination in the manner set forth in section 3513.02 of the Revised Code.

Declarations of candidacy and petitions, nominating petitions, and certificates of nomination for the office of clerk of the Akron municipal court shall contain a designation of the term for which the candidate seeks election. At the following regular municipal election, all candidates for the office shall be submitted to the qualified electors of the territory of the court in the manner that is provided in section 1901.07 of the Revised Code for the election of the judges of the court. The clerk so elected shall hold office for a term of six years, which term shall commence on the first day of January following the clerk's election and continue until the clerk's successor is elected and qualified.

~~(e) Irrespective of the population of the territory of the Medina municipal court, the clerk of that court shall be appointed pursuant to division (A)(2)(a) of this section by the judges of that court, shall hold office until the clerk's successor is similarly appointed and qualified, and shall receive pursuant to division (C) of this section the annual compensation that the legislative authority prescribes and that is payable in semimonthly installments from the same sources and in the same manner as provided in section 1901.11 of the Revised Code.~~

~~(f)~~ Except as otherwise provided in division (A)(1)~~(f)~~(e) of this section, in the Barberton municipal court, candidates for election to the office of clerk of the court shall be nominated by primary election. The primary election shall be held on the day specified in the charter of the city of Barberton for the nomination of municipal officers. Notwithstanding section 3513.257 of the Revised Code, the nominating petitions of independent candidates shall be signed by at least two hundred fifty qualified electors of the territory of the court.

The candidates shall file a declaration of candidacy and petition, or a nominating petition, whichever is applicable, not later than four p.m. of the seventy-fifth day before the day of the primary election, in the form prescribed by section 3513.07 or 3513.261 of the Revised Code. The declaration of candidacy and petition, or the nominating petition, shall



conform to the applicable requirements of section 3513.05 or 3513.257 of the Revised Code.

If no valid declaration of candidacy and petition is filed by any person for nomination as a candidate of a particular political party for election to the office of clerk of the Barberton municipal court, a primary election shall not be held for the purpose of nominating a candidate of that party for election to that office. If only one person files a valid declaration of candidacy and petition for nomination as a candidate of a particular political party for election to that office, a primary election shall not be held for the purpose of nominating a candidate of that party for election to that office, and the candidate shall be issued a certificate of nomination in the manner set forth in section 3513.02 of the Revised Code.

Declarations of candidacy and petitions, nominating petitions, and certificates of nomination for the office of clerk of the Barberton municipal court shall contain a designation of the term for which the candidate seeks election. At the following regular municipal election, all candidates for the office shall be submitted to the qualified electors of the territory of the court in the manner that is provided in section 1901.07 of the Revised Code for the election of the judges of the court. The clerk so elected shall hold office for a term of six years, which term shall commence on the first day of January following the clerk's election and continue until the clerk's successor is elected and qualified.

~~(g)(f)~~ Except as otherwise provided in division (A)(1)~~(g)(f)~~ of this section, in the Cuyahoga Falls municipal court, candidates for election to the office of clerk of the court shall be nominated by primary election. The primary election shall be held on the day specified in the charter of the city of Cuyahoga Falls for the nomination of municipal officers. Notwithstanding section 3513.257 of the Revised Code, the nominating petitions of independent candidates shall be signed by at least two hundred fifty qualified electors of the territory of the court.

The candidates shall file a declaration of candidacy and petition, or a nominating petition, whichever is applicable, not later than four p.m. of the seventy-fifth day before the day of the primary election, in the form prescribed by section 3513.07 or 3513.261 of the Revised Code. The declaration of candidacy and petition, or the nominating petition, shall conform to the applicable requirements of section 3513.05 or 3513.257 of the Revised Code.

If no valid declaration of candidacy and petition is filed by any person for nomination as a candidate of a particular political party for election to the office of clerk of the Cuyahoga Falls municipal court, a primary election

shall not be held for the purpose of nominating a candidate of that party for election to that office. If only one person files a valid declaration of candidacy and petition for nomination as a candidate of a particular political party for election to that office, a primary election shall not be held for the purpose of nominating a candidate of that party for election to that office, and the candidate shall be issued a certificate of nomination in the manner set forth in section 3513.02 of the Revised Code.

Declarations of candidacy and petitions, nominating petitions, and certificates of nomination for the office of clerk of the Cuyahoga Falls municipal court shall contain a designation of the term for which the candidate seeks election. At the following regular municipal election, all candidates for the office shall be submitted to the qualified electors of the territory of the court in the manner that is provided in section 1901.07 of the Revised Code for the election of the judges of the court. The clerk so elected shall hold office for a term of six years, which term shall commence on the first day of January following the clerk's election and continue until the clerk's successor is elected and qualified.

~~(h)~~(g) Except as otherwise provided in division (A)(1)~~(h)~~(g) of this section, in the Toledo municipal court, candidates for election to the office of clerk of the court shall be nominated by primary election. The primary election shall be held on the day specified in the charter of the city of Toledo for the nomination of municipal officers. Notwithstanding section 3513.257 of the Revised Code, the nominating petitions of independent candidates shall be signed by at least two hundred fifty qualified electors of the territory of the court.

The candidates shall file a declaration of candidacy and petition, or a nominating petition, whichever is applicable, not later than four p.m. of the seventy-fifth day before the day of the primary election, in the form prescribed by section 3513.07 or 3513.261 of the Revised Code. The declaration of candidacy and petition, or the nominating petition, shall conform to the applicable requirements of section 3513.05 or 3513.257 of the Revised Code.

If no valid declaration of candidacy and petition is filed by any person for nomination as a candidate of a particular political party for election to the office of clerk of the Toledo municipal court, a primary election shall not be held for the purpose of nominating a candidate of that party for election to that office. If only one person files a valid declaration of candidacy and petition for nomination as a candidate of a particular political party for election to that office, a primary election shall not be held for the purpose of nominating a candidate of that party for election to that office,

and the candidate shall be issued a certificate of nomination in the manner set forth in section 3513.02 of the Revised Code.

Declarations of candidacy and petitions, nominating petitions, and certificates of nomination for the office of clerk of the Toledo municipal court shall contain a designation of the term for which the candidate seeks election. At the following regular municipal election, all candidates for the office shall be submitted to the qualified electors of the territory of the court in the manner that is provided in section 1901.07 of the Revised Code for the election of the judges of the court. The clerk so elected shall hold office for a term of six years, which term shall commence on the first day of January following the clerk's election and continue until the clerk's successor is elected and qualified.

(2)(a) Except for the Alliance, Auglaize county, Brown county, Columbiana county, Lorain, Massillon, and Youngstown municipal courts, in a municipal court for which the population of the territory is less than one hundred thousand ~~and in the Medina municipal court~~, the clerk shall be appointed by the court, and the clerk shall hold office until the clerk's successor is appointed and qualified.

(b) In the Alliance, Lorain, Massillon, and Youngstown municipal courts, the clerk shall be elected for a term of office as described in division (A)(1)(a) of this section.

(c) In the Auglaize county and Brown county municipal courts, the clerks of courts of Auglaize county and Brown county shall be the clerks, respectively, of the Auglaize county and Brown county municipal courts and may appoint a chief deputy clerk for each branch that is established pursuant to section 1901.311 of the Revised Code, and assistant clerks as the judge of the court determines are necessary, all of whom shall receive the compensation that the legislative authority prescribes. The clerks of courts of Auglaize county and Brown county, acting as the clerks of the Auglaize county and Brown county municipal courts and assuming the duties of these offices, shall receive compensation payable from the county treasury in semimonthly installments at one-fourth the rate that is prescribed for the clerks of courts of common pleas as determined in accordance with the population of the county and the rates set forth in sections 325.08 and 325.18 of the Revised Code.

(d) In the Columbiana county municipal court, the clerk of courts of Columbiana county shall be the clerk of the municipal court, may appoint a chief deputy clerk for each branch office that is established pursuant to section 1901.311 of the Revised Code, and may appoint any assistant clerks that the judges of the court determine are necessary. All of the chief deputy

clerks and assistant clerks shall receive the compensation that the legislative authority prescribes. The clerk of courts of Columbiana county, acting as the clerk of the Columbiana county municipal court and assuming the duties of that office, shall receive compensation payable from the county treasury in semimonthly installments at one-fourth the rate that is prescribed for the clerks of courts of common pleas as determined in accordance with the population of the county and the rates set forth in sections 325.08 and 325.18 of the Revised Code.

(3) During the temporary absence of the clerk due to illness, vacation, or other proper cause, the court may appoint a temporary clerk, who shall be paid the same compensation, have the same authority, and perform the same duties as the clerk.

(B) Except in the Hamilton county, ~~Medina~~, Portage county, and Wayne county municipal courts, if a vacancy occurs in the office of the clerk of the Alliance, Lorain, Massillon, or Youngstown municipal court or occurs in the office of the clerk of a municipal court for which the population of the territory equals or exceeds one hundred thousand because the clerk ceases to hold the office before the end of the clerk's term or because a clerk-elect fails to take office, the vacancy shall be filled, until a successor is elected and qualified, by a person chosen by the residents of the territory of the court who are members of the county central committee of the political party by which the last occupant of that office or the clerk-elect was nominated. Not less than five nor more than fifteen days after a vacancy occurs, those members of that county central committee shall meet to make an appointment to fill the vacancy. At least four days before the date of the meeting, the chairperson or a secretary of the county central committee shall notify each such member of that county central committee by first class mail of the date, time, and place of the meeting and its purpose. A majority of all such members of that county central committee constitutes a quorum, and a majority of the quorum is required to make the appointment. If the office so vacated was occupied or was to be occupied by a person not nominated at a primary election, or if the appointment was not made by the committee members in accordance with this division, the court shall make an appointment to fill the vacancy. A successor shall be elected to fill the office for the unexpired term at the first municipal election that is held more than one hundred twenty days after the vacancy occurred.

(C)(1) In a municipal court, other than the Auglaize county, the Brown county, the Columbiana county, and the Lorain municipal courts, for which the population of the territory is less than one hundred thousand ~~and in the Medina municipal court~~, the clerk of the municipal court shall receive the

annual compensation that the presiding judge of the court prescribes, if the revenue of the court for the preceding calendar year, as certified by the auditor or chief fiscal officer of the municipal corporation in which the court is located or, in the case of a county-operated municipal court, the county auditor, is equal to or greater than the expenditures, including any debt charges, for the operation of the court payable under this chapter from the city treasury or, in the case of a county-operated municipal court, the county treasury for that calendar year, as also certified by the auditor or chief fiscal officer. If the revenue of a municipal court, other than the Auglaize county, the Brown county, the Columbiana county, and the Lorain municipal courts, for which the population of the territory is less than one hundred thousand ~~or the revenue of the Medina municipal court~~ for the preceding calendar year as so certified is not equal to or greater than those expenditures for the operation of the court for that calendar year as so certified, the clerk of a municipal court shall receive the annual compensation that the legislative authority prescribes. As used in this division, "revenue" means the total of all costs and fees that are collected and paid to the city treasury or, in a county-operated municipal court, the county treasury by the clerk of the municipal court under division (F) of this section and all interest received and paid to the city treasury or, in a county-operated municipal court, the county treasury in relation to the costs and fees under division (G) of this section.

(2) In a municipal court, other than the Hamilton county, ~~Medina~~, Portage county, and Wayne county municipal courts, for which the population of the territory is one hundred thousand or more, and in the Lorain municipal court, the clerk of the municipal court shall receive annual compensation in a sum equal to eighty-five per cent of the salary of a judge of the court.

(3) The compensation of a clerk described in division (C)(1) or (2) of this section is payable in semimonthly installments from the same sources and in the same manner as provided in section 1901.11 of the Revised Code.

(D) Before entering upon the duties of the clerk's office, the clerk of a municipal court shall give bond of not less than six thousand dollars to be determined by the judges of the court, conditioned upon the faithful performance of the clerk's duties.

(E) The clerk of a municipal court may do all of the following: administer oaths, take affidavits, and issue executions upon any judgment rendered in the court, including a judgment for unpaid costs; issue, sign, and attach the seal of the court to all writs, process, subpoenas, and papers issuing out of the court; and approve all bonds, sureties, recognizances, and

undertakings fixed by any judge of the court or by law. The clerk may refuse to accept for filing any pleading or paper submitted for filing by a person who has been found to be a vexatious litigator under section 2323.52 of the Revised Code and who has failed to obtain leave to proceed under that section. The clerk shall do all of the following: file and safely keep all journals, records, books, and papers belonging or appertaining to the court; record the proceedings of the court; perform all other duties that the judges of the court may prescribe; and keep a book showing all receipts and disbursements, which book shall be open for public inspection at all times.

The clerk shall prepare and maintain a general index, a docket, and other records that the court, by rule, requires, all of which shall be the public records of the court. In the docket, the clerk shall enter, at the time of the commencement of an action, the names of the parties in full, the names of the counsel, and the nature of the proceedings. Under proper dates, the clerk shall note the filing of the complaint, issuing of summons or other process, returns, and any subsequent pleadings. The clerk also shall enter all reports, verdicts, orders, judgments, and proceedings of the court, clearly specifying the relief granted or orders made in each action. The court may order an extended record of any of the above to be made and entered, under the proper action heading, upon the docket at the request of any party to the case, the expense of which record may be taxed as costs in the case or may be required to be prepaid by the party demanding the record, upon order of the court.

(F) The clerk of a municipal court shall receive, collect, and issue receipts for all costs, fees, fines, bail, and other moneys payable to the office or to any officer of the court. The clerk shall each month disburse to the proper persons or officers, and take receipts for, all costs, fees, fines, bail, and other moneys that the clerk collects. Subject to sections 3375.50 and 4511.193 of the Revised Code and to any other section of the Revised Code that requires a specific manner of disbursement of any moneys received by a municipal court and except for the Hamilton county, Lawrence county, and Ottawa county municipal courts, the clerk shall pay all fines received for violation of municipal ordinances into the treasury of the municipal corporation the ordinance of which was violated and shall pay all fines received for violation of township resolutions adopted pursuant to Chapter 504. of the Revised Code into the treasury of the township the resolution of which was violated. Subject to sections 1901.024 and 4511.193 of the Revised Code, in the Hamilton county, Lawrence county, and Ottawa county municipal courts, the clerk shall pay fifty per cent of the fines received for violation of municipal ordinances and fifty per cent of the fines

received for violation of township resolutions adopted pursuant to Chapter 504. of the Revised Code into the treasury of the county. Subject to sections 3375.50, 3375.53, 4511.19, and 5503.04 of the Revised Code and to any other section of the Revised Code that requires a specific manner of disbursement of any moneys received by a municipal court, the clerk shall pay all fines collected for the violation of state laws into the county treasury. Except in a county-operated municipal court, the clerk shall pay all costs and fees the disbursement of which is not otherwise provided for in the Revised Code into the city treasury. The clerk of a county-operated municipal court shall pay the costs and fees the disbursement of which is not otherwise provided for in the Revised Code into the county treasury. Moneys deposited as security for costs shall be retained pending the litigation. The clerk shall keep a separate account of all receipts and disbursements in civil and criminal cases, which shall be a permanent public record of the office. On the expiration of the term of the clerk, the clerk shall deliver the records to the clerk's successor. The clerk shall have other powers and duties as are prescribed by rule or order of the court.

(G) All moneys paid into a municipal court shall be noted on the record of the case in which they are paid and shall be deposited in a state or national bank, or a domestic savings and loan association, as defined in section 1151.01 of the Revised Code, that is selected by the clerk. Any interest received upon the deposits shall be paid into the city treasury, except that, in a county-operated municipal court, the interest shall be paid into the treasury of the county in which the court is located.

On the first Monday in January of each year, the clerk shall make a list of the titles of all cases in the court that were finally determined more than one year past in which there remains unclaimed in the possession of the clerk any funds, or any part of a deposit for security of costs not consumed by the costs in the case. The clerk shall give notice of the moneys to the parties who are entitled to the moneys or to their attorneys of record. All the moneys remaining unclaimed on the first day of April of each year shall be paid by the clerk to the city treasurer, except that, in a county-operated municipal court, the moneys shall be paid to the treasurer of the county in which the court is located. The treasurer shall pay any part of the moneys at any time to the person who has the right to the moneys upon proper certification of the clerk.

(H) Deputy clerks may be appointed by the clerk and shall receive the compensation, payable in semimonthly installments out of the city treasury, that the clerk may prescribe, except that the compensation of any deputy clerk of a county-operated municipal court shall be paid out of the treasury

of the county in which the court is located. Each deputy clerk shall take an oath of office before entering upon the duties of the deputy clerk's office and, when so qualified, may perform the duties appertaining to the office of the clerk. The clerk may require any of the deputy clerks to give bond of not less than three thousand dollars, conditioned for the faithful performance of the deputy clerk's duties.

(I) For the purposes of this section, whenever the population of the territory of a municipal court falls below one hundred thousand but not below ninety thousand, and the population of the territory prior to the most recent regular federal census exceeded one hundred thousand, the legislative authority of the municipal corporation may declare, by resolution, that the territory shall be considered to have a population of at least one hundred thousand.

(J) The clerk or a deputy clerk shall be in attendance at all sessions of the municipal court, although not necessarily in the courtroom, and may administer oaths to witnesses and jurors and receive verdicts.

Sec. 1907.24. (A) Subject to division (C) of this section, a county court shall fix and tax fees and costs as follows:

(1) The county court shall require an advance deposit for the filing of any new civil action or proceeding when required by division (C) of this section and, in all other cases, shall establish a schedule of fees and costs to be taxed in any civil or criminal action or proceeding.

(2) The county court by rule may require an advance deposit for the filing of a civil action or proceeding and publication fees as provided in section 2701.09 of the Revised Code. The court may waive an advance deposit requirement upon the presentation of an affidavit or other evidence that establishes that a party is unable to make the requisite deposit.

(3) When a party demands a jury trial in a civil action or proceeding, the county court may require the party to make an advance deposit as fixed by rule of court, unless the court concludes, on the basis of an affidavit or other evidence presented by the party, that the party is unable to make the requisite deposit. If a jury is called, the county court shall tax the fees of a jury as costs.

(4) In a civil or criminal action or proceeding, the county court shall fix the fees of witnesses in accordance with sections 2335.06 and 2335.08 of the Revised Code.

(5) A county court may tax as part of the costs in a trial of the cause, in an amount fixed by rule of court, a reasonable charge for driving, towing, carting, storing, keeping, and preserving motor vehicles and other personal property recovered or seized in a proceeding.



(6) The court shall preserve chattel property seized under a writ or process issued by the court pending final disposition for the benefit of all interested persons. The court may place the chattel property in storage when necessary or proper for its preservation. The custodian of chattel property so stored shall not be required to part with the possession of the property until a reasonable charge, to be fixed by the court, is paid.

(7) The county court, as it determines, may refund all deposits and advance payments of fees and costs, including those for jurors and summoning jurors, when they have been paid by the losing party.

(8) The court may tax as part of costs charges for the publication of legal notices required by statute or order of court, as provided by section 7.13 of the Revised Code.

(B)(1) The county court may determine that, for the efficient operation of the court, additional funds are necessary to acquire and pay for special projects of the court including, but not limited to, the acquisition of additional facilities or the rehabilitation of existing facilities, the acquisition of equipment, the hiring and training of staff, community service programs, mediation or dispute resolution services, the employment of magistrates, the training and education of judges, acting judges, and magistrates, and other related services. Upon that determination, the court by rule may charge a fee, in addition to all other court costs, on the filing of each criminal cause, civil action or proceeding, or judgment by confession.

If the county court offers a special program or service in cases of a specific type, the county court by rule may assess an additional charge in a case of that type, over and above court costs, to cover the special program or service. The county court shall adjust the special assessment periodically, but not retroactively, so that the amount assessed in those cases does not exceed the actual cost of providing the service or program.

All moneys collected under division (B) of this section shall be paid to the county treasurer for deposit into either a general special projects fund or a fund established for a specific special project. Moneys from a fund of that nature shall be disbursed upon an order of the court in an amount no greater than the actual cost to the court of a project. If a specific fund is terminated because of the discontinuance of a program or service established under division (B) of this section, the county court may order that moneys remaining in the fund be transferred to an account established under this division for a similar purpose.

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

(a) "Criminal cause" means a charge alleging the violation of a statute or ordinance, or subsection of a statute or ordinance, that requires a separate

finding of fact or a separate plea before disposition and of which the defendant may be found guilty, whether filed as part of a multiple charge on a single summons, citation, or complaint or as a separate charge on a single summons, citation, or complaint. "Criminal cause" does not include separate violations of the same statute or ordinance, or subsection of the same statute or ordinance, unless each charge is filed on a separate summons, citation, or complaint.

(b) "Civil action or proceeding" means any civil litigation that must be determined by judgment entry.

(C) Subject to division (E) of this section, the county court shall collect in all its divisions except the small claims division the sum of ~~fifteen~~ twenty-six dollars as additional filing fees in each new civil action or proceeding for the charitable public purpose of providing financial assistance to legal aid societies that operate within the state and to support the office of the state public defender. Subject to division (E) of this section, the county court shall collect in its small claims division the sum of ~~seven~~ eleven dollars as additional filing fees in each new civil action or proceeding for the charitable public purpose of providing financial assistance to legal aid societies that operate within the state and to support the office of the state public defender. This division does not apply to any execution on a judgment, proceeding in aid of execution, or other post-judgment proceeding arising out of a civil action. The filing fees required to be collected under this division shall be in addition to any other court costs imposed in the action or proceeding and shall be collected at the time of the filing of the action or proceeding. The court shall not waive the payment of the additional filing fees in a new civil action or proceeding unless the court waives the advanced payment of all filing fees in the action or proceeding. All such moneys collected during a month shall be transmitted on or before the twentieth day of the following month by the clerk of the court to the treasurer of state in a manner prescribed by the treasurer of state or by the Ohio legal assistance foundation. ~~The moneys then shall be deposited by the~~ treasurer of state shall deposit four per cent of the funds collected under this division to the credit of the civil case filing fee fund established under section 120.07 of the Revised Code and ninety-six per cent of the funds collected under this division to the credit of the legal aid fund established under section 120.52 of the Revised Code.

The court may retain up to one per cent of the moneys it collects under this division to cover administrative costs, including the hiring of any additional personnel necessary to implement this division.

(D) The county court shall establish by rule a schedule of fees for

miscellaneous services performed by the county court or any of its judges in accordance with law. If judges of the court of common pleas perform similar services, the fees prescribed in the schedule shall not exceed the fees for those services prescribed by the court of common pleas.

(E) Under the circumstances described in sections 2969.21 to 2969.27 of the Revised Code, the clerk of the county court shall charge the fees and perform the other duties specified in those sections.

Sec. 2113.041. (A) The administrator of the estate recovery program established pursuant to section 5111.11 of the Revised Code may present an affidavit to a financial institution requesting that the financial institution release account proceeds to recover the cost of services correctly provided to a medicaid recipient who is subject to the estate recovery program. The affidavit shall include all of the following information:

- (1) The name of the decedent;
- (2) The name of any person who gave notice that the decedent was a medicaid recipient and that person's relationship to the decedent;
- (3) The name of the financial institution;
- (4) The account number;
- (5) A description of the claim for estate recovery;
- (6) The amount of funds to be recovered.

(B) A financial institution may release account proceeds to the administrator of the estate recovery program if all of the following apply:

- (1) The decedent held an account at the financial institution that was in the decedent's name only.
- (2) No estate has been, and it is reasonable to assume that no estate will be, opened for the decedent.
- (3) The decedent has no outstanding debts known to the administrator of the estate recovery program.
- (4) The financial institution has received no objections or has determined that no valid objections to release of proceeds have been received.

(C) If proceeds have been released pursuant to division (B) of this section and the department of job and family services receives notice of a valid claim to the proceeds that has a higher priority under section 2117.25 of the Revised Code than the claim of the estate recovery program, the department may refund the proceeds to the financial institution or pay them to the person or government entity with the claim.

Sec. 2117.061. (A) As used in this section, ~~"person;~~

(1) "Medicaid estate recovery program" means the program instituted under section 5111.11 of the Revised Code.

(2) "Permanently institutionalized individual" has the same meaning as in section 5111.11 of the Revised Code.

(3) "Person responsible for the estate" means the executor, administrator, commissioner, or person who filed pursuant to section 2113.03 of the Revised Code for release from administration of an estate.

(B) If ~~the~~ a decedent, at the time of death, was fifty-five years of age or older at the time of death or a permanently institutionalized individual, the person responsible for ~~an~~ the decedent's estate shall determine whether the decedent was, at any time during the decedent's life, a medicaid recipient of ~~medical assistance~~ under Chapter 5111. of the Revised Code. If the decedent was a medicaid recipient, the person responsible for the estate shall ~~give written notice to that effect~~ submit a properly completed medicaid estate recovery reporting form prescribed under division (D) of this section to the administrator of the medicaid estate recovery program ~~instituted under section 5111.11 of the Revised Code~~ not later than thirty days after the occurrence of any of the following:

(1) The granting of letters testamentary;

(2) The administration of the estate;

(3) The filing of an application for release from administration or summary release from administration.

(C) The person responsible for ~~an~~ the estate shall mark the appropriate box on the appropriate probate form to indicate compliance with the requirements of division (B) of this section.

The probate court shall send a copy of the completed probate form to the administrator of the medicaid estate recovery program.

(D) The administrator of the estate recovery program shall prescribe a medicaid estate recovery reporting form for the purpose of division (B) of this section. The form shall require, at a minimum, that the person responsible for the estate list all of the decedent's real and personal property and other assets that are part of the decedent's estate as defined in section 5111.11 of the Revised Code. The administrator shall include on the form a statement printed in bold letters informing the person responsible for the estate that knowingly making a false statement on the form is falsification under section 2921.13 of the Revised Code, a misdemeanor of the first degree.

(E) The estate recovery program administrator shall present a claim for estate recovery to the person responsible for the estate or the person's legal representative not later than ninety days after the date on which ~~notice~~ the medicaid estate recovery reporting form is received under division (B) of this section or one year after the decedent's death, whichever is later.

Sec. 2151.282. (A) There is hereby created the Ohio court appointed special advocate/guardian ad litem (CASA/GAL) study committee consisting of five members. One member shall be a representative of the Ohio court appointed special advocate/guardian ad litem association appointed by the governor and shall be the chairperson of the committee. One member shall be a member of the Ohio juvenile judges association, appointed by the president of the senate. One member shall be a member of the Ohio state bar association appointed by the speaker of the house of representatives. One member shall be a representative of the office of the state public defender appointed by the minority leader of the senate. One member shall be a representative of the Ohio county commissioner's association appointed by the minority leader of the house of representatives. The members of the committee shall be appointed within sixty days after the effective date of this section. The committee shall do all of the following:

(1) Compile available public data associated with state and local costs of advocating on behalf of children who have been found to be abused, neglected, or dependent children;

(2) Examine the costs in counties that have established and operated an Ohio CASA/GAL association program, and the costs in counties that utilize the county public defender, joint county public defender, or court-appointed counsel, to advocate on behalf of children who have been found to be abused, neglected, or dependent children;

(3) Analyze the total cost of advocating on behalf of children who have been found to be abused, neglected, or dependent children on a per county basis and a per child served basis;

(4) Analyze the cost benefit of having an Ohio CASA/GAL association versus utilizing the county public defender, joint county public defender, or court-appointed counsel to advocate on behalf of children who have been found to be abused, neglected, or dependent children;

(5) Analyze the advocacy services provided to abused children, neglected children, or dependent children by Ohio CASA/GAL association programs versus the advocacy services provided to abused, neglected, or dependent children by county public defenders, joint county public defenders, or court-appointed counsel.

(B) The Ohio CASA/GAL association shall provide staff for the Ohio CASA/GAL study committee and shall pay for any expenses incurred by the study committee. The study committee shall meet within thirty days after the appointment of the members to the study committee.

(C) The Ohio CASA/GAL study committee shall prepare a report containing all relevant data and information that division (A) of this section

requires the study committee to compile, examine, and analyze. The Ohio CASA/GAL study committee shall deliver a final copy of the report to the governor, the speaker of the house of representatives, and the president of the senate on or before July 1, 2007.

Sec. 2151.352. A child, ~~or~~ the child's parents, or custodian, or any other person in loco parentis of ~~such~~ the child is entitled to representation by legal counsel at all stages of the proceedings under this chapter or Chapter 2152. of the Revised Code ~~and if, If, as an indigent person, any such person a party is unable to employ counsel, the party is entitled to have counsel provided for the person pursuant to Chapter 120. of the Revised Code except in civil matters in which the juvenile court is exercising jurisdiction pursuant to division (A)(2), (3), (9), (10), (11), (12), or (13); (B)(2), (3), (4), (5), or (6); (C); (D); or (F)(1) or (2) of section 2151.23 of the Revised Code. If a party appears without counsel, the court shall ascertain whether the party knows of the party's right to counsel and of the party's right to be provided with counsel if the party is an indigent person. The court may continue the case to enable a party to obtain counsel or, to be represented by the county public defender or the joint county public defender and shall provide, or to be appointed~~ counsel upon request pursuant to Chapter 120. of the Revised Code. Counsel must be provided for a child not represented by the child's parent, guardian, or custodian. If the interests of two or more such parties conflict, separate counsel shall be provided for each of them.

Section 2935.14 of the Revised Code applies to any child taken into custody. The parents, custodian, or guardian of such child, and any attorney at law representing them or the child, shall be entitled to visit such child at any reasonable time, be present at any hearing involving the child, and be given reasonable notice of such hearing.

Any report or part thereof concerning such child, which is used in the hearing and is pertinent thereto, shall for good cause shown be made available to any attorney at law representing such child and to any attorney at law representing the parents, custodian, or guardian of such child, upon written request prior to any hearing involving such child.

Sec. 2151.416. (A) Each agency that is required by section 2151.412 of the Revised Code to prepare a case plan for a child shall complete a semiannual administrative review of the case plan no later than six months after the earlier of the date on which the complaint in the case was filed or the child was first placed in shelter care. After the first administrative review, the agency shall complete semiannual administrative reviews no later than every six months. If the court issues an order pursuant to section 2151.414 or 2151.415 of the Revised Code, the agency shall complete an

administrative review no later than six months after the court's order and continue to complete administrative reviews no later than every six months after the first review, except that the court hearing held pursuant to section 2151.417 of the Revised Code may take the place of any administrative review that would otherwise be held at the time of the court hearing. When conducting a review, the child's health and safety shall be the paramount concern.

(B) Each administrative review required by division (A) of this section shall be conducted by a review panel of at least three persons, including, but not limited to, both of the following:

(1) A caseworker with day-to-day responsibility for, or familiarity with, the management of the child's case plan;

(2) A person who is not responsible for the management of the child's case plan or for the delivery of services to the child or the parents, guardian, or custodian of the child.

(C) Each semiannual administrative review shall include, but not be limited to, a joint meeting by the review panel with the parents, guardian, or custodian of the child, the guardian ad litem of the child, and the child's foster care provider and shall include an opportunity for those persons to submit any written materials to be included in the case record of the child. If a parent, guardian, custodian, guardian ad litem, or foster care provider of the child cannot be located after reasonable efforts to do so or declines to participate in the administrative review after being contacted, the agency does not have to include them in the joint meeting.

(D) The agency shall prepare a written summary of the semiannual administrative review that shall include, but not be limited to, all of the following:

(1) A conclusion regarding the safety and appropriateness of the child's foster care placement;

(2) The extent of the compliance with the case plan of all parties;

(3) The extent of progress that has been made toward alleviating the circumstances that required the agency to assume temporary custody of the child;

(4) An estimated date by which the child may be returned to and safely maintained in the child's home or placed for adoption or legal custody;

(5) An updated case plan that includes any changes that the agency is proposing in the case plan;

(6) The recommendation of the agency as to which agency or person should be given custodial rights over the child for the six-month period after the administrative review;

(7) The names of all persons who participated in the administrative review.

(E) The agency shall file the summary with the court no later than seven days after the completion of the administrative review. If the agency proposes a change to the case plan as a result of the administrative review, the agency shall file the proposed change with the court at the time it files the summary. The agency shall give notice of the summary and proposed change in writing before the end of the next day after filing them to all parties and the child's guardian ad litem. All parties and the guardian ad litem shall have seven days after the date the notice is sent to object to and request a hearing on the proposed change.

(1) If the court receives a timely request for a hearing, the court shall schedule a hearing pursuant to section 2151.417 of the Revised Code to be held not later than thirty days after the court receives the request. The court shall give notice of the date, time, and location of the hearing to all parties and the guardian ad litem. The agency may implement the proposed change after the hearing, if the court approves it. The agency shall not implement the proposed change unless it is approved by the court.

(2) If the court does not receive a timely request for a hearing, the court may approve the proposed change without a hearing. If the court approves the proposed change without a hearing, it shall journalize the case plan with the change not later than fourteen days after the change is filed with the court. If the court does not approve the proposed change to the case plan, it shall schedule a review hearing to be held pursuant to section 2151.417 of the Revised Code no later than thirty days after the expiration of the fourteen-day time period and give notice of the date, time, and location of the hearing to all parties and the guardian ad litem of the child. If, despite the requirements of this division and division (D) of section 2151.417 of the Revised Code, the court neither approves and journalizes the proposed change nor conducts a hearing, the agency may implement the proposed change not earlier than fifteen days after it is submitted to the court.

(F) The director of job and family services may adopt rules pursuant to Chapter 119. of the Revised Code for procedures and standard forms for conducting administrative reviews pursuant to this section.

(G) The juvenile court that receives the written summary of the administrative review, upon determining, either from the written summary, case plan, or otherwise, that the custody or care arrangement is not in the best interest of the child, may terminate the custody of an agency and place the child in the custody of another institution or association certified by the department of job and family services under section 5103.03 of the Revised



Code.

(H) The department of job and family services shall report annually to the public and to the general assembly on the results of the review of case plans of each agency ~~and on the results of the summaries submitted to the department under section 3107.10 of the Revised Code.~~ The annual report shall include any information that is required by the department, including, but not limited to, all of the following:

(1) A statistical analysis of the administrative reviews conducted pursuant to this section and section 2151.417 of the Revised Code;

(2) The number of children in temporary or permanent custody for whom an administrative review was conducted, the number of children whose custody status changed during the period, the number of children whose residential placement changed during the period, and the number of residential placement changes for each child during the period;

(3) An analysis of the utilization of public social services by agencies and parents or guardians, and the utilization of the adoption listing service of the department pursuant to section 5103.154 of the Revised Code;

~~(4) A compilation and analysis of data submitted to the department under section 3107.10 of the Revised Code.~~

Sec. 2152.43. (A) A board of county commissioners that provides a detention facility and the board of trustees of a district detention facility may apply to the department of youth services under section 5139.281 of the Revised Code for assistance in defraying the cost of operating and maintaining the facility. The application shall be made on forms prescribed and furnished by the department.

The board of county commissioners of each county that participates in a district detention facility may apply to the department of youth services for assistance in defraying the county's share of the cost of acquisition or construction of the facility, as provided in section 5139.271 of the Revised Code. Application shall be made in accordance with rules adopted by the department. No county shall be reimbursed for expenses incurred in the acquisition or construction of a district detention facility that serves a district having a population of less than one hundred thousand.

(B)(1) The joint boards of county commissioners of district detention facilities shall defray all necessary expenses of the facility not paid from funds made available under section 5139.281 of the Revised Code, through annual assessments of taxes, through gifts, or through other means.

If any county withdraws from a district under division (D) of section 2152.41 of the Revised Code, it shall continue to have levied against its tax duplicate any tax levied by the district during the period in which the county

was a member of the district for current operating expenses, permanent improvements, or the retirement of bonded indebtedness. The levy shall continue to be a levy against the tax duplicate of the county until the time that it expires or is renewed.

(2) The current expenses of maintaining the facility not paid from funds made available under section 5139.281 of the Revised Code or division (C) of this section, and the cost of ordinary repairs to the facility, shall be paid by each county in accordance with one of the following methods as approved by the joint board of county commissioners:

(a) In proportion to the number of children from that county who are maintained in the facility during the year;

(b) By a levy submitted by the joint board of county commissioners under division (A) of section 5705.19 of the Revised Code and approved by the electors of the district;

(c) In proportion to the taxable property of each county, as shown by its tax duplicate;

(d) ~~In any combination of the methods for payment described in division (B)(2)(a), (b), or (c) of this section~~ other method agreed upon by unanimous vote of the joint board of county commissioners.

(C) When any person donates or bequeaths any real or personal property to a county or district detention facility, the juvenile court or the trustees of the facility may accept and use the gift, consistent with the best interest of the institution and the conditions of the gift.

Sec. 2152.74. (A) As used in this section, "DNA analysis" and "DNA specimen" have the same meanings as in section 109.573 of the Revised Code.

(B)(1) A child who is adjudicated a delinquent child for committing an act listed in division (D) of this section and who is committed to the custody of the department of youth services, placed in a detention facility or district detention facility pursuant to division (A)(3) of section 2152.19 of the Revised Code, or placed in a school, camp, institution, or other facility for delinquent children described in division (A)(2) of section 2152.19 of the Revised Code shall submit to a DNA specimen collection procedure administered by the director of youth services if committed to the department or by the chief administrative officer of the detention facility, district detention facility, school, camp, institution, or other facility for delinquent children to which the child was committed or in which the child was placed. If the court commits the child to the department of youth services, the director of youth services shall cause the DNA specimen to be collected from the child during the intake process at an institution operated

by or under the control of the department. If the court commits the child to or places the child in a detention facility, district detention facility, school, camp, institution, or other facility for delinquent children, the chief administrative officer of the detention facility, district detention facility, school, camp, institution, or facility to which the child is committed or in which the child is placed shall cause the DNA specimen to be collected from the child during the intake process for the detention facility, district detention facility, school, camp, institution, or facility. In accordance with division (C) of this section, the director or the chief administrative officer shall cause the DNA specimen to be forwarded to the bureau of criminal identification and investigation no later than fifteen days after the date of the collection of the DNA specimen. The DNA specimen shall be collected from the child in accordance with division (C) of this section.

(2) If a child is adjudicated a delinquent child for committing an act listed in division (D) of this section, is committed to or placed in the department of youth services, a detention facility or district detention facility, or a school, camp, institution, or other facility for delinquent children, and does not submit to a DNA specimen collection procedure pursuant to division (B)(1) of this section, prior to the child's release from the custody of the department of youth services, from the custody of the detention facility or district detention facility, or from the custody of the school, camp, institution, or facility, the child shall submit to, and the director of youth services or the chief administrator of the detention facility, district detention facility, school, camp, institution, or facility to which the child is committed or in which the child was placed shall administer, a DNA specimen collection procedure at the institution operated by or under the control of the department of youth services or at the detention facility, district detention facility, school, camp, institution, or facility to which the child is committed or in which the child was placed. In accordance with division (C) of this section, the director or the chief administrative officer shall cause the DNA specimen to be forwarded to the bureau of criminal identification and investigation no later than fifteen days after the date of the collection of the DNA specimen. The DNA specimen shall be collected in accordance with division (C) of this section.

(C) If the DNA specimen is collected by withdrawing blood from the child or a similarly invasive procedure, a physician, registered nurse, licensed practical nurse, duly licensed clinical laboratory technician, or other qualified medical practitioner shall collect in a medically approved manner the DNA specimen required to be collected pursuant to division (B) of this section. If the DNA specimen is collected by swabbing for buccal cells or a

similarly noninvasive procedure, this section does not require that the DNA specimen be collected by a qualified medical practitioner of that nature. No later than fifteen days after the date of the collection of the DNA specimen, the director of youth services or the chief administrative officer of the detention facility, district detention facility, school, camp, institution, or other facility for delinquent children to which the child is committed or in which the child was placed shall cause the DNA specimen to be forwarded to the bureau of criminal identification and investigation in accordance with procedures established by the superintendent of the bureau under division (H) of section 109.573 of the Revised Code. The bureau shall provide the specimen vials, mailing tubes, labels, postage, and instruction needed for the collection and forwarding of the DNA specimen to the bureau.

(D) The director of youth services and the chief administrative officer of a detention facility, district detention facility, school, camp, institution, or other facility for delinquent children shall cause a DNA specimen to be collected in accordance with divisions (B) and (C) of this section from each child in its custody who is adjudicated a delinquent child for committing any of the following acts:

(1) A violation of section 2903.01, 2903.02, 2903.11, 2905.01, 2907.02, 2907.03, 2907.05, 2911.01, 2911.02, 2911.11, or 2911.12 of the Revised Code;

(2) A violation of section 2907.12 of the Revised Code as it existed prior to September 3, 1996;

(3) An attempt to commit a violation of section 2903.01, 2903.02, 2907.02, 2907.03, or 2907.05 of the Revised Code or to commit a violation of section 2907.12 of the Revised Code as it existed prior to September 3, 1996;

(4) A violation of any law that arose out of the same facts and circumstances and same act as did a charge against the child of a violation of section 2903.01, 2903.02, 2905.01, 2907.02, 2907.03, 2907.05, or 2911.11 of the Revised Code that previously was dismissed or amended or as did a charge against the child of a violation of section 2907.12 of the Revised Code as it existed prior to September 3, 1996, that previously was dismissed or amended;

(5) A violation of section 2905.02 or 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had the violation been committed prior to that date;

(6) A felony violation of any law that arose out of the same facts and circumstances and same act as did a charge against the child of a violation

of section 2903.11, 2911.01, 2911.02, or 2911.12 of the Revised Code that previously was dismissed or amended;

(7) A violation of section 2923.01 of the Revised Code involving a conspiracy to commit a violation of section 2903.01, 2903.02, 2905.01, 2911.01, 2911.02, 2911.11, or 2911.12 of the Revised Code;

(8) A violation of section 2923.03 of the Revised Code involving complicity in committing a violation of section 2903.01, 2903.02, 2903.11, 2905.01, 2907.02, 2907.03, 2907.04, 2907.05, 2911.01, 2911.02, 2911.11, or 2911.12 of the Revised Code or a violation of section 2907.12 of the Revised Code as it existed prior to September 3, 1996.

(E) The director of youth services and the chief administrative officer of a detention facility, district detention facility, school, camp, institution, or other facility for delinquent children is not required to comply with this section in relation to the following acts until the superintendent of the bureau of criminal identification and investigation gives agencies in the juvenile justice system, as defined in section ~~481.54~~ 5502.61 of the Revised Code, in the state official notification that the state DNA laboratory is prepared to accept DNA specimens of that nature:

(1) A violation of section 2903.11, 2911.01, 2911.02, or 2911.12 of the Revised Code;

(2) An attempt to commit a violation of section 2903.01 or 2903.02 of the Revised Code;

(3) A felony violation of any law that arose out of the same facts and circumstances and same act as did a charge against the child of a violation of section 2903.11, 2911.01, 2911.02, or 2911.12 of the Revised Code that previously was dismissed or amended;

(4) A violation of section 2923.01 of the Revised Code involving a conspiracy to commit a violation of section 2903.01, 2903.02, 2905.01, 2911.01, 2911.02, 2911.11, or 2911.12 of the Revised Code;

(5) A violation of section 2923.03 of the Revised Code involving complicity in committing a violation of section 2903.01, 2903.02, 2903.11, 2905.01, 2907.02, 2907.03, 2907.04, 2907.05, 2911.01, 2911.02, 2911.11, or 2911.12 of the Revised Code or a violation of section 2907.12 of the Revised Code as it existed prior to September 3, 1996.

Sec. 2303.201. (A)(1) The court of common pleas of any county may determine that for the efficient operation of the court additional funds are required to computerize the court, to make available computerized legal research services, or to do both. Upon making a determination that additional funds are required for either or both of those purposes, the court shall authorize and direct the clerk of the court of common pleas to charge

one additional fee, not to exceed three dollars, on the filing of each cause of action or appeal under divisions (A), (Q), and (U) of section 2303.20 of the Revised Code.

(2) All fees collected under division (A)(1) of this section shall be paid to the county treasurer. The treasurer shall place the funds from the fees in a separate fund to be disbursed, upon an order of the court, in an amount not greater than the actual cost to the court of procuring and maintaining computerization of the court, computerized legal research services, or both.

(3) If the court determines that the funds in the fund described in division (A)(2) of this section are more than sufficient to satisfy the purpose for which the additional fee described in division (A)(1) of this section was imposed, the court may declare a surplus in the fund and expend those surplus funds for other appropriate technological expenses of the court.

(B)(1) The court of common pleas of any county may determine that, for the efficient operation of the court, additional funds are required to computerize the office of the clerk of the court of common pleas and, upon that determination, authorize and direct the clerk of the court of common pleas to charge an additional fee, not to exceed ten dollars, on the filing of each cause of action or appeal, on the filing, docketing, and endorsing of each certificate of judgment, or on the docketing and indexing of each aid in execution or petition to vacate, revive, or modify a judgment under divisions (A), (P), (Q), (T), and (U) of section 2303.20 of the Revised Code. Subject to division (B)(2) of this section, all moneys collected under division (B)(1) of this section shall be paid to the county treasurer to be disbursed, upon an order of the court of common pleas and subject to appropriation by the board of county commissioners, in an amount no greater than the actual cost to the court of procuring and maintaining computer systems for the office of the clerk of the court of common pleas.

(2) If the court of common pleas of a county makes the determination described in division (B)(1) of this section, the board of county commissioners of that county may issue one or more general obligation bonds for the purpose of procuring and maintaining the computer systems for the office of the clerk of the court of common pleas. In addition to the purposes stated in division (B)(1) of this section for which the moneys collected under that division may be expended, the moneys additionally may be expended to pay debt charges on and financing costs related to any general obligation bonds issued pursuant to division (B)(2) of this section as they become due. General obligation bonds issued pursuant to division (B)(2) of this section are Chapter 133. securities.

(C) The court of common pleas shall collect the sum of ~~fifteen~~

twenty-six dollars as additional filing fees in each new civil action or proceeding for the charitable public purpose of providing financial assistance to legal aid societies that operate within the state and to support the office of the state public defender. This division does not apply to proceedings concerning annulments, dissolutions of marriage, divorces, legal separation, spousal support, marital property or separate property distribution, support, or other domestic relations matters; to a juvenile division of a court of common pleas; to a probate division of a court of common pleas, except that the additional filing fees shall apply to name change, guardianship, ~~and adoption, and decedents' estate~~ proceedings; or to an execution on a judgment, proceeding in aid of execution, or other post-judgment proceeding arising out of a civil action. The filing fees required to be collected under this division shall be in addition to any other filing fees imposed in the action or proceeding and shall be collected at the time of the filing of the action or proceeding. The court shall not waive the payment of the additional filing fees in a new civil action or proceeding unless the court waives the advanced payment of all filing fees in the action or proceeding. All such moneys collected during a month shall be transmitted on or before the twentieth day of the following month by the clerk of the court to the treasurer of state in a manner prescribed by the treasurer of state or by the Ohio legal assistance foundation. ~~The moneys then shall be deposited by the~~ treasurer of state shall deposit four per cent of the funds collected under this division to the credit of the civil case filing fee fund established under section 120.07 of the Revised Code and ninety-six per cent of the funds collected under this division to the credit of the legal aid fund established under section 120.52 of the Revised Code.

The court may retain up to one per cent of the moneys it collects under this division to cover administrative costs, including the hiring of any additional personnel necessary to implement this division.

(D) On and after the thirtieth day after December 9, 1994, the court of common pleas shall collect the sum of thirty-two dollars as additional filing fees in each new action or proceeding for annulment, divorce, or dissolution of marriage for the purpose of funding shelters for victims of domestic violence pursuant to sections 3113.35 to 3113.39 of the Revised Code. The filing fees required to be collected under this division shall be in addition to any other filing fees imposed in the action or proceeding and shall be collected at the time of the filing of the action or proceeding. The court shall not waive the payment of the additional filing fees in a new action or proceeding for annulment, divorce, or dissolution of marriage unless the court waives the advanced payment of all filing fees in the action or

proceeding. On or before the twentieth day of each month, all moneys collected during the immediately preceding month pursuant to this division shall be deposited by the clerk of the court into the county treasury in the special fund used for deposit of additional marriage license fees as described in section 3113.34 of the Revised Code. Upon their deposit into the fund, the moneys shall be retained in the fund and expended only as described in section 3113.34 of the Revised Code.

(E)(1) The court of common pleas may determine that, for the efficient operation of the court, additional funds are necessary to acquire and pay for special projects of the court, including, but not limited to, the acquisition of additional facilities or the rehabilitation of existing facilities, the acquisition of equipment, the hiring and training of staff, community service programs, mediation or dispute resolution services, the employment of magistrates, the training and education of judges, acting judges, and magistrates, and other related services. Upon that determination, the court by rule may charge a fee, in addition to all other court costs, on the filing of each criminal cause, civil action or proceeding, or judgment by confession.

If the court of common pleas offers a special program or service in cases of a specific type, the court by rule may assess an additional charge in a case of that type, over and above court costs, to cover the special program or service. The court shall adjust the special assessment periodically, but not retroactively, so that the amount assessed in those cases does not exceed the actual cost of providing the service or program.

All moneys collected under division (E) of this section shall be paid to the county treasurer for deposit into either a general special projects fund or a fund established for a specific special project. Moneys from a fund of that nature shall be disbursed upon an order of the court in an amount no greater than the actual cost to the court of a project. If a specific fund is terminated because of the discontinuance of a program or service established under division (E) of this section, the court may order that moneys remaining in the fund be transferred to an account established under this division for a similar purpose.

(2) As used in division (E) of this section:

(a) "Criminal cause" means a charge alleging the violation of a statute or ordinance, or subsection of a statute or ordinance, that requires a separate finding of fact or a separate plea before disposition and of which the defendant may be found guilty, whether filed as part of a multiple charge on a single summons, citation, or complaint or as a separate charge on a single summons, citation, or complaint. "Criminal cause" does not include separate violations of the same statute or ordinance, or subsection of the same statute



or ordinance, unless each charge is filed on a separate summons, citation, or complaint.

(b) "Civil action or proceeding" means any civil litigation that must be determined by judgment entry.

Sec. 2305.234. (A) As used in this section:

(1) "Chiropractic claim," "medical claim," and "optometric claim" have the same meanings as in section 2305.113 of the Revised Code.

(2) "Dental claim" has the same meaning as in section 2305.113 of the Revised Code, except that it does not include any claim arising out of a dental operation or any derivative claim for relief that arises out of a dental operation.

(3) "Governmental health care program" has the same meaning as in section 4731.65 of the Revised Code.

(4) "Health care facility or location" means a hospital, clinic, ambulatory surgical facility, office of a health care professional or associated group of health care professionals, training institution for health care professionals, or any other place where medical, dental, or other health-related diagnosis, care, or treatment is provided to a person.

(5) "Health care professional" means any of the following who provide medical, dental, or other health-related diagnosis, care, or treatment:

(a) Physicians authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery;

(b) Registered nurses and licensed practical nurses licensed under Chapter 4723. of the Revised Code and individuals who hold a certificate of authority issued under that chapter that authorizes the practice of nursing as a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner;

(c) Physician assistants authorized to practice under Chapter 4730. of the Revised Code;

(d) Dentists and dental hygienists licensed under Chapter 4715. of the Revised Code;

(e) Physical therapists, physical therapist assistants, occupational therapists, and occupational therapy assistants licensed under Chapter 4755. of the Revised Code;

(f) Chiropractors licensed under Chapter 4734. of the Revised Code;

(g) Optometrists licensed under Chapter 4725. of the Revised Code;

(h) Podiatrists authorized under Chapter 4731. of the Revised Code to practice podiatry;

(i) Dietitians licensed under Chapter 4759. of the Revised Code;

(j) Pharmacists licensed under Chapter 4729. of the Revised Code;

(k) Emergency medical technicians-basic, emergency medical technicians-intermediate, and emergency medical technicians-paramedic, certified under Chapter 4765. of the Revised Code;

(l) Respiratory care professionals licensed under Chapter 4761. of the Revised Code;

(m) Speech-language pathologists and audiologists licensed under Chapter 4753. of the Revised Code.

(6) "Health care worker" means a person other than a health care professional who provides medical, dental, or other health-related care or treatment under the direction of a health care professional with the authority to direct that individual's activities, including medical technicians, medical assistants, dental assistants, orderlies, aides, and individuals acting in similar capacities.

(7) "Indigent and uninsured person" means a person who meets all of the following requirements:

(a) The person's income is not greater than two hundred per cent of the current poverty line as defined by the United States office of management and budget and revised in accordance with section 673(2) of the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C. 9902, as amended.

(b) The person is not eligible to receive medical assistance under Chapter 5111., ~~disability medical assistance under Chapter 5115.~~ of the Revised Code; or assistance under any other governmental health care program.

(c) Either of the following applies:

(i) The person is not a policyholder, certificate holder, insured, contract holder, subscriber, enrollee, member, beneficiary, or other covered individual under a health insurance or health care policy, contract, or plan.

(ii) The person is a policyholder, certificate holder, insured, contract holder, subscriber, enrollee, member, beneficiary, or other covered individual under a health insurance or health care policy, contract, or plan, but the insurer, policy, contract, or plan denies coverage or is the subject of insolvency or bankruptcy proceedings in any jurisdiction.

(8) "Nonprofit health care referral organization" means an entity that is not operated for profit and refers patients to, or arranges for the provision of, health-related diagnosis, care, or treatment by a health care professional or health care worker.

(9) "Operation" means any procedure that involves cutting or otherwise infiltrating human tissue by mechanical means, including surgery, laser surgery, ionizing radiation, therapeutic ultrasound, or the removal of

intraocular foreign bodies. "Operation" does not include the administration of medication by injection, unless the injection is administered in conjunction with a procedure infiltrating human tissue by mechanical means other than the administration of medicine by injection. "Operation" does not include routine dental restorative procedures, the scaling of teeth, or extractions of teeth that are not impacted.

(10) "Tort action" means a civil action for damages for injury, death, or loss to person or property other than a civil action for damages for a breach of contract or another agreement between persons or government entities.

(11) "Volunteer" means an individual who provides any medical, dental, or other health-care related diagnosis, care, or treatment without the expectation of receiving and without receipt of any compensation or other form of remuneration from an indigent and uninsured person, another person on behalf of an indigent and uninsured person, any health care facility or location, any nonprofit health care referral organization, or any other person or government entity.

(12) "Community control sanction" has the same meaning as in section 2929.01 of the Revised Code.

(13) "Deep sedation" means a drug-induced depression of consciousness during which a patient cannot be easily aroused but responds purposefully following repeated or painful stimulation, a patient's ability to independently maintain ventilatory function may be impaired, a patient may require assistance in maintaining a patent airway and spontaneous ventilation may be inadequate, and cardiovascular function is usually maintained.

(14) "General anesthesia" means a drug-induced loss of consciousness during which a patient is not arousable, even by painful stimulation, the ability to independently maintain ventilatory function is often impaired, a patient often requires assistance in maintaining a patent airway, positive pressure ventilation may be required because of depressed spontaneous ventilation or drug-induced depression of neuromuscular function, and cardiovascular function may be impaired.

(B)(1) Subject to divisions (F) and (G)(3) of this section, a health care professional who is a volunteer and complies with division (B)(2) of this section is not liable in damages to any person or government entity in a tort or other civil action, including an action on a medical, dental, chiropractic, optometric, or other health-related claim, for injury, death, or loss to person or property that allegedly arises from an action or omission of the volunteer in the provision to an indigent and uninsured person of medical, dental, or other health-related diagnosis, care, or treatment, including the provision of samples of medicine and other medical products, unless the action or

omission constitutes willful or wanton misconduct.

(2) To qualify for the immunity described in division (B)(1) of this section, a health care professional shall do all of the following prior to providing diagnosis, care, or treatment:

(a) Determine, in good faith, that the indigent and uninsured person is mentally capable of giving informed consent to the provision of the diagnosis, care, or treatment and is not subject to duress or under undue influence;

(b) Inform the person of the provisions of this section, including notifying the person that, by giving informed consent to the provision of the diagnosis, care, or treatment, the person cannot hold the health care professional liable for damages in a tort or other civil action, including an action on a medical, dental, chiropractic, optometric, or other health-related claim, unless the action or omission of the health care professional constitutes willful or wanton misconduct;

(c) Obtain the informed consent of the person and a written waiver, signed by the person or by another individual on behalf of and in the presence of the person, that states that the person is mentally competent to give informed consent and, without being subject to duress or under undue influence, gives informed consent to the provision of the diagnosis, care, or treatment subject to the provisions of this section. A written waiver under division (B)(2)(c) of this section shall state clearly and in conspicuous type that the person or other individual who signs the waiver is signing it with full knowledge that, by giving informed consent to the provision of the diagnosis, care, or treatment, the person cannot bring a tort or other civil action, including an action on a medical, dental, chiropractic, optometric, or other health-related claim, against the health care professional unless the action or omission of the health care professional constitutes willful or wanton misconduct.

(3) A physician or podiatrist who is not covered by medical malpractice insurance, but complies with division (B)(2) of this section, is not required to comply with division (A) of section 4731.143 of the Revised Code.

(C) Subject to divisions (F) and (G)(3) of this section, health care workers who are volunteers are not liable in damages to any person or government entity in a tort or other civil action, including an action upon a medical, dental, chiropractic, optometric, or other health-related claim, for injury, death, or loss to person or property that allegedly arises from an action or omission of the health care worker in the provision to an indigent and uninsured person of medical, dental, or other health-related diagnosis, care, or treatment, unless the action or omission constitutes willful or

wanton misconduct.

(D) Subject to divisions (F) and (G)(3) of this section, a nonprofit health care referral organization is not liable in damages to any person or government entity in a tort or other civil action, including an action on a medical, dental, chiropractic, optometric, or other health-related claim, for injury, death, or loss to person or property that allegedly arises from an action or omission of the nonprofit health care referral organization in referring indigent and uninsured persons to, or arranging for the provision of, medical, dental, or other health-related diagnosis, care, or treatment by a health care professional described in division (B)(1) of this section or a health care worker described in division (C) of this section, unless the action or omission constitutes willful or wanton misconduct.

(E) Subject to divisions (F) and (G)(3) of this section and to the extent that the registration requirements of section 3701.071 of the Revised Code apply, a health care facility or location associated with a health care professional described in division (B)(1) of this section, a health care worker described in division (C) of this section, or a nonprofit health care referral organization described in division (D) of this section is not liable in damages to any person or government entity in a tort or other civil action, including an action on a medical, dental, chiropractic, optometric, or other health-related claim, for injury, death, or loss to person or property that allegedly arises from an action or omission of the health care professional or worker or nonprofit health care referral organization relative to the medical, dental, or other health-related diagnosis, care, or treatment provided to an indigent and uninsured person on behalf of or at the health care facility or location, unless the action or omission constitutes willful or wanton misconduct.

(F)(1) Except as provided in division (F)(2) of this section, the immunities provided by divisions (B), (C), (D), and (E) of this section are not available to a health care professional, health care worker, nonprofit health care referral organization, or health care facility or location if, at the time of an alleged injury, death, or loss to person or property, the health care professionals or health care workers involved are providing one of the following:

(a) Any medical, dental, or other health-related diagnosis, care, or treatment pursuant to a community service work order entered by a court under division (B) of section 2951.02 of the Revised Code or imposed by a court as a community control sanction;

(b) Performance of an operation to which any one of the following applies:

(i) The operation requires the administration of deep sedation or general anesthesia.

(ii) The operation is a procedure that is not typically performed in an office.

(iii) The individual involved is a health care professional, and the operation is beyond the scope of practice or the education, training, and competence, as applicable, of the health care professional.

(c) Delivery of a baby or any other purposeful termination of a human pregnancy.

(2) Division (F)(1) of this section does not apply when a health care professional or health care worker provides medical, dental, or other health-related diagnosis, care, or treatment that is necessary to preserve the life of a person in a medical emergency.

(G)(1) This section does not create a new cause of action or substantive legal right against a health care professional, health care worker, nonprofit health care referral organization, or health care facility or location.

(2) This section does not affect any immunities from civil liability or defenses established by another section of the Revised Code or available at common law to which a health care professional, health care worker, nonprofit health care referral organization, or health care facility or location may be entitled in connection with the provision of emergency or other medical, dental, or other health-related diagnosis, care, or treatment.

(3) This section does not grant an immunity from tort or other civil liability to a health care professional, health care worker, nonprofit health care referral organization, or health care facility or location for actions that are outside the scope of authority of health care professionals or health care workers.

(4) This section does not affect any legal responsibility of a health care professional, health care worker, or nonprofit health care referral organization to comply with any applicable law of this state or rule of an agency of this state.

(5) This section does not affect any legal responsibility of a health care facility or location to comply with any applicable law of this state, rule of an agency of this state, or local code, ordinance, or regulation that pertains to or regulates building, housing, air pollution, water pollution, sanitation, health, fire, zoning, or safety.

Sec. 2305.2341. (A) The medical liability insurance reimbursement program is hereby established. Free clinics, including the clinics' staff and volunteer health care professionals and volunteer health care workers, may participate in the medical liability insurance reimbursement program

established by this section. The coverage provided under the program shall be limited to claims that arise out of the diagnosis, treatment, and care of patients of free clinics, as defined in division (D)(1) of this section.

(B) A free clinic is eligible to receive reimbursement under the medical liability insurance reimbursement program for the premiums that the clinic pays for medical liability insurance coverage for the clinic, its staff, and volunteer health care professionals and health care workers. Free clinics shall register with the department of health by the thirty-first day of January of each year in order to participate in and to obtain reimbursement under the program. Free clinics shall provide all of the following to the department of health at the time of registration:

(1) A statement of the number of volunteer and paid health care professionals and health care workers providing health care services at the free clinic at that time;

(2) A statement of the number of health care services rendered by the free clinic during the previous fiscal year;

(3) A signed form acknowledging that the free clinic agrees to follow its medical liability insurer's risk management and loss prevention policies;

(4) A copy of the medical liability insurance policy purchased by the free clinic, or the policy's declaration page, and documentation of the premiums paid by the clinic.

(C) The department of health shall reimburse free clinics participating in the professional liability insurance reimbursement program for eighty per cent of the premiums that the free clinic pays for medical liability insurance coverage up to twenty thousand dollars. Appropriations to the department of health may be made from the general fund of the state for this purpose.

(D) As used in this section:

(1) "Free clinic" means a nonprofit organization exempt from federal income taxation under section 501(c)(3) of the "Internal Revenue Code of 1986," as amended, or a program component of a nonprofit organization, whose primary mission is to provide health care services for free or for a minimal administrative fee to individuals with limited resources. A free clinic facilitates the delivery of health care services through the use of volunteer health care professionals and voluntary care networks. For this purpose, a free clinic shall comply with all of the following:

(a) If a free clinic does request a minimal administrative fee, a free clinic shall not deny an individual access to its health care services based on an individual's ability to pay the fee.

(b) A free clinic shall not bill a patient for health care services rendered.

(c) Free clinics shall not perform operations, as defined by divisions

(A)(9) and (F)(1)(b) of section 2305.234 of the Revised Code.

A clinic is not a free clinic if the clinic bills medicaid, medicare, or other third-party payers for health care services rendered at the clinic, and receives twenty-five per cent or more of the clinic's annual revenue from the third-party payments.

(2) "Health care professional" and "health care worker" have the same meanings as in section 2305.234 of the Revised Code.

Sec. 2307.65. (A) The attorney general may bring a civil action in the Franklin county court of common pleas on behalf of the department of job and family services, and the prosecuting attorney of the county in which a violation of division (B) of section 2913.401 of the Revised Code occurs may bring a civil action in the court of common pleas of that county on behalf of the county department of job and family services, against a person who violates division (B) of section 2913.401 of the Revised Code for the recovery of the amount of benefits paid on behalf of a person that either department would not have paid but for the violation minus any amounts paid in restitution under division (C)(2) of section 2913.401 of the Revised Code and for reasonable attorney's fees and all other fees and costs of litigation.

(B) In a civil action brought under division (A) of this section, if the defendant failed to disclose a transfer of property in violation of division (B)(3) of section 2913.401 of the Revised Code, the court may also grant any of the following relief to the extent permitted by 42 U.S.C. 1396p:

(1) Avoidance of the transfer of property that was not disclosed in violation of division (B)(3) of section 2913.401 of the Revised Code to the extent of the amount of benefits the department would not have paid but for the violation;

(2) An order of attachment or garnishment against the property in accordance with Chapter 2715. or 2716. of the Revised Code;

(3) An injunction against any further disposition by the transferor or transferee, or both, of the property the transfer of which was not disclosed in violation of division (B)(3) of section 2913.401 of the Revised Code or against the disposition of other property by the transferor or transferee;

(4) Appointment of a receiver to take charge of the property transferred or of other property of the transferee;

(5) Any other relief that the court considers just and equitable.

(C) To the extent permitted by 42 U.S.C. 1396p, the department of job and family services or the county department of job and family services may enforce a judgment obtained under this section by levying on property the transfer of which was not disclosed in violation of division (B)(3) of section



2913.401 of the Revised Code or on the proceeds of the transfer of that property in accordance with Chapter 2329. of the Revised Code.

(D) The remedies provided in divisions (B) and (C) of this section do not apply if the transferee of the property the transfer of which was not disclosed in violation of division (B)(3) of section 2913.401 of the Revised Code acquired the property in good faith and for fair market value.

(E) The remedies provided in this section are not exclusive and do not preclude the use of any other criminal or civil remedy for any act that is in violation of section 2913.401 of the Revised Code.

(F) Amounts of medicaid benefits paid and recovered in an action brought under this section shall be credited to the general revenue fund, and any applicable federal share shall be returned to the appropriate agency or department of the United States.

Sec. 2329.66. (A) Every person who is domiciled in this state may hold property exempt from execution, garnishment, attachment, or sale to satisfy a judgment or order, as follows:

(1)(a) In the case of a judgment or order regarding money owed for health care services rendered or health care supplies provided to the person or a dependent of the person, one parcel or item of real or personal property that the person or a dependent of the person uses as a residence. Division (A)(1)(a) of this section does not preclude, affect, or invalidate the creation under this chapter of a judgment lien upon the exempted property but only delays the enforcement of the lien until the property is sold or otherwise transferred by the owner or in accordance with other applicable laws to a person or entity other than the surviving spouse or surviving minor children of the judgment debtor. Every person who is domiciled in this state may hold exempt from a judgment lien created pursuant to division (A)(1)(a) of this section the person's interest, not to exceed five thousand dollars, in the exempted property.

(b) In the case of all other judgments and orders, the person's interest, not to exceed five thousand dollars, in one parcel or item of real or personal property that the person or a dependent of the person uses as a residence.

(2) The person's interest, not to exceed one thousand dollars, in one motor vehicle;

(3) The person's interest, not to exceed two hundred dollars in any particular item, in wearing apparel, beds, and bedding, and the person's interest, not to exceed three hundred dollars in each item, in one cooking unit and one refrigerator or other food preservation unit;

(4)(a) The person's interest, not to exceed four hundred dollars, in cash on hand, money due and payable, money to become due within ninety days,

tax refunds, and money on deposit with a bank, savings and loan association, credit union, public utility, landlord, or other person. Division (A)(4)(a) of this section applies only in bankruptcy proceedings. This exemption may include the portion of personal earnings that is not exempt under division (A)(13) of this section.

(b) Subject to division (A)(4)(d) of this section, the person's interest, not to exceed two hundred dollars in any particular item, in household furnishings, household goods, appliances, books, animals, crops, musical instruments, firearms, and hunting and fishing equipment, that are held primarily for the personal, family, or household use of the person;

(c) Subject to division (A)(4)(d) of this section, the person's interest in one or more items of jewelry, not to exceed four hundred dollars in one item of jewelry and not to exceed two hundred dollars in every other item of jewelry;

(d) Divisions (A)(4)(b) and (c) of this section do not include items of personal property listed in division (A)(3) of this section.

If the person does not claim an exemption under division (A)(1) of this section, the total exemption claimed under division (A)(4)(b) of this section shall be added to the total exemption claimed under division (A)(4)(c) of this section, and the total shall not exceed two thousand dollars. If the person claims an exemption under division (A)(1) of this section, the total exemption claimed under division (A)(4)(b) of this section shall be added to the total exemption claimed under division (A)(4)(c) of this section, and the total shall not exceed one thousand five hundred dollars.

(5) The person's interest, not to exceed an aggregate of seven hundred fifty dollars, in all implements, professional books, or tools of the person's profession, trade, or business, including agriculture;

(6)(a) The person's interest in a beneficiary fund set apart, appropriated, or paid by a benevolent association or society, as exempted by section 2329.63 of the Revised Code;

(b) The person's interest in contracts of life or endowment insurance or annuities, as exempted by section 3911.10 of the Revised Code;

(c) The person's interest in a policy of group insurance or the proceeds of a policy of group insurance, as exempted by section 3917.05 of the Revised Code;

(d) The person's interest in money, benefits, charity, relief, or aid to be paid, provided, or rendered by a fraternal benefit society, as exempted by section 3921.18 of the Revised Code;

(e) The person's interest in the portion of benefits under policies of sickness and accident insurance and in lump sum payments for

dismemberment and other losses insured under those policies, as exempted by section 3923.19 of the Revised Code.

(7) The person's professionally prescribed or medically necessary health aids;

(8) The person's interest in a burial lot, including, but not limited to, exemptions under section 517.09 or 1721.07 of the Revised Code;

(9) The person's interest in the following:

(a) Moneys paid or payable for living maintenance or rights, as exempted by section 3304.19 of the Revised Code;

(b) Workers' compensation, as exempted by section 4123.67 of the Revised Code;

(c) Unemployment compensation benefits, as exempted by section 4141.32 of the Revised Code;

(d) Cash assistance payments under the Ohio works first program, as exempted by section 5107.75 of the Revised Code;

(e) Benefits and services under the prevention, retention, and contingency program, as exempted by section 5108.08 of the Revised Code;

(f) Disability financial assistance payments, as exempted by section 5115.06 of the Revised Code.

(10)(a) Except in cases in which the person was convicted of or pleaded guilty to a violation of section 2921.41 of the Revised Code and in which an order for the withholding of restitution from payments was issued under division (C)(2)(b) of that section or in cases in which an order for withholding was issued under section 2907.15 of the Revised Code, and only to the extent provided in the order, and except as provided in sections 3105.171, 3105.63, 3119.80, 3119.81, 3121.02, 3121.03, and 3123.06 of the Revised Code, the person's right to a pension, benefit, annuity, retirement allowance, or accumulated contributions, the person's right to a participant account in any deferred compensation program offered by the Ohio public employees deferred compensation board, a government unit, or a municipal corporation, or the person's other accrued or accruing rights, as exempted by section 145.56, 146.13, 148.09, 742.47, 3307.41, 3309.66, or 5505.22 of the Revised Code, and the person's right to benefits from the Ohio public safety officers death benefit fund;

(b) Except as provided in sections 3119.80, 3119.81, 3121.02, 3121.03, and 3123.06 of the Revised Code, the person's right to receive a payment under any pension, annuity, or similar plan or contract, not including a payment from a stock bonus or profit-sharing plan or a payment included in division (A)(6)(b) or (10)(a) of this section, on account of illness, disability, death, age, or length of service, to the extent reasonably necessary for the

support of the person and any of the person's dependents, except if all the following apply:

(i) The plan or contract was established by or under the auspices of an insider that employed the person at the time the person's rights under the plan or contract arose.

(ii) The payment is on account of age or length of service.

(iii) The plan or contract is not qualified under the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 1, as amended.

(c) Except for any portion of the assets that were deposited for the purpose of evading the payment of any debt and except as provided in sections 3119.80, 3119.81, 3121.02, 3121.03, and 3123.06 of the Revised Code, the person's right in the assets held in, or to receive any payment under, any individual retirement account, individual retirement annuity, "Roth IRA," or education individual retirement account that provides benefits by reason of illness, disability, death, or age, to the extent that the assets, payments, or benefits described in division (A)(10)(c) of this section are attributable to any of the following:

(i) Contributions of the person that were less than or equal to the applicable limits on deductible contributions to an individual retirement account or individual retirement annuity in the year that the contributions were made, whether or not the person was eligible to deduct the contributions on the person's federal tax return for the year in which the contributions were made;

(ii) Contributions of the person that were less than or equal to the applicable limits on contributions to a Roth IRA or education individual retirement account in the year that the contributions were made;

(iii) Contributions of the person that are within the applicable limits on rollover contributions under subsections 219, 402(c), 403(a)(4), 403(b)(8), 408(b), 408(d)(3), 408A(c)(3)(B), 408A(d)(3), and 530(d)(5) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended.

(d) Except for any portion of the assets that were deposited for the purpose of evading the payment of any debt and except as provided in sections 3119.80, 3119.81, 3121.02, 3121.03, and 3123.06 of the Revised Code, the person's right in the assets held in, or to receive any payment under, any Keogh or "H.R. 10" plan that provides benefits by reason of illness, disability, death, or age, to the extent reasonably necessary for the support of the person and any of the person's dependents.

(11) The person's right to receive spousal support, child support, an allowance, or other maintenance to the extent reasonably necessary for the support of the person and any of the person's dependents;

(12) The person's right to receive, or moneys received during the preceding twelve calendar months from, any of the following:

(a) An award of reparations under sections 2743.51 to 2743.72 of the Revised Code, to the extent exempted by division (D) of section 2743.66 of the Revised Code;

(b) A payment on account of the wrongful death of an individual of whom the person was a dependent on the date of the individual's death, to the extent reasonably necessary for the support of the person and any of the person's dependents;

(c) Except in cases in which the person who receives the payment is an inmate, as defined in section 2969.21 of the Revised Code, and in which the payment resulted from a civil action or appeal against a government entity or employee, as defined in section 2969.21 of the Revised Code, a payment, not to exceed five thousand dollars, on account of personal bodily injury, not including pain and suffering or compensation for actual pecuniary loss, of the person or an individual for whom the person is a dependent;

(d) A payment in compensation for loss of future earnings of the person or an individual of whom the person is or was a dependent, to the extent reasonably necessary for the support of the debtor and any of the debtor's dependents.

(13) Except as provided in sections 3119.80, 3119.81, 3121.02, 3121.03, and 3123.06 of the Revised Code, personal earnings of the person owed to the person for services in an amount equal to the greater of the following amounts:

(a) If paid weekly, thirty times the current federal minimum hourly wage; if paid biweekly, sixty times the current federal minimum hourly wage; if paid semimonthly, sixty-five times the current federal minimum hourly wage; or if paid monthly, one hundred thirty times the current federal minimum hourly wage that is in effect at the time the earnings are payable, as prescribed by the "Fair Labor Standards Act of 1938," 52 Stat. 1060, 29 U.S.C. 206(a)(1), as amended;

(b) Seventy-five per cent of the disposable earnings owed to the person.

(14) The person's right in specific partnership property, as exempted by division (B)(3) of section 1775.24 of the Revised Code;

(15) A seal and official register of a notary public, as exempted by section 147.04 of the Revised Code;

(16) The person's interest in a tuition ~~credit~~ unit or a payment under section 3334.09 of the Revised Code pursuant to a tuition ~~credit~~ payment contract, as exempted by section 3334.15 of the Revised Code;

(17) Any other property that is specifically exempted from execution,

attachment, garnishment, or sale by federal statutes other than the "Bankruptcy Reform Act of 1978," 92 Stat. 2549, 11 U.S.C.A. 101, as amended;

(18) The person's interest, not to exceed four hundred dollars, in any property, except that division (A)(18) of this section applies only in bankruptcy proceedings.

(B) As used in this section:

(1) "Disposable earnings" means net earnings after the garnishee has made deductions required by law, excluding the deductions ordered pursuant to section 3119.80, 3119.81, 3121.02, 3121.03, or 3123.06 of the Revised Code.

(2) "Insider" means:

(a) If the person who claims an exemption is an individual, a relative of the individual, a relative of a general partner of the individual, a partnership in which the individual is a general partner, a general partner of the individual, or a corporation of which the individual is a director, officer, or in control;

(b) If the person who claims an exemption is a corporation, a director or officer of the corporation; a person in control of the corporation; a partnership in which the corporation is a general partner; a general partner of the corporation; or a relative of a general partner, director, officer, or person in control of the corporation;

(c) If the person who claims an exemption is a partnership, a general partner in the partnership; a general partner of the partnership; a person in control of the partnership; a partnership in which the partnership is a general partner; or a relative in, a general partner of, or a person in control of the partnership;

(d) An entity or person to which or whom any of the following applies:

(i) The entity directly or indirectly owns, controls, or holds with power to vote, twenty per cent or more of the outstanding voting securities of the person who claims an exemption, unless the entity holds the securities in a fiduciary or agency capacity without sole discretionary power to vote the securities or holds the securities solely to secure to debt and the entity has not in fact exercised the power to vote.

(ii) The entity is a corporation, twenty per cent or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by the person who claims an exemption or by an entity to which division (B)(2)(d)(i) of this section applies.

(iii) A person whose business is operated under a lease or operating agreement by the person who claims an exemption, or a person substantially

all of whose business is operated under an operating agreement with the person who claims an exemption.

(iv) The entity operates the business or all or substantially all of the property of the person who claims an exemption under a lease or operating agreement.

(e) An insider, as otherwise defined in this section, of a person or entity to which division (B)(2)(d)(i), (ii), (iii), or (iv) of this section applies, as if the person or entity were a person who claims an exemption;

(f) A managing agent of the person who claims an exemption.

(3) "Participant account" has the same meaning as in section 148.01 of the Revised Code.

(4) "Government unit" has the same meaning as in section 148.06 of the Revised Code.

(C) For purposes of this section, "interest" shall be determined as follows:

(1) In bankruptcy proceedings, as of the date a petition is filed with the bankruptcy court commencing a case under Title 11 of the United States Code;

(2) In all cases other than bankruptcy proceedings, as of the date of an appraisal, if necessary under section 2329.68 of the Revised Code, or the issuance of a writ of execution.

An interest, as determined under division (C)(1) or (2) of this section, shall not include the amount of any lien otherwise valid pursuant to section 2329.661 of the Revised Code.

Sec. 2743.191. (A)(1) There is hereby created in the state treasury the reparations fund, which shall be used only for the following purposes:

(a) The payment of awards of reparations that are granted by the attorney general;

(b) The compensation of any personnel needed by the attorney general to administer sections 2743.51 to 2743.72 of the Revised Code;

(c) The compensation of witnesses as provided in division (J) of section 2743.65 of the Revised Code;

(d) Other administrative costs of hearing and determining claims for an award of reparations by the attorney general;

(e) The costs of administering sections 2907.28 and 2969.01 to 2969.06 of the Revised Code;

(f) The costs of investigation and decision-making as certified by the attorney general;

(g) The provision of state financial assistance to victim assistance programs in accordance with sections 109.91 and 109.92 of the Revised

Code;

(h) The costs of paying the expenses of sex offense-related examinations and antibiotics pursuant to section 2907.28 of the Revised Code;

(i) The cost of printing and distributing the pamphlet prepared by the attorney general pursuant to section 109.42 of the Revised Code;

(j) Subject to division (D) of section 2743.71 of the Revised Code, the costs associated with the printing and providing of information cards or other printed materials to law enforcement agencies and prosecuting authorities and with publicizing the availability of awards of reparations pursuant to section 2743.71 of the Revised Code;

(k) The payment of costs of administering a DNA specimen collection procedure pursuant to sections 2152.74 and 2901.07 of the Revised Code, of performing DNA analysis of those DNA specimens, and of entering the resulting DNA records regarding those analyses into the DNA database pursuant to section 109.573 of the Revised Code;

(l) The payment of actual costs associated with initiatives by the attorney general for the apprehension, prosecution, and accountability of offenders, and the enhancing of services to crime victims. The amount of payments made pursuant to division (A)(1)(l) of this section during any given fiscal year shall not exceed five per cent of the balance of the reparations fund at the close of the immediately previous fiscal year;

(m) The costs of administering the adult parole authority's supervision of sexually violent predators with an active global positioning system device pursuant to section 2971.05 of the Revised Code.

(2) All costs paid pursuant to section 2743.70 of the Revised Code, the portions of license reinstatement fees mandated by division (F)(2)(b) of section 4511.191 of the Revised Code to be credited to the fund, the portions of the proceeds of the sale of a forfeited vehicle specified in division (C)(2) of section 4503.234 of the Revised Code, payments collected by the department of rehabilitation and correction from prisoners who voluntarily participate in an approved work and training program pursuant to division (C)(8)(b)(ii) of section 5145.16 of the Revised Code, and all moneys collected by the state pursuant to its right of subrogation provided in section 2743.72 of the Revised Code shall be deposited in the fund.

(B) In making an award of reparations, the attorney general shall render the award against the state. The award shall be accomplished only through the following procedure, and the following procedure may be enforced by writ of mandamus directed to the appropriate official:

(1) The attorney general shall provide for payment of the claimant or



providers in the amount of the award only if the amount of the award is fifty dollars or more.

(2) The expense shall be charged against all available unencumbered moneys in the fund.

(3) If sufficient unencumbered moneys do not exist in the fund, the attorney general shall make application for payment of the award out of the emergency purposes account or any other appropriation for emergencies or contingencies, and payment out of this account or other appropriation shall be authorized if there are sufficient moneys greater than the sum total of then pending emergency purposes account requests or requests for releases from the other appropriations.

(4) If sufficient moneys do not exist in the account or any other appropriation for emergencies or contingencies to pay the award, the attorney general shall request the general assembly to make an appropriation sufficient to pay the award, and no payment shall be made until the appropriation has been made. The attorney general shall make this appropriation request during the current biennium and during each succeeding biennium until a sufficient appropriation is made. If, prior to the time that an appropriation is made by the general assembly pursuant to this division, the fund has sufficient unencumbered funds to pay the award or part of the award, the available funds shall be used to pay the award or part of the award, and the appropriation request shall be amended to request only sufficient funds to pay that part of the award that is unpaid.

(C) The attorney general shall not make payment on a decision or order granting an award until all appeals have been determined and all rights to appeal exhausted, except as otherwise provided in this section. If any party to a claim for an award of reparations appeals from only a portion of an award, and a remaining portion provides for the payment of money by the state, that part of the award calling for the payment of money by the state and not a subject of the appeal shall be processed for payment as described in this section.

(D) The attorney general shall prepare itemized bills for the costs of printing and distributing the pamphlet the attorney general prepares pursuant to section 109.42 of the Revised Code. The itemized bills shall set forth the name and address of the persons owed the amounts set forth in them.

(E) As used in this section, "DNA analysis" and "DNA specimen" have the same meanings as in section 109.573 of the Revised Code.

Sec. 2744.05. Notwithstanding any other provisions of the Revised Code or rules of a court to the contrary, in an action against a political subdivision to recover damages for injury, death, or loss to person or

property caused by an act or omission in connection with a governmental or proprietary function:

(A) Punitive or exemplary damages shall not be awarded.

(B)(1) If a claimant receives or is entitled to receive benefits for injuries or loss allegedly incurred from a policy or policies of insurance or any other source, the benefits shall be disclosed to the court, and the amount of the benefits shall be deducted from any award against a political subdivision recovered by that claimant. No insurer or other person is entitled to bring an action under a subrogation provision in an insurance or other contract against a political subdivision with respect to those benefits.

The amount of the benefits shall be deducted from an award against a political subdivision under division (B)(1) of this section regardless of whether the claimant may be under an obligation to pay back the benefits upon recovery, in whole or in part, for the claim. A claimant whose benefits have been deducted from an award under division (B)(1) of this section is not considered fully compensated and shall not be required to reimburse a subrogated claim for benefits deducted from an award pursuant to division (B)(1) of this section.

(2) Nothing in division (B)(1) of this section shall be construed to do either of the following:

(a) Limit the rights of a beneficiary under a life insurance policy or the rights of sureties under fidelity or surety bonds;

(b) Prohibit the department of job and family services from recovering from the political subdivision, pursuant to section 5101.58 of the Revised Code, the cost of medical assistance benefits provided under Chapter 5107.; or 5111., ~~or 5115.~~ of the Revised Code.

(C)(1) There shall not be any limitation on compensatory damages that represent the actual loss of the person who is awarded the damages. However, except in wrongful death actions brought pursuant to Chapter 2125. of the Revised Code, damages that arise from the same cause of action, transaction or occurrence, or series of transactions or occurrences and that do not represent the actual loss of the person who is awarded the damages shall not exceed two hundred fifty thousand dollars in favor of any one person. The limitation on damages that do not represent the actual loss of the person who is awarded the damages provided in this division does not apply to court costs that are awarded to a plaintiff, or to interest on a judgment rendered in favor of a plaintiff, in an action against a political subdivision.

(2) As used in this division, "the actual loss of the person who is awarded the damages" includes all of the following:

(a) All wages, salaries, or other compensation lost by the person injured as a result of the injury, including wages, salaries, or other compensation lost as of the date of a judgment and future expected lost earnings of the person injured;

(b) All expenditures of the person injured or another person on behalf of the person injured for medical care or treatment, for rehabilitation services, or for other care, treatment, services, products, or accommodations that were necessary because of the injury;

(c) All expenditures to be incurred in the future, as determined by the court, by the person injured or another person on behalf of the person injured for medical care or treatment, for rehabilitation services, or for other care, treatment, services, products, or accommodations that will be necessary because of the injury;

(d) All expenditures of a person whose property was injured or destroyed or of another person on behalf of the person whose property was injured or destroyed in order to repair or replace the property that was injured or destroyed;

(e) All expenditures of the person injured or of the person whose property was injured or destroyed or of another person on behalf of the person injured or of the person whose property was injured or destroyed in relation to the actual preparation or presentation of the claim involved;

(f) Any other expenditures of the person injured or of the person whose property was injured or destroyed or of another person on behalf of the person injured or of the person whose property was injured or destroyed that the court determines represent an actual loss experienced because of the personal or property injury or property loss.

"The actual loss of the person who is awarded the damages" does not include any fees paid or owed to an attorney for any services rendered in relation to a personal or property injury or property loss, and does not include any damages awarded for pain and suffering, for the loss of society, consortium, companionship, care, assistance, attention, protection, advice, guidance, counsel, instruction, training, or education of the person injured, for mental anguish, or for any other intangible loss.

Sec. 2744.08. (A)(1) A political subdivision may use public funds to secure insurance with respect to its and its employees' potential liability in damages in civil actions for injury, death, or loss to persons or property allegedly caused by an act or omission of the political subdivision or any of its employees in connection with a governmental or proprietary function. The insurance may be at the limits, for the circumstances, and subject to the terms and conditions, that are determined by the political subdivision in its

discretion.

The insurance may be for the period of time that is set forth in specifications for competitive bids or, when competitive bidding is not required, for the period of time that is mutually agreed upon by the political subdivision and insurance company. The period of time does not have to be, but can be, limited to the fiscal cycle under which the political subdivision is funded and operates.

(2)(a) Regardless of whether a political subdivision procures a policy or policies of liability insurance pursuant to division (A)(1) of this section or otherwise, the political subdivision may establish and maintain a self-insurance program relative to its and its employees' potential liability in damages in civil actions for injury, death, or loss to persons or property allegedly caused by an act or omission of the political subdivision or any of its employees in connection with a governmental or proprietary function. The political subdivision may reserve such funds as it deems appropriate in a special fund that may be established pursuant to an ordinance or resolution of the political subdivision and not subject to section 5705.12 of the Revised Code. The political subdivision may allocate the costs of insurance or a self-insurance program, or both, among the funds or accounts in the subdivision's treasury on the basis of relative exposure and loss experience. The political subdivision may require any deductibles under an insurance or self-insurance program, or both, to be paid from funds or accounts in the subdivision's treasury from which a loss was directly attributable. If it so chooses, the political subdivision may contract with any person, other political subdivision, or regional council of governments for purposes of the administration of such a program.

(b) Political subdivisions that have established self-insurance programs relative to their and their employees' potential liability as described in division (A)(2)(a) of this section may mutually agree that their self-insurance programs will be jointly administered in a specified manner.

(B) The purchase of liability insurance, or the establishment and maintenance of a self-insurance program, by a political subdivision does not constitute a waiver of any immunity or defense of the political subdivision or its employees, except that the political subdivision may specifically waive any immunity or defense to which it or its employees may be entitled if a provision to that effect is specifically included in the policy of insurance or in a written plan of operation of the self-insurance program, or, if any, the legislative enactment of the political subdivision authorizing the purchase of the insurance or the establishment and maintenance of the self-insurance program. Such a specific waiver shall be only to the extent of the insurance

or self-insurance program coverage.

(C) The authorizations for political subdivisions to secure insurance and to establish and maintain self-insurance programs in this section are in addition to any other authority to secure insurance or to establish and maintain self-insurance programs that is granted pursuant to the Revised Code or the constitution of this state, and they are not in derogation of any other authorization.

Sec. 2744.082. (A) If a political subdivision, pursuant to division (A)(2)(a) of section 2744.08 of the Revised Code, has allocated costs to, or required the payment of deductibles from, funds or accounts in the subdivision's treasury, the subdivision's fiscal officer, pursuant to an ordinance or resolution of the subdivision's legislative authority, shall transfer amounts equal to those costs or deductibles from the funds or accounts to the subdivision's general fund if both of the following occur:

(1) The subdivision requests payment from the employee responsible for the funds or accounts for those costs or deductibles;

(2) The employee receiving the request fails to remit payment within forty-five days after the date of receipt of the request.

(B) Sections 5705.14, 5705.15, and 5705.16 of the Revised Code do not apply to transfers made pursuant to this section.

Sec. 2901.07. (A) As used in this section:

(1) "DNA analysis" and "DNA specimen" have the same meanings as in section 109.573 of the Revised Code.

(2) "Jail" and "community-based correctional facility" have the same meanings as in section 2929.01 of the Revised Code.

(3) "Post-release control" has the same meaning as in section 2967.01 of the Revised Code.

(B)(1) A person who is convicted of or pleads guilty to a felony offense listed in division (D) of this section and who is sentenced to a prison term or to a community residential sanction in a jail or community-based correctional facility pursuant to section 2929.16 of the Revised Code, and a person who is convicted of or pleads guilty to a misdemeanor offense listed in division (D) of this section and who is sentenced to a term of imprisonment shall submit to a DNA specimen collection procedure administered by the director of rehabilitation and correction or the chief administrative officer of the jail or other detention facility in which the person is serving the term of imprisonment. If the person serves the prison term in a state correctional institution, the director of rehabilitation and correction shall cause the DNA specimen to be collected from the person during the intake process at the reception facility designated by the director.

If the person serves the community residential sanction or term of imprisonment in a jail, a community-based correctional facility, or another county, multicounty, municipal, municipal-county, or multicounty-municipal detention facility, the chief administrative officer of the jail, community-based correctional facility, or detention facility shall cause the DNA specimen to be collected from the person during the intake process at the jail, community-based correctional facility, or detention facility. In accordance with division (C) of this section, the director or the chief administrative officer shall cause the DNA specimen to be forwarded to the bureau of criminal identification and investigation no later than fifteen days after the date of the collection of the DNA specimen. The DNA specimen shall be collected in accordance with division (C) of this section.

(2) If a person is convicted of or pleads guilty to an offense listed in division (D) of this section, is serving a prison term, community residential sanction, or term of imprisonment for that offense, and does not provide a DNA specimen pursuant to division (B)(1) of this section, prior to the person's release from the prison term, community residential sanction, or imprisonment, the person shall submit to, and the director of rehabilitation and correction or the chief administrative officer of the jail, community-based correctional facility, or detention facility in which the person is serving the prison term, community residential sanction, or term of imprisonment shall administer, a DNA specimen collection procedure at the state correctional institution, jail, community-based correctional facility, or detention facility in which the person is serving the prison term, community residential sanction, or term of imprisonment. In accordance with division (C) of this section, the director or the chief administrative officer shall cause the DNA specimen to be forwarded to the bureau of criminal identification and investigation no later than fifteen days after the date of the collection of the DNA specimen. The DNA specimen shall be collected in accordance with division (C) of this section.

(3) If a person sentenced to a term of imprisonment or serving a prison term or community residential sanction for committing an offense listed in division (D) of this section is on probation, is released on parole, under transitional control, or on another type of release, or is on post-release control, if the person is under the supervision of a probation department or the adult parole authority, if the person is sent to jail or is returned to a jail, community-based correctional facility, or state correctional institution for a violation of the terms and conditions of the probation, parole, transitional control, other release, or post-release control, if the person was or will be serving a term of imprisonment, prison term, or community residential

sanction for committing an offense listed in division (D) of this section, and if the person did not provide a DNA specimen pursuant to division (B)(1) or (2) of this section, the person shall submit to, and the director of rehabilitation and correction or the chief administrative officer of the jail or community-based correctional facility shall administer, a DNA specimen collection procedure at the jail, community-based correctional facility, or state correctional institution in which the person is serving the term of imprisonment, prison term, or community residential sanction. In accordance with division (C) of this section, the director or the chief administrative officer shall cause the DNA specimen to be forwarded to the bureau of criminal identification and investigation no later than fifteen days after the date of the collection of the DNA specimen. The DNA specimen shall be collected from the person in accordance with division (C) of this section.

(C) If the DNA specimen is collected by withdrawing blood from the person or a similarly invasive procedure, a physician, registered nurse, licensed practical nurse, duly licensed clinical laboratory technician, or other qualified medical practitioner shall collect in a medically approved manner the DNA specimen required to be collected pursuant to division (B) of this section. If the DNA specimen is collected by swabbing for buccal cells or a similarly noninvasive procedure, this section does not require that the DNA specimen be collected by a qualified medical practitioner of that nature. No later than fifteen days after the date of the collection of the DNA specimen, the director of rehabilitation and correction or the chief administrative officer of the jail, community-based correctional facility, or other county, multicounty, municipal, municipal-county, or multicounty-municipal detention facility, in which the person is serving the prison term, community residential sanction, or term of imprisonment shall cause the DNA specimen to be forwarded to the bureau of criminal identification and investigation in accordance with procedures established by the superintendent of the bureau under division (H) of section 109.573 of the Revised Code. The bureau shall provide the specimen vials, mailing tubes, labels, postage, and instructions needed for the collection and forwarding of the DNA specimen to the bureau.

(D) The director of rehabilitation and correction and the chief administrative officer of the jail, community-based correctional facility, or other county, multicounty, municipal, municipal-county, or multicounty-municipal detention facility shall cause a DNA specimen to be collected in accordance with divisions (B) and (C) of this section from a person in its custody who is convicted of or pleads guilty to any of the

following offenses:

(1) A violation of section 2903.01, 2903.02, 2903.11, 2905.01, 2907.02, 2907.03, 2907.04, 2907.05, 2911.01, 2911.02, 2911.11, or 2911.12 of the Revised Code;

(2) A violation of section 2907.12 of the Revised Code as it existed prior to September 3, 1996;

(3) An attempt to commit a violation of section 2903.01, 2903.02, 2907.02, 2907.03, 2907.04, or 2907.05 of the Revised Code or to commit a violation of section 2907.12 of the Revised Code as it existed prior to September 3, 1996;

(4) A violation of any law that arose out of the same facts and circumstances and same act as did a charge against the person of a violation of section 2903.01, 2903.02, 2905.01, 2907.02, 2907.03, 2907.04, 2907.05, or 2911.11 of the Revised Code that previously was dismissed or amended or as did a charge against the person of a violation of section 2907.12 of the Revised Code as it existed prior to September 3, 1996, that previously was dismissed or amended;

(5) A violation of section 2905.02 or 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had it been committed prior to that date;

(6) A sexually oriented offense or a child-victim oriented offense, both as defined in section 2950.01 of the Revised Code, if, in relation to that offense, the offender has been adjudicated a sexual predator or a child-victim predator, both as defined in section 2950.01 of the Revised Code;

(7) A felony violation of any law that arose out of the same facts and circumstances and same act as did a charge against the person of a violation of section 2903.11, 2911.01, 2911.02, or 2911.12 of the Revised Code that previously was dismissed or amended;

(8) A conspiracy to commit a violation of section 2903.01, 2903.02, 2905.01, 2911.01, 2911.02, 2911.11, or 2911.12 of the Revised Code;

(9) Complicity in committing a violation of section 2903.01, 2903.02, 2903.11, 2905.01, 2907.02, 2907.03, 2907.04, 2907.05, 2911.01, 2911.02, 2911.11, or 2911.12 of the Revised Code or a violation of section 2907.12 of the Revised Code as it existed prior to September 3, 1996.

(E) The director of rehabilitation and correction or a chief administrative officer of a jail, community-based correctional facility, or other detention facility described in division (B) of this section in relation to the following offenses is not required to comply with this section until the superintendent of the bureau of criminal identification and investigation



gives agencies in the criminal justice system, as defined in section ~~181.51~~ 5502.61 of the Revised Code, in the state official notification that the state DNA laboratory is prepared to accept DNA specimens of that nature:

(1) A violation of section 2903.11, 2911.01, 2911.02, or 2911.12 of the Revised Code;

(2) An attempt to commit a violation of section 2903.01 or 2903.02 of the Revised Code;

(3) A felony violation of any law that arose out of the same facts and circumstances and same act as did a charge against the person of a violation of section 2903.11, 2911.01, 2911.02, or 2911.12 of the Revised Code that previously was dismissed or amended;

(4) A conspiracy to commit a violation of section 2903.01, 2903.02, 2905.01, 2911.01, 2911.02, 2911.11, or 2911.12 of the Revised Code;

(5) Complicity in committing a violation of section 2903.01, 2903.02, 2903.11, 2905.01, 2907.02, 2907.03, 2907.04, 2907.05, 2911.01, 2911.02, 2911.11, or 2911.12 of the Revised Code or a violation of section 2907.12 of the Revised Code as it existed prior to September 3, 1996.

Sec. 2913.40. (A) As used in this section:

(1) "Statement or representation" means any oral, written, electronic, electronic impulse, or magnetic communication that is used to identify an item of goods or a service for which reimbursement may be made under the medical assistance program or that states income and expense and is or may be used to determine a rate of reimbursement under the medical assistance program.

(2) "Medical assistance program" means the program established by the department of job and family services to provide medical assistance under section 5111.01 of the Revised Code and the medicaid program of Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended.

(3) "Provider" means any person who has signed a provider agreement with the department of job and family services to provide goods or services pursuant to the medical assistance program or any person who has signed an agreement with a party to such a provider agreement under which the person agrees to provide goods or services that are reimbursable under the medical assistance program.

(4) "Provider agreement" means an oral or written agreement between the department of job and family services and a person in which the person agrees to provide goods or services under the medical assistance program.

(5) "Recipient" means any individual who receives goods or services from a provider under the medical assistance program.

(6) "Records" means any medical, professional, financial, or business records relating to the treatment or care of any recipient, to goods or services provided to any recipient, or to rates paid for goods or services provided to any recipient and any records that are required by the rules of the director of job and family services to be kept for the medical assistance program.

(B) No person shall knowingly make or cause to be made a false or misleading statement or representation for use in obtaining reimbursement from the medical assistance program.

(C) No person, with purpose to commit fraud or knowing that the person is facilitating a fraud, shall do either of the following:

(1) Contrary to the terms of the person's provider agreement, charge, solicit, accept, or receive for goods or services that the person provides under the medical assistance program any property, money, or other consideration in addition to the amount of reimbursement under the medical assistance program and the person's provider agreement for the goods or services and any deductibles or co-payments authorized by ~~rules adopted under~~ section 5111.0112 of the Revised Code or ~~by any rules adopted pursuant to that~~ section 5111.01, 5111.011, or 5111.02 of the Revised Code.

(2) Solicit, offer, or receive any remuneration, other than any deductibles or co-payments authorized by section 5111.0112 of the Revised Code or rules adopted under section 5111.01, 5111.011, or 5111.02 of the Revised Code ~~or by any rules adopted pursuant to that section~~, in cash or in kind, including, but not limited to, a kickback or rebate, in connection with the furnishing of goods or services for which whole or partial reimbursement is or may be made under the medical assistance program.

(D) No person, having submitted a claim for or provided goods or services under the medical assistance program, shall do either of the following for a period of at least six years after a reimbursement pursuant to that claim, or a reimbursement for those goods or services, is received under the medical assistance program:

(1) Knowingly alter, falsify, destroy, conceal, or remove any records that are necessary to fully disclose the nature of all goods or services for which the claim was submitted, or for which reimbursement was received, by the person;

(2) Knowingly alter, falsify, destroy, conceal, or remove any records that are necessary to disclose fully all income and expenditures upon which rates of reimbursements were based for the person.

(E) Whoever violates this section is guilty of medicaid fraud. Except as

otherwise provided in this division, medicaid fraud is a misdemeanor of the first degree. If the value of property, services, or funds obtained in violation of this section is five hundred dollars or more and is less than five thousand dollars, medicaid fraud is a felony of the fifth degree. If the value of property, services, or funds obtained in violation of this section is five thousand dollars or more and is less than one hundred thousand dollars, medicaid fraud is a felony of the fourth degree. If the value of the property, services, or funds obtained in violation of this section is one hundred thousand dollars or more, medicaid fraud is a felony of the third degree.

(F) Upon application of the governmental agency, office, or other entity that conducted the investigation and prosecution in a case under this section, the court shall order any person who is convicted of a violation of this section for receiving any reimbursement for furnishing goods or services under the medical assistance program to which the person is not entitled to pay to the applicant its cost of investigating and prosecuting the case. The costs of investigation and prosecution that a defendant is ordered to pay pursuant to this division shall be in addition to any other penalties for the receipt of that reimbursement that are provided in this section, section 5111.03 of the Revised Code, or any other provision of law.

(G) The provisions of this section are not intended to be exclusive remedies and do not preclude the use of any other criminal or civil remedy for any act that is in violation of this section.

Sec. 2913.401. (A) As used in this section:

(1) "Medicaid benefits" means benefits under the medical assistance program established under Chapter 5111. of the Revised Code.

(2) "Property" means any real or personal property or other asset in which a person has any legal title or interest.

(B) No person shall knowingly do any of the following in an application for medicaid benefits or in a document that requires a disclosure of assets for the purpose of determining eligibility to receive medicaid benefits:

(1) Make or cause to be made a false or misleading statement;

(2) Conceal an interest in property;

(3)(a) Except as provided in division (B)(3)(b) of this section, fail to disclose a transfer of property that occurred during the period beginning thirty-six months before submission of the application or document and ending on the date the application or document was submitted;

(b) Fail to disclose a transfer of property that occurred during the period beginning sixty months before submission of the application or document and ending on the date the application or document was submitted and that was made to an irrevocable trust a portion of which is not distributable to

the applicant for medicaid benefits or the recipient of medicaid benefits or to a revocable trust.

(C)(1) Whoever violates this section is guilty of medicaid eligibility fraud. Except as otherwise provided in this division, a violation of this section is a misdemeanor of the first degree. If the value of the medicaid benefits paid as a result of the violation is five hundred dollars or more and is less than five thousand dollars, a violation of this section is a felony of the fifth degree. If the value of the medicaid benefits paid as a result of the violation is five thousand dollars or more and is less than one hundred thousand dollars, a violation of this section is a felony of the fourth degree. If the value of the medicaid benefits paid as a result of the violation is one hundred thousand dollars or more, a violation of this section is a felony of the third degree.

(2) In addition to imposing a sentence under division (C)(1) of this section, the court shall order that a person who is guilty of medicaid eligibility fraud make restitution in the full amount of any medicaid benefits paid on behalf of an applicant for or recipient of medicaid benefits for which the applicant or recipient was not eligible, plus interest at the rate applicable to judgments on unreimbursed amounts from the date on which the benefits were paid to the date on which restitution is made.

(3) The remedies and penalties provided in this section are not exclusive and do not preclude the use of any other criminal or civil remedy for any act that is in violation of this section.

(D) This section does not apply to a person who fully disclosed in an application for medicaid benefits or in a document that requires a disclosure of assets for the purpose of determining eligibility to receive medicaid benefits all of the interests in property of the applicant for or recipient of medicaid benefits, all transfers of property by the applicant for or recipient of medicaid benefits, and the circumstances of all those transfers.

(E) Any amounts of medicaid benefits recovered as restitution under this section and any interest on those amounts shall be credited to the general revenue fund, and any applicable federal share shall be returned to the appropriate agency or department of the United States.

Sec. 2921.13. (A) No person shall knowingly make a false statement, or knowingly swear or affirm the truth of a false statement previously made, when any of the following applies:

(1) The statement is made in any official proceeding.

(2) The statement is made with purpose to incriminate another.

(3) The statement is made with purpose to mislead a public official in performing the public official's official function.

(4) The statement is made with purpose to secure the payment of unemployment compensation; Ohio works first; prevention, retention, and contingency benefits and services; disability financial assistance; retirement benefits; economic development assistance, as defined in section 9.66 of the Revised Code; or other benefits administered by a governmental agency or paid out of a public treasury.

(5) The statement is made with purpose to secure the issuance by a governmental agency of a license, permit, authorization, certificate, registration, release, or provider agreement.

(6) The statement is sworn or affirmed before a notary public or another person empowered to administer oaths.

(7) The statement is in writing on or in connection with a report or return that is required or authorized by law.

(8) The statement is in writing and is made with purpose to induce another to extend credit to or employ the offender, to confer any degree, diploma, certificate of attainment, award of excellence, or honor on the offender, or to extend to or bestow upon the offender any other valuable benefit or distinction, when the person to whom the statement is directed relies upon it to that person's detriment.

(9) The statement is made with purpose to commit or facilitate the commission of a theft offense.

(10) The statement is knowingly made to a probate court in connection with any action, proceeding, or other matter within its jurisdiction, either orally or in a written document, including, but not limited to, an application, petition, complaint, or other pleading, or an inventory, account, or report.

(11) The statement is made on an account, form, record, stamp, label, or other writing that is required by law.

(12) The statement is made in connection with the purchase of a firearm, as defined in section 2923.11 of the Revised Code, and in conjunction with the furnishing to the seller of the firearm of a fictitious or altered driver's or commercial driver's license or permit, a fictitious or altered identification card, or any other document that contains false information about the purchaser's identity.

(13) The statement is made in a document or instrument of writing that purports to be a judgment, lien, or claim of indebtedness and is filed or recorded with the secretary of state, a county recorder, or the clerk of a court of record.

(14) The statement is made with purpose to obtain an Ohio's best Rx program enrollment card under section 5110.09 of the Revised Code or a payment from the department of job and family services under section

5110.17 of the Revised Code.

~~(14)~~(15) The statement is made in an application filed with a county sheriff pursuant to section 2923.125 of the Revised Code in order to obtain or renew a license to carry a concealed handgun or is made in an affidavit submitted to a county sheriff to obtain a temporary emergency license to carry a concealed handgun under section 2923.1213 of the Revised Code.

(16) The statement is required under section 5743.72 of the Revised Code in connection with the person's purchase of cigarettes or tobacco products in a delivery sale.

(B) No person, in connection with the purchase of a firearm, as defined in section 2923.11 of the Revised Code, shall knowingly furnish to the seller of the firearm a fictitious or altered driver's or commercial driver's license or permit, a fictitious or altered identification card, or any other document that contains false information about the purchaser's identity.

(C) No person, in an attempt to obtain a license to carry a concealed handgun under section 2923.125 of the Revised Code, shall knowingly present to a sheriff a fictitious or altered document that purports to be certification of the person's competence in handling a handgun as described in division (B)(3) of section 2923.125 of the Revised Code.

(D) It is no defense to a charge under division (A)(6) of this section that the oath or affirmation was administered or taken in an irregular manner.

(E) If contradictory statements relating to the same fact are made by the offender within the period of the statute of limitations for falsification, it is not necessary for the prosecution to prove which statement was false but only that one or the other was false.

(F)(1) Whoever violates division (A)(1), (2), (3), (4), (5), (6), (7), (8), (10), (11), (13), ~~or (14)~~, or (16) of this section is guilty of falsification, a misdemeanor of the first degree.

(2) Whoever violates division (A)(9) of this section is guilty of falsification in a theft offense. Except as otherwise provided in this division, falsification in a theft offense is a misdemeanor of the first degree. If the value of the property or services stolen is five hundred dollars or more and is less than five thousand dollars, falsification in a theft offense is a felony of the fifth degree. If the value of the property or services stolen is five thousand dollars or more and is less than one hundred thousand dollars, falsification in a theft offense is a felony of the fourth degree. If the value of the property or services stolen is one hundred thousand dollars or more, falsification in a theft offense is a felony of the third degree.

(3) Whoever violates division (A)(12) or (B) of this section is guilty of falsification to purchase a firearm, a felony of the fifth degree.

(4) Whoever violates division (A)(~~14~~)(15) or (C) of this section is guilty of falsification to obtain a concealed handgun license, a felony of the fourth degree.

(G) A person who violates this section is liable in a civil action to any person harmed by the violation for injury, death, or loss to person or property incurred as a result of the commission of the offense and for reasonable attorney's fees, court costs, and other expenses incurred as a result of prosecuting the civil action commenced under this division. A civil action under this division is not the exclusive remedy of a person who incurs injury, death, or loss to person or property as a result of a violation of this section.

Sec. 2923.25. Each federally licensed firearms dealer who sells any firearm, at the time of the sale of the firearm, shall offer for sale to the purchaser of the firearm a trigger lock, gun lock, or gun locking device that is appropriate for that firearm. Each federally licensed firearms dealer shall post in a conspicuous location in the dealer's place of business the poster furnished to the dealer pursuant to section ~~181.521~~ 5502.63 of the Revised Code and shall make available to all purchasers of firearms from the dealer the brochure furnished to the dealer pursuant to that section.

As used in this section, "federally licensed firearms dealer" has the same meaning as in section ~~181.251~~ 5502.63 of the Revised Code.

Sec. 2923.35. (A)(1) With respect to property ordered forfeited under section 2923.32 of the Revised Code, with respect to any fine or civil penalty imposed in any criminal or civil proceeding under section 2923.32 or 2923.34 of the Revised Code, and with respect to any fine imposed for a violation of section 2923.01 of the Revised Code for conspiracy to violate section 2923.32 of the Revised Code, the court, upon petition of the prosecuting attorney, may do any of the following:

- (a) Authorize the prosecuting attorney to settle claims;
- (b) Award compensation to persons who provide information that results in a forfeiture, fine, or civil penalty under section 2923.32 or 2923.34 of the Revised Code;
- (c) Grant petitions for mitigation or remission of forfeiture, fines, or civil penalties, or restore forfeited property, imposed fines, or imposed civil penalties to persons injured by the violation;
- (d) Take any other action to protect the rights of innocent persons that is in the interest of justice and that is consistent with the purposes of sections 2923.31 to 2923.36 of the Revised Code.

(2) The court shall maintain an accurate record of the actions it takes under division (A)(1) of this section with respect to the property ordered

forfeited or the fine or civil penalty. The record is a public record open for inspection under section 149.43 of the Revised Code.

(B)(1) After the application of division (A) of this section, any person who prevails in a civil action pursuant to section 2923.34 of the Revised Code has a right to any property, or the proceeds of any property, criminally forfeited to the state pursuant to section 2923.32 of the Revised Code or against which any fine under that section or civil penalty under division (I) of section 2923.34 of the Revised Code may be imposed.

The right of any person who prevails in a civil action pursuant to section 2923.34 of the Revised Code, other than a prosecuting attorney performing official duties under that section, to forfeited property, property against which fines and civil penalties may be imposed, and the proceeds of that property is superior to any right of the state, a municipal corporation, or a county to the property or the proceeds of the property, if the civil action is brought within one hundred eighty days after the entry of a sentence of forfeiture or a fine pursuant to section 2923.32 of the Revised Code or the entry of a civil penalty pursuant to division (I) of section 2923.34 of the Revised Code.

The right is limited to the total value of the treble damages, civil penalties, attorney's fees, and costs awarded to the prevailing party in an action pursuant to section 2923.34 of the Revised Code, less any restitution received by the person.

(2) If the aggregate amount of claims of persons who have prevailed in a civil action pursuant to section 2923.34 of the Revised Code against any one defendant is greater than the total value of the treble fines, civil penalties, and forfeited property paid by the person against whom the actions were brought, all of the persons who brought their actions within one hundred eighty days after the entry of a sentence or disposition of forfeiture or a fine pursuant to section 2923.32 of the Revised Code or the entry of a civil penalty pursuant to division (I) of section 2923.34 of the Revised Code, first shall receive a pro rata share of the total amount of the fines, civil penalties, and forfeited property. After the persons who brought their actions within the specified one-hundred-eighty-day period have satisfied their claims out of the fines, civil penalties, and forfeited property, all other persons who prevailed in civil actions pursuant to section 2923.34 of the Revised Code shall receive a pro rata share of the total amount of the fines, civil penalties, and forfeited property that remains in the custody of the law enforcement agency or in the corrupt activity investigation and prosecution fund.

(C)(1) Subject to divisions (A) and (B) of this section and notwithstanding any contrary provision of section 2933.41 of the Revised



Code, the prosecuting attorney shall order the disposal of property ordered forfeited in any proceeding under sections 2923.32 and 2923.34 of the Revised Code as soon as feasible, making due provisions for the rights of innocent persons, by any of the following methods:

(a) Transfer to any person who prevails in a civil action pursuant to section 2923.34 of the Revised Code, subject to the limit set forth in division (B)(1) of this section;

(b) Public sale;

(c) Transfer to a state governmental agency for official use;

(d) Sale or transfer to an innocent person;

(e) If the property is contraband and is not needed for evidence in any pending criminal or civil proceeding, pursuant to section 2933.41 or any other applicable section of the Revised Code.

(2) Any interest in personal or real property not disposed of pursuant to this division and not exercisable by, or transferable for value to, the state shall expire and shall not revert to the person found guilty of or adjudicated a delinquent child for a violation of section 2923.32 of the Revised Code. No person found guilty of or adjudicated a delinquent child for a violation of that section and no person acting in concert with a person found guilty of or adjudicated a delinquent child for a violation of that section is eligible to purchase forfeited property from the state.

(3) Upon application of a person, other than the defendant, the adjudicated delinquent child, or a person acting in concert with or on behalf of either the defendant or the adjudicated delinquent child, the court may restrain or stay the disposal of the property pursuant to this division pending the conclusion of any appeal of the criminal case or delinquency case giving rise to the forfeiture or pending the determination of the validity of a claim to or interest in the property pursuant to division (E) of section 2923.32 of the Revised Code, if the applicant demonstrates that proceeding with the disposal of the property will result in irreparable injury, harm, or loss to the applicant.

(4) The prosecuting attorney shall maintain an accurate record of each item of property disposed of pursuant to this division, which record shall include the date on which each item came into the prosecuting attorney's custody, the manner and date of disposition, and, if applicable, the name of the person who received the item. The record shall not identify or enable the identification of the individual officer who seized the property, and the record is a public record open for inspection under section 149.43 of the Revised Code.

Each prosecuting attorney who disposes in any calendar year of any

item of property pursuant to this division shall prepare a report covering the calendar year that cumulates all of the information contained in all of the records kept by the prosecuting attorney pursuant to this division for that calendar year and shall send the cumulative report, no later than the first day of March in the calendar year following the calendar year covered by the report, to the attorney general. Each report received by the attorney general is a public record open for inspection under section 149.43 of the Revised Code. Not later than the fifteenth day of April in the calendar year following the calendar year covered by the reports, the attorney general shall send to the president of the senate and the speaker of the house of representatives a written notification that does all of the following:

(a) Indicates that the attorney general has received from prosecuting attorneys reports of the type described in this division that cover the previous calendar year and indicates that the reports were received under this division;

(b) Indicates that the reports are open for inspection under section 149.43 of the Revised Code;

(c) Indicates that the attorney general will provide a copy of any or all of the reports to the president of the senate or the speaker of the house of representatives upon request.

(D)(1)(a) Ten per cent of the proceeds of all property ordered forfeited by a juvenile court pursuant to section 2923.32 of the Revised Code shall be applied to one or more alcohol and drug addiction treatment programs that are certified by the department of alcohol and drug addiction services under section 3793.06 of the Revised Code and that are specified in the order of forfeiture. A juvenile court shall not specify an alcohol or drug addiction treatment program in the order of forfeiture unless the program is a certified alcohol and drug addiction treatment program and, except as provided in division (D)(1)(a) of this section, unless the program is located in the county in which the court that orders the forfeiture is located or in a contiguous county. If no certified alcohol and drug addiction treatment program is located in any of those counties, the juvenile court may specify in the order a certified alcohol and drug addiction treatment program located anywhere within this state. The remaining ninety per cent of the proceeds shall be disposed of as provided in divisions (D)(1)(b) and (D)(2) of this section.

All of the proceeds of all property ordered forfeited by a court other than a juvenile court pursuant to section 2923.32 of the Revised Code shall be disposed of as provided in divisions (D)(1)(b) and (D)(2) of this section.

(b) The remaining proceeds of all property ordered forfeited pursuant to section 2923.32 of the Revised Code, after compliance with division

(D)(1)(a) of this section when that division is applicable, and all fines and civil penalties imposed pursuant to sections 2923.32 and 2923.34 of the Revised Code shall be deposited into the state treasury and credited to the corrupt activity investigation and prosecution fund, which is hereby created.

(2) The proceeds, fines, and penalties credited to the corrupt activity investigation and prosecution fund pursuant to division (D)(1) of this section shall be disposed of in the following order:

(a) To a civil plaintiff in an action brought within the one-hundred-eighty-day time period specified in division (B)(1) of this section, subject to the limit set forth in that division;

(b) To the payment of the fees and costs of the forfeiture and sale, including expenses of seizure, maintenance, and custody of the property pending its disposition, advertising, and court costs;

(c) Except as otherwise provided in division (D)(2)(c) of this section, the remainder shall be paid to the law enforcement trust fund of the prosecuting attorney that is established pursuant to division (D)(1)(c) of section 2933.43 of the Revised Code and to the law enforcement trust fund of the county sheriff that is established pursuant to that division if the county sheriff substantially conducted the investigation, to the law enforcement trust fund of a municipal corporation that is established pursuant to that division if its police department substantially conducted the investigation, to the law enforcement trust fund of a township that is established pursuant to that division if the investigation was substantially conducted by a township police department, township police district police force, or office of a township constable, or to the law enforcement trust fund of a park district created pursuant to section 511.18 or 1545.01 of the Revised Code that is established pursuant to that division if the investigation was substantially conducted by its park district police force or law enforcement department. The prosecuting attorney may decline to accept any of the remaining proceeds, fines, and penalties, and, if the prosecuting attorney so declines, they shall be applied to the fund described in division (D)(2)(c) of this section that relates to the appropriate law enforcement agency that substantially conducted the investigation.

If the state highway patrol substantially conducted the investigation, the director of budget and management shall transfer the remaining proceeds, fines, and penalties to the state highway patrol for deposit into the ~~state~~ highway patrol state contraband, forfeiture, and other fund that is created by division (D)(1)(c) of section 2933.43 of the Revised Code. If the department of taxation substantially conducted the investigation, the director; shall transfer the remaining proceeds, fines, and penalties to the department for

deposit into the department of taxation enforcement fund. If the state board of pharmacy substantially conducted the investigation, the director shall transfer the remaining proceeds, fines, and penalties to the board for deposit into the board of pharmacy drug law enforcement fund that is created by division (B)(1) of section 4729.65 of the Revised Code. If a state law enforcement agency, other than the state highway patrol, the department of taxation, or the state board of pharmacy, substantially conducted the investigation, the director shall transfer the remaining proceeds, fines, and penalties to the treasurer of state for deposit into the peace officer training commission fund.

The remaining proceeds, fines, and penalties that are paid to a law enforcement trust fund or that are deposited into the ~~state~~ highway patrol state contraband, forfeiture, and other fund, the department of taxation enforcement fund, the board of pharmacy drug law enforcement fund, or the peace officer training commission fund pursuant to division (D)(2)(c) of this section shall be allocated, used, and expended only in accordance with division (D)(1)(c) of section 2933.43 of the Revised Code, only in accordance with a written internal control policy adopted under division (D)(3) of that section, and, if applicable, only in accordance with division (B) of section 4729.65 of the Revised Code. The annual reports that pertain to the funds and that are required by divisions (D)(1)(c) and (3)(b) of section 2933.43 of the Revised Code also shall address the remaining proceeds, fines, and penalties that are paid or deposited into the funds pursuant to division (D)(2)(c) of this section.

(3) If more than one law enforcement agency substantially conducted the investigation, the court ordering the forfeiture shall equitably divide the remaining proceeds, fines, and penalties among the law enforcement agencies that substantially conducted the investigation, in the manner described in division (D)(2) of section 2933.43 of the Revised Code for the equitable division of contraband proceeds and forfeited moneys. The equitable shares of the proceeds, fines, and penalties so determined by the court shall be paid or deposited into the appropriate funds specified in division (D)(2)(c) of this section.

(E) As used in this section, "law enforcement agency" includes, but is not limited to, the state board of pharmacy and the department of taxation.

Sec. 2923.46. (A) If property is seized pursuant to section 2923.44 or 2923.45 of the Revised Code, it is considered to be in the custody of the head of the law enforcement agency that seized it, and the head of that agency may do any of the following with respect to that property prior to its disposition in accordance with division (A)(4) or (B) of this section:

(1) Place the property under seal;  
(2) Remove the property to a place that the head of that agency designates;

(3) Request the issuance of a court order that requires any other appropriate municipal corporation, county, township, park district created pursuant to section 511.18 or 1545.01 of the Revised Code, or state law enforcement officer or other officer to take custody of the property and, if practicable, remove it to an appropriate location for eventual disposition in accordance with division (B) of this section;

(4)(a) Seek forfeiture of the property pursuant to federal law. If the head of that agency seeks its forfeiture pursuant to federal law, the law enforcement agency shall deposit, use, and account for proceeds from a sale of the property upon its forfeiture, proceeds from another disposition of the property upon its forfeiture, or forfeited moneys it receives, in accordance with the applicable federal law and otherwise shall comply with that law.

(b) If the state highway patrol seized the property and if the superintendent of the state highway patrol seeks its forfeiture pursuant to federal law, the appropriate governmental officials shall deposit into the ~~state~~ highway patrol federal contraband, forfeiture, and other fund all interest or other earnings derived from the investment of the proceeds from a sale of the property upon its forfeiture, the proceeds from another disposition of the property upon its forfeiture, or the forfeited moneys. The state highway patrol shall use and account for that interest or other earnings in accordance with the applicable federal law.

(c) Division (B) of this section and divisions (D)(1) to (3) of section 2933.43 of the Revised Code do not apply to proceeds or forfeited moneys received pursuant to federal law or to the interest or other earnings that are derived from the investment of proceeds or forfeited moneys received pursuant to federal law and that are described in division (A)(4)(b) of this section.

(B) In addition to complying with any requirements imposed by a court pursuant to section 2923.44 or 2923.45 of the Revised Code, and the requirements imposed by those sections, in relation to the disposition of property forfeited to the state under either of those sections, the prosecuting attorney who is responsible for its disposition shall dispose of the property as follows:

(1) Any vehicle that was used in a violation of section 2923.42 of the Revised Code or in an act of a juvenile that is a violation of section 2923.42 of the Revised Code shall be given to the law enforcement agency of the municipal corporation or county in which the offense or act occurred if that

agency desires to have the vehicle, except that, if the offense or act occurred in a township or in a park district created pursuant to section 511.18 or 1545.01 of the Revised Code and a law enforcement officer employed by the township or the park district was involved in the seizure of the vehicle, the vehicle may be given to the law enforcement agency of that township or park district if that agency desires to have the vehicle, and except that, if the state highway patrol made the seizure of the vehicle, the vehicle may be given to the state highway patrol if it desires to have the vehicle.

(2) Drugs shall be disposed of pursuant to section 3719.11 of the Revised Code or placed in the custody of the secretary of the treasury of the United States for disposal or use for medical or scientific purposes under applicable federal law.

(3) Firearms and dangerous ordnance suitable for police work may be given to a law enforcement agency for that purpose. Firearms suitable for sporting use, or as museum pieces or collectors' items, may be disposed of by sale pursuant to division (B)(7) of this section. Other firearms and dangerous ordnance shall be destroyed by a law enforcement agency or shall be sent to the bureau of criminal identification and investigation for destruction by it.

(4) Computers, computer networks, computer systems, and computer software suitable for police work may be given to a law enforcement agency for that purpose. Other computers, computer networks, computer systems, and computer software shall be disposed of by sale pursuant to division (B)(7) of this section or disposed of in another manner that the court that issued the order of forfeiture considers proper under the circumstances.

(5) Obscene materials shall be destroyed.

(6) Beer, intoxicating liquor, and alcohol shall be disposed of in accordance with division (D)(4) of section 2933.41 of the Revised Code.

(7) In the case of property not described in divisions (B)(1) to (6) of this section and of property described in those divisions but not disposed of pursuant to them, the property shall be sold in accordance with division (B)(7) of this section or, in the case of forfeited moneys, disposed of in accordance with division (B)(7) of this section. If the property is to be sold, the prosecuting attorney shall cause a notice of the proposed sale of the property to be given in accordance with law, and the property shall be sold, without appraisal, at a public auction to the highest bidder for cash. The proceeds of a sale and forfeited moneys shall be applied in the following order:

(a) First, to the payment of the costs incurred in connection with the seizure of, storage of, maintenance of, and provision of security for the

property, the forfeiture proceeding or civil action, and, if any, the sale;

(b) Second, the remaining proceeds or forfeited moneys after compliance with division (B)(7)(a) of this section, to the payment of the value of any legal right, title, or interest in the property that is possessed by a person who, pursuant to division (F) of section 2923.44 of the Revised Code or division (E) of section 2923.45 of the Revised Code, established the validity of and consequently preserved that legal right, title, or interest, including, but not limited to, any mortgage, perfected or other security interest, or other lien in the property. The value of these rights, titles, or interests shall be paid according to their record or other order of priority.

(c) Third, the remaining proceeds or forfeited moneys after compliance with divisions (B)(7)(a) and (b) of this section, as follows:

(i) If the forfeiture was ordered in a juvenile court, ten per cent to one or more alcohol and drug addiction treatment programs that are certified by the department of alcohol and drug addiction services under section 3793.06 of the Revised Code and that are specified in the order of forfeiture. A juvenile court shall not specify an alcohol or drug addiction treatment program in the order of forfeiture unless the program is a certified alcohol and drug addiction treatment program and, except as provided in division (B)(7)(c)(i) of this section, unless the program is located in the county in which the court that orders the forfeiture is located or in a contiguous county. If no certified alcohol and drug addiction treatment program is located in any of those counties, the juvenile court may specify in the order a certified alcohol and drug addiction treatment program located anywhere within this state.

(ii) If the forfeiture was ordered in a juvenile court, ninety per cent, and if the forfeiture was ordered in a court other than a juvenile court, one hundred per cent to appropriate funds in accordance with divisions (D)(1)(c) and (2) of section 2933.43 of the Revised Code. The remaining proceeds or forfeited moneys so deposited shall be used only for the purposes authorized by those divisions and division (D)(3)(a)(ii) of that section.

(C)(1) Sections 2923.44 to 2923.47 of the Revised Code do not preclude a financial institution that possessed a valid mortgage, security interest, or lien that is not satisfied prior to a sale under division (B)(7) of this section or following a sale by application of division (B)(7)(b) of this section, from commencing a civil action in any appropriate court in this or another state to obtain a deficiency judgment against the debtor if the financial institution otherwise would have been entitled to do so in this or another state.

(2) Any law enforcement agency that obtains any vehicle pursuant to division (B)(1) of this section shall take the vehicle subject to the outstanding amount of any security interest or lien that attaches to the

vehicle.

(3) Nothing in this section impairs a mortgage, security interest, lien, or other interest of a financial institution in property that was the subject of a forfeiture order under section 2923.44 or 2923.45 of the Revised Code and that was sold or otherwise disposed of in a manner that does not conform to the requirements of division (B) of this section, or any right of a financial institution of that nature to commence a civil action in any appropriate court in this or another state to obtain a deficiency judgment against the debtor.

(4) Following the sale under division (B)(7) of this section of any property that is required to be titled or registered under the law of this state, the prosecuting attorney responsible for the disposition of the property shall cause the state to issue an appropriate certificate of title or registration to the purchaser of the property. If, in a disposition of property pursuant to division (B) of this section, the state or a political subdivision is given any property that is required to be titled or registered under the law of this state, the prosecuting attorney responsible for the disposition of the property shall cause the state to issue an appropriate certificate of title or registration to itself or to the political subdivision.

(D) Property that has been forfeited to the state pursuant to an order of criminal forfeiture under section 2923.44 of the Revised Code or an order of civil forfeiture under section 2923.45 of the Revised Code shall not be available for use to pay any fine imposed upon a person who is convicted of or pleads guilty to a violation of section 2923.42 of the Revised Code or upon a juvenile who is found by a juvenile court to be a delinquent child for an act that is a violation of section 2923.42 of the Revised Code.

(E) Sections 2923.44 to 2923.47 of the Revised Code do not prohibit a law enforcement officer from seeking the forfeiture of contraband associated with a violation of section 2923.42 of the Revised Code pursuant to section 2933.43 of the Revised Code.

Sec. 2925.44. (A) If property is seized pursuant to section 2925.42 or 2925.43 of the Revised Code, it is deemed to be in the custody of the head of the law enforcement agency that seized it, and the head of that agency may do any of the following with respect to that property prior to its disposition in accordance with division (A)(4) or (B) of this section:

- (1) Place the property under seal;
- (2) Remove the property to a place that the head of that agency designates;
- (3) Request the issuance of a court order that requires any other appropriate municipal corporation, county, township, park district created pursuant to section 511.18 or 1545.01 of the Revised Code, or state law



enforcement officer or other officer to take custody of the property and, if practicable, remove it to an appropriate location for eventual disposition in accordance with division (B) of this section;

(4)(a) Seek forfeiture of the property pursuant to federal law. If the head of that agency seeks its forfeiture pursuant to federal law, the law enforcement agency shall deposit, use, and account for proceeds from a sale of the property upon its forfeiture, proceeds from another disposition of the property upon its forfeiture, or forfeited moneys it receives, in accordance with the applicable federal law and otherwise shall comply with that law.

(b) If the state highway patrol seized the property and if the superintendent of the state highway patrol seeks its forfeiture pursuant to federal law, the appropriate governmental officials shall deposit into the ~~state~~ highway patrol federal contraband, forfeiture, and other fund all interest or other earnings derived from the investment of the proceeds from a sale of the property upon its forfeiture, the proceeds from another disposition of the property upon its forfeiture, or the forfeited moneys. The state highway patrol shall use and account for that interest or other earnings in accordance with the applicable federal law.

(c) If the investigative unit of the department of public safety seized the property and if the director of public safety seeks its forfeiture pursuant to federal law, the appropriate governmental officials shall deposit into the department of public safety investigative unit ~~contraband, forfeiture, and other~~ federal equitable share account fund all interest or other earnings derived from the investment of the proceeds from a sale of the property upon its forfeiture, the proceeds from another disposition of the property upon its forfeiture, or the forfeited moneys. The department shall use and account for that interest or other earnings in accordance with the applicable federal law.

(d) If the enforcement division of the department of taxation seized the property and if the tax commissioner seeks its forfeiture pursuant to federal law, the appropriate governmental officials shall; deposit into the department of taxation enforcement fund all interest or other earnings derived from the investment of the proceeds from a sale of the property upon its forfeiture, the proceeds from another disposition of the property upon its forfeiture, or the forfeited moneys. The department shall use and account for that interest or other earnings in accordance with the applicable federal law.

(e) Division (B) of this section and divisions (D)(1) to (3) of section 2933.43 of the Revised Code do not apply to proceeds or forfeited moneys received pursuant to federal law or to the interest or other earnings that are

derived from the investment of proceeds or forfeited moneys received pursuant to federal law and that are described in division (A)(4)(b) or (d) of this section.

(B) In addition to complying with any requirements imposed by a court pursuant to section 2925.42 or 2925.43 of the Revised Code, and the requirements imposed by those sections, in relation to the disposition of property forfeited to the state under either of those sections, the prosecuting attorney who is responsible for its disposition shall dispose of the property as follows:

(1) Any vehicle, as defined in section 4501.01 of the Revised Code, that was used in a felony drug abuse offense or in an act that, if committed by an adult, would be a felony drug abuse offense shall be given to the law enforcement agency of the municipal corporation or county in which the offense occurred if that agency desires to have the vehicle, except that, if the offense occurred in a township or in a park district created pursuant to section 511.18 or 1545.01 of the Revised Code and a law enforcement officer employed by the township or the park district was involved in the seizure of the vehicle, the vehicle may be given to the law enforcement agency of that township or park district if that agency desires to have the vehicle, and except that, if the state highway patrol made the seizure of the vehicle, the vehicle may be given to the state highway patrol if it desires to have the vehicle.

(2) Any drug paraphernalia that was used, possessed, sold, or manufactured in a violation of section 2925.14 of the Revised Code that would be a felony drug abuse offense or in a violation of that section committed by a juvenile that, if committed by an adult, would be a felony drug abuse offense, may be given to the law enforcement agency of the municipal corporation or county in which the offense occurred if that agency desires to have and can use the drug paraphernalia, except that, if the offense occurred in a township or in a park district created pursuant to section 511.18 or 1545.01 of the Revised Code and a law enforcement officer employed by the township or the park district was involved in the seizure of the drug paraphernalia, the drug paraphernalia may be given to the law enforcement agency of that township or park district if that agency desires to have and can use the drug paraphernalia. If the drug paraphernalia is not so given, it shall be disposed of by sale pursuant to division (B)(8) of this section or disposed of in another manner that the court that issued the order of forfeiture considers proper under the circumstances.

(3) Drugs shall be disposed of pursuant to section 3719.11 of the Revised Code or placed in the custody of the secretary of the treasury of the

United States for disposal or use for medical or scientific purposes under applicable federal law.

(4) Firearms and dangerous ordnance suitable for police work may be given to a law enforcement agency for that purpose. Firearms suitable for sporting use, or as museum pieces or collectors' items, may be disposed of by sale pursuant to division (B)(8) of this section. Other firearms and dangerous ordnance shall be destroyed by a law enforcement agency or shall be sent to the bureau of criminal identification and investigation for destruction by it. As used in this division, "firearms" and "dangerous ordnance" have the same meanings as in section 2923.11 of the Revised Code.

(5) Computers, computer networks, computer systems, and computer software suitable for police work may be given to a law enforcement agency for that purpose. Other computers, computer networks, computer systems, and computer software shall be disposed of by sale pursuant to division (B)(8) of this section or disposed of in another manner that the court that issued the order of forfeiture considers proper under the circumstances. As used in this division, "computers," "computer networks," "computer systems," and "computer software" have the same meanings as in section 2913.01 of the Revised Code.

(6) Obscene materials shall be destroyed.

(7) Beer, intoxicating liquor, and alcohol shall be disposed of in accordance with division (D)(4) of section 2933.41 of the Revised Code.

(8) In the case of property not described in divisions (B)(1) to (7) of this section and of property described in those divisions but not disposed of pursuant to them, the property shall be sold in accordance with division (B)(8) of this section or, in the case of forfeited moneys, disposed of in accordance with division (B)(8) of this section. If the property is to be sold, the prosecuting attorney shall cause a notice of the proposed sale of the property to be given in accordance with law, and the property shall be sold, without appraisal, at a public auction to the highest bidder for cash. The proceeds of a sale and forfeited moneys shall be applied in the following order:

(a) First, to the payment of the costs incurred in connection with the seizure of, storage of, maintenance of, and provision of security for the property, the forfeiture proceeding or civil action, and, if any, the sale;

(b) Second, the remaining proceeds or forfeited moneys after compliance with division (B)(8)(a) of this section, to the payment of the value of any legal right, title, or interest in the property that is possessed by a person who, pursuant to division (F) of section 2925.42 of the Revised

Code or division (E) of section 2925.43 of the Revised Code, established the validity of and consequently preserved that legal right, title, or interest, including, but not limited to, any mortgage, perfected or other security interest, or other lien in the property. The value of these rights, titles, or interests shall be paid according to their record or other order of priority.

(c) Third, the remaining proceeds or forfeited moneys after compliance with divisions (B)(8)(a) and (b) of this section, as follows:

(i) If the forfeiture was ordered in a juvenile court, ten per cent to one or more alcohol and drug addiction treatment programs that are certified by the department of alcohol and drug addiction services under section 3793.06 of the Revised Code and that are specified in the order of forfeiture. A juvenile court shall not specify an alcohol or drug addiction treatment program in the order of forfeiture unless the program is a certified alcohol and drug addiction treatment program and, except as provided in division (B)(8)(c)(i) of this section, unless the program is located in the county in which the court that orders the forfeiture is located or in a contiguous county. If no certified alcohol and drug addiction treatment program is located in any of those counties, the juvenile court may specify in the order a certified alcohol and drug addiction treatment program located anywhere within this state.

(ii) If the forfeiture was ordered in a juvenile court, ninety per cent, and if the forfeiture was ordered in a court other than a juvenile court, one hundred per cent to appropriate funds in accordance with divisions (D)(1)(c) and (2) of section 2933.43 of the Revised Code. The remaining proceeds or forfeited moneys so deposited shall be used only for the purposes authorized by those divisions and division (D)(3)(a)(ii) of that section.

(C)(1) Sections 2925.41 to 2925.45 of the Revised Code do not preclude a financial institution that possessed a valid mortgage, security interest, or lien that is not satisfied prior to a sale under division (B)(8) of this section or following a sale by application of division (B)(8)(b) of this section, from commencing a civil action in any appropriate court in this or another state to obtain a deficiency judgment against the debtor if the financial institution otherwise would have been entitled to do so in this or another state.

(2) Any law enforcement agency that obtains any vehicle pursuant to division (B)(1) of this section shall take the vehicle subject to the outstanding amount of any security interest or lien that attaches to the vehicle.

(3) Nothing in this section impairs a mortgage, security interest, lien, or other interest of a financial institution in property that was the subject of a forfeiture order under section 2925.42 or 2925.43 of the Revised Code and that was sold or otherwise disposed of in a manner that does not conform to

the requirements of division (B) of this section, or any right of a financial institution of that nature to commence a civil action in any appropriate court in this or another state to obtain a deficiency judgment against the debtor.

(4) Following the sale under division (B)(8) of this section of any property that is required to be titled or registered under the law of this state, the prosecuting attorney responsible for the disposition of the property shall cause the state to issue an appropriate certificate of title or registration to the purchaser of the property. Additionally, if, in a disposition of property pursuant to division (B) of this section, the state or a political subdivision is given any property that is required to be titled or registered under the law of this state, the prosecuting attorney responsible for the disposition of the property shall cause the state to issue an appropriate certificate of title or registration to itself or to the political subdivision.

(D) Property that has been forfeited to the state pursuant to an order of criminal forfeiture under section 2925.42 of the Revised Code or an order of civil forfeiture under section 2925.43 of the Revised Code shall not be available for use to pay any fine imposed upon a person who is convicted of or pleads guilty to a felony drug abuse offense or upon any juvenile who is found by a juvenile court to be a delinquent child for an act that, if committed by an adult, would be a felony drug abuse offense.

(E) Sections 2925.41 to 2925.45 of the Revised Code do not prohibit a law enforcement officer from seeking the forfeiture of contraband associated with a felony drug abuse offense pursuant to section 2933.43 of the Revised Code.

Sec. 2927.023. (A) As used in this section "authorized recipient of tobacco products" means a person who is:

(1) Licensed as a cigarette wholesale dealer under section 5743.15 of the Revised Code;

(2) Licensed as a distributor of tobacco products under section 5743.61 of the Revised Code;

(3) An export warehouse proprietor as defined in section 5702 of the Internal Revenue Code;

(4) An operator of a customs bonded warehouse under 19 U.S.C. 1311 or 19 U.S.C. 1555;

(5) An officer, employee, or agent of the federal government or of this state acting in the person's official capacity;

(6) A department, agency, instrumentality, or political subdivision of the federal government or of this state;

(7) A person having a consent for consumer shipment issued by the tax commissioner under section 5743.71 of the Revised Code.

The purpose of this section is to prevent the sale of cigarettes to minors and to ensure compliance with the Master Settlement Agreement, as defined in section 1346.01 of the Revised Code.

(B)(1) No person shall cause to be shipped any cigarettes to any person in this state other than an authorized recipient of tobacco products.

(2) No common carrier, contract carrier, or other person shall knowingly transport cigarettes to any person in this state that the carrier or other person reasonably believes is not an authorized recipient of tobacco products. If cigarettes are transported to a home or residence, it shall be presumed that the common carrier, contract carrier, or other person knew that the person to whom the cigarettes were delivered was not an authorized recipient of tobacco products.

(C) No person engaged in the business of selling cigarettes who ships or causes to be shipped cigarettes to any person in this state in any container or wrapping other than the original container or wrapping of the cigarettes shall fail to plainly and visibly mark the exterior of the container or wrapping in which the cigarettes are shipped with the words "cigarettes."

(D) A court shall impose a fine of up to one thousand dollars for each violation of division (B)(1), (B)(2), or (C) of this section.

Sec. 2933.43. (A)(1) Except as provided in this division or in section 2913.34 or sections 2923.44 to 2923.47 or 2925.41 to 2925.45 of the Revised Code, a law enforcement officer shall seize any contraband that has been, is being, or is intended to be used in violation of division (A) of section 2933.42 of the Revised Code. A law enforcement officer shall seize contraband that is a watercraft, motor vehicle, or aircraft and that has been, is being, or is intended to be used in violation of division (A) of section 2933.42 of the Revised Code only if the watercraft, motor vehicle, or aircraft is contraband because of its relationship to an underlying criminal offense that is a felony.

Additionally, a law enforcement officer shall seize any watercraft, motor vehicle, aircraft, or other personal property that is classified as contraband under division (B) of section 2933.42 of the Revised Code if the underlying offense involved in the violation of division (A) of that section that resulted in the watercraft, motor vehicle, aircraft, or personal property being classified as contraband, is a felony.

(2) If a law enforcement officer seizes property that is titled or registered under law, including a motor vehicle, pursuant to division (A)(1) of this section, the officer or the officer's employing law enforcement agency shall notify the owner of the seizure. The notification shall be given to the owner at the owner's last known address within seventy-two hours

after the seizure, and may be given orally by any means, including telephone, or by certified mail, return receipt requested.

If the officer or the officer's agency is unable to provide the notice required by this division despite reasonable, good faith efforts to do so, the exercise of the reasonable, good faith efforts constitutes fulfillment of the notice requirement imposed by this division.

(B)(1) A motor vehicle seized pursuant to division (A)(1) of this section and the contents of the vehicle may be retained for a reasonable period of time, not to exceed seventy-two hours, for the purpose of inspection, investigation, and the gathering of evidence of any offense or illegal use.

At any time prior to the expiration of the seventy-two-hour period, the law enforcement agency that seized the motor vehicle may petition the court of common pleas of the county that has jurisdiction over the underlying criminal case or administrative proceeding involved in the forfeiture for an extension of the seventy-two-hour period if the motor vehicle or its contents are needed as evidence or if additional time is needed for the inspection, investigation, or gathering of evidence. Upon the filing of such a petition, the court immediately shall schedule a hearing to be held at a time as soon as possible after the filing, but in no event at a time later than the end of the next business day subsequent to the day on which the petition was filed, and upon scheduling the hearing, immediately shall notify the owner of the vehicle, at the address at which notification of the seizure was provided under division (A) of this section, of the date, time, and place of the hearing. If the court, at the hearing, determines that the vehicle or its contents, or both, are needed as evidence or that additional time is needed for the inspection, investigation, or gathering of evidence, the court may grant the petition and issue an order authorizing the retention of the vehicle or its contents, or both, for an extended period as specified by the court in its order. An order extending a period of retention issued under this division may be renewed.

If no petition for the extension of the initial seventy-two-hour period has been filed, prior to the expiration of that period, under this division, if the vehicle was not in the custody and control of the owner at the time of its seizure, and if, at the end of that seventy-two-hour period, the owner of the vehicle has not been charged with an offense or administrative violation that includes the use of the vehicle as an element and has not been charged with any other offense or administrative violation in the actual commission of which the motor vehicle was used, the vehicle and its contents shall be released to its owner or the owner's agent, provided that the law enforcement agency that seized the vehicle may require proof of ownership

of the vehicle, proof of ownership or legal possession of the contents, and an affidavit of the owner that the owner neither knew of nor expressly or impliedly consented to the use of the vehicle that resulted in its forfeiture as conditions precedent to release. If a petition for the extension of the initial seventy-two-hour period has been filed, prior to the expiration of that period, under this division but the court does not grant the petition, if the vehicle was not in the custody and control of the owner at the time of its seizure, and if, at the end of that seventy-two-hour period, the owner of the vehicle has not been charged with an offense or administrative violation that includes the use of the vehicle as an element and has not been charged with any other offense or administrative violation in the actual commission of which the motor vehicle was used, the vehicle and its contents shall be released to its owner or the owner's agent, provided that the court may require the proof and affidavit described in the preceding sentence as conditions precedent to release. If the initial seventy-two-hour period has been extended under this division, the vehicle and its contents to which the extension applies may be retained in accordance with the extension order. If, at the end of that extended period, the owner of the vehicle has not been charged with an offense or administrative violation that includes the use of the vehicle as an element and has not been charged with any other offense or administrative violation in the actual commission of which the motor vehicle was used, and if the vehicle was not in the custody and control of the owner at the time of its seizure, the vehicle and its contents shall be released to its owner or the owner's agent, provided that the court may require the proof and affidavit described in the third preceding sentence as conditions precedent to release. In cases in which the court may require proof and affidavits as conditions precedent to release, the court also may require the posting of a bond, with sufficient sureties approved by the court, in an amount equal to the value of the property to be released, as determined by the court, and conditioned upon the return of the property to the court if it is forfeited under this section, as a further condition to release. If, at the end of the initial seventy-two-hour period or at the end of any extended period granted under this section, the owner has been charged with an offense or administrative violation that includes the use of the vehicle as an element or has been charged with another offense or administrative violation in the actual commission of which the motor vehicle was used, or if the vehicle was in the custody and control of the owner at the time of its seizure, the vehicle and its contents shall be retained pending disposition of the charge, provided that upon the filing of a motion for release by the owner, if the court determines that the motor vehicle or its contents, or both, are not



needed as evidence in the underlying criminal case or administrative proceeding, the court may permit the release of the property that is not needed as evidence to the owner; as a condition precedent to a release of that nature, the court may require the owner to execute a bond with the court. Any bond so required shall be in an amount equal to the value of the property to be released, as determined by the court, shall have sufficient sureties approved by the court, and shall be conditioned upon the return of the property to the court to which it is forfeited under this section.

The final disposition of a motor vehicle seized pursuant to division (A)(1) of this section shall be determined in accordance with division (C) of this section.

(2) Pending a hearing pursuant to division (C) of this section, and subject to divisions (B)(1) and (C) of this section, any property lawfully seized pursuant to division (A) of this section because it was contraband of a type described in division (A)(13)(b), (d), (e), (f), (g), (h), (i), or (j) of section 2901.01 of the Revised Code shall not be subject to replevin or other action in any court and shall not be subject to release upon request of the owner, and no judgment shall be enforced against the property. Pending the hearing, and subject to divisions (B)(1) and (C) of this section, the property shall be kept in the custody of the law enforcement agency responsible for its seizure.

Pending a hearing pursuant to division (C) of this section, and notwithstanding any provisions of division (B)(1) or (C) of this section to the contrary, any property lawfully seized pursuant to division (A) of this section because it was contraband of a type described in division (A)(13)(a) or (c) of section 2901.01 of the Revised Code shall not be subject to replevin or other action in any court and shall not be subject to release upon request of the owner, and no judgment shall be enforced against the property. Pending the hearing, and notwithstanding any provisions of division (B)(1) or (C) of this section to the contrary, the property shall be kept in the custody of the law enforcement agency responsible for its seizure.

A law enforcement agency that seizes property under division (A) of this section because it was contraband of any type described in division (A)(13) of section 2901.01 or division (B) of section 2933.42 of the Revised Code shall maintain an accurate record of each item of property so seized, which record shall include the date on which each item was seized, the manner and date of its disposition, and if applicable, the name of the person who received the item; however, the record shall not identify or enable the identification of the individual officer who seized the item. The record of property of that nature that no longer is needed as evidence shall be open to

public inspection during the agency's regular business hours. Each law enforcement agency that, during any calendar year, seizes property under division (A) of this section because it was contraband shall prepare a report covering the calendar year that cumulates all of the information contained in all of the records kept by the agency pursuant to this division for that calendar year, and shall send a copy of the cumulative report, no later than the first day of March in the calendar year following the calendar year covered by the report, to the attorney general. Each report received by the attorney general is a public record open for inspection under section 149.43 of the Revised Code. Not later than the fifteenth day of April in the calendar year in which the reports are received, the attorney general shall send to the president of the senate and the speaker of the house of representatives a written notification that does all of the following:

(a) Indicates that the attorney general has received from law enforcement agencies reports of the type described in this division that cover the previous calendar year and indicates that the reports were received under this division;

(b) Indicates that the reports are open for inspection under section 149.43 of the Revised Code;

(c) Indicates that the attorney general will provide a copy of any or all of the reports to the president of the senate or the speaker of the house of representatives upon request.

(C) The prosecuting attorney, village solicitor, city director of law, or similar chief legal officer who has responsibility for the prosecution of the underlying criminal case or administrative proceeding, or the attorney general if the attorney general has that responsibility, shall file a petition for the forfeiture, to the seizing law enforcement agency of the contraband seized pursuant to division (A) of this section. The petition shall be filed in the court that has jurisdiction over the underlying criminal case or administrative proceeding involved in the forfeiture. If the property was seized on the basis of both a criminal violation and an administrative regulation violation, the petition shall be filed by the officer and in the court that is appropriate in relation to the criminal case.

The petitioner shall conduct or cause to be conducted a search of the appropriate public records that relate to the seized property for the purpose of determining, and shall make or cause to be made reasonably diligent inquiries for the purpose of determining, any person having an ownership or security interest in the property. The petitioner then shall give notice of the forfeiture proceedings by personal service or by certified mail, return receipt requested, to any persons known, because of the conduct of the search, the

making of the inquiries, or otherwise, to have an ownership or security interest in the property, and shall publish notice of the proceedings once each week for two consecutive weeks in a newspaper of general circulation in the county in which the seizure occurred. The notices shall be personally served, mailed, and first published at least four weeks before the hearing. They shall describe the property seized; state the date and place of seizure; name the law enforcement agency that seized the property and, if applicable, that is holding the property; list the time, date, and place of the hearing; and state that any person having an ownership or security interest in the property may contest the forfeiture.

If the property seized was determined by the seizing law enforcement officer to be contraband because of its relationship to an underlying criminal offense or administrative violation, no forfeiture hearing shall be held under this section unless the person pleads guilty to or is convicted of the commission of, or an attempt or conspiracy to commit, the offense or a different offense arising out of the same facts and circumstances or unless the person admits or is adjudicated to have committed the administrative violation or a different violation arising out of the same facts and circumstances; a forfeiture hearing shall be held in a case of that nature no later than forty-five days after the conviction or the admission or adjudication of the violation, unless the time for the hearing is extended by the court for good cause shown. The owner of any property seized because of its relationship to an underlying criminal offense or administrative violation may request the court to release the property to the owner. Upon receipt of a request of that nature, if the court determines that the property is not needed as evidence in the underlying criminal case or administrative proceeding, the court may permit the release of the property to the owner. As a condition precedent to a release of that nature, the court may require the owner to execute a bond with the court. Any bond so required shall have sufficient sureties approved by the court, shall be in a sum equal to the value of the property, as determined by the court, and shall be conditioned upon the return of the property to the court if the property is forfeited under this section. Any property seized because of its relationship to an underlying criminal offense or administrative violation shall be returned to its owner if charges are not filed in relation to that underlying offense or violation within thirty days after the seizure, if charges of that nature are filed and subsequently are dismissed, or if charges of that nature are filed and the person charged does not plead guilty to and is not convicted of the offense or does not admit and is not found to have committed the violation.

If the property seized was determined by the seizing law enforcement

officer to be contraband other than because of a relationship to an underlying criminal offense or administrative violation, the forfeiture hearing under this section shall be held no later than forty-five days after the seizure, unless the time for the hearing is extended by the court for good cause shown.

Where possible, a court holding a forfeiture hearing under this section shall follow the Rules of Civil Procedure. When a hearing is conducted under this section, property shall be forfeited upon a showing, by a preponderance of the evidence, by the petitioner that the person from which the property was seized was in violation of division (A) of section 2933.42 of the Revised Code. If that showing is made, the court shall issue an order of forfeiture. If an order of forfeiture is issued in relation to contraband that was released to the owner or the owner's agent pursuant to this division or division (B)(1) of this section, the order shall require the owner to deliver the property, by a specified date, to the law enforcement agency that employed the law enforcement officer who made the seizure of the property, and the court shall deliver a copy of the order to the owner or send a copy of it by certified mail, return receipt requested, to the owner at the address to which notice of the seizure was given under division (A)(2) of this section. Except as otherwise provided in this division, all rights, interest, and title to the forfeited contraband vests in the state, effective from the date of seizure.

No property shall be forfeited pursuant to this division if the owner of the property establishes, by a preponderance of the evidence, that the owner neither knew, nor should have known after a reasonable inquiry, that the property was used, or was likely to be used, in a crime or administrative violation. No bona fide security interest shall be forfeited pursuant to this division if the holder of the interest establishes, by a preponderance of the evidence, that the holder of the interest neither knew, nor should have known after a reasonable inquiry, that the property was used, or likely to be used, in a crime or administrative violation, that the holder of the interest did not expressly or impliedly consent to the use of the property in a crime or administrative violation, and that the security interest was perfected pursuant to law prior to the seizure. If the holder of the interest satisfies the court that these requirements are met, the interest shall be preserved by the court. In a case of that nature, the court shall either order that the agency to which the property is forfeited reimburse the holder of the interest to the extent of the preserved interest or order that the holder be paid for the interest from the proceeds of any sale pursuant to division (D) of this section.

(D)(1) Contraband ordered forfeited pursuant to this section shall be

disposed of pursuant to divisions (D)(1) to (7) of section 2933.41 of the Revised Code or, if the contraband is not described in those divisions, may be used, with the approval of the court, by the law enforcement agency that has custody of the contraband pursuant to division (D)(8) of that section. In the case of contraband not described in any of those divisions and of contraband not disposed of pursuant to any of those divisions, the contraband shall be sold in accordance with this division or, in the case of forfeited moneys, disposed of in accordance with this division. If the contraband is to be sold, the prosecuting attorney shall cause a notice of the proposed sale of the contraband to be given in accordance with law, and the property shall be sold, without appraisal, at a public auction to the highest bidder for cash. The proceeds of a sale and forfeited moneys shall be applied in the following order:

(a) First, to the payment of the costs incurred in connection with the seizure of, storage of, maintenance of, and provision of security for the contraband, the forfeiture proceeding, and, if any, the sale;

(b) Second, the remaining proceeds or forfeited moneys after compliance with division (D)(1)(a) of this section, to the payment of the balance due on any security interest preserved pursuant to division (C) of this section;

(c) Third, the remaining proceeds or forfeited moneys after compliance with divisions (D)(1)(a) and (b) of this section, as follows:

(i) If the forfeiture was ordered in a juvenile court, ten per cent to one or more alcohol and drug addiction treatment programs that are certified by the department of alcohol and drug addiction services under section 3793.06 of the Revised Code and that are specified in the order of forfeiture. A juvenile court shall not certify an alcohol or drug addiction treatment program in the order of forfeiture unless the program is a certified alcohol and drug addiction treatment program and, except as provided in division (D)(1)(c)(i) of this section, unless the program is located in the county in which the court that orders the forfeiture is located or in a contiguous county. If no certified alcohol and drug addiction treatment program is located in any of those counties, the juvenile court may specify in the order a certified alcohol and drug addiction treatment program located anywhere within this state.

(ii) If the forfeiture was ordered in a juvenile court, ninety per cent, and if the forfeiture was ordered in a court other than a juvenile court, one hundred per cent to the law enforcement trust fund of the prosecuting attorney and to the law enforcement trust fund of the county sheriff if the county sheriff made the seizure, to the law enforcement trust fund of a municipal corporation if its police department made the seizure, to the law

enforcement trust fund of a township if the seizure was made by a township police department, township police district police force, or office of a township constable, to the law enforcement trust fund of a park district created pursuant to section 511.18 or 1545.01 of the Revised Code if the seizure was made by the park district police force or law enforcement department, to the ~~state~~ highway patrol state contraband, forfeiture, and other fund if the state highway patrol made the seizure, to the department of public safety investigative unit contraband, forfeiture, and other fund if the investigative unit of the department of public safety made the seizure, to the department of taxation enforcement fund if the department of taxation made the seizure, to the board of pharmacy drug law enforcement fund created by division (B)(1) of section 4729.65 of the Revised Code if the board made the seizure, or to the treasurer of state for deposit into the peace officer training commission fund if a state law enforcement agency, other than the state highway patrol, the investigative unit of the department of public safety, the enforcement division of the department of taxation, or the state board of pharmacy, made the seizure. The prosecuting attorney may decline to accept any of the remaining proceeds or forfeited moneys, and, if the prosecuting attorney so declines, the remaining proceeds or forfeited moneys shall be applied to the fund described in this division that relates to the law enforcement agency that made the seizure.

A law enforcement trust fund shall be established by the prosecuting attorney of each county who intends to receive any remaining proceeds or forfeited moneys pursuant to this division, by the sheriff of each county, by the legislative authority of each municipal corporation, by the board of township trustees of each township that has a township police department, township police district police force, or office of the constable, and by the board of park commissioners of each park district created pursuant to section 511.18 or 1545.01 of the Revised Code that has a park district police force or law enforcement department, for the purposes of this division. There is hereby created in the state treasury the ~~state~~ highway patrol state contraband, forfeiture, and other fund, the department of public safety investigative unit contraband, forfeiture, and other fund, the department of taxation enforcement fund, and the peace officer training commission fund, for the purposes described in this division.

Proceeds or forfeited moneys distributed to any municipal corporation, township, or park district law enforcement trust fund shall be allocated from the fund by the legislative authority only to the police department of the municipal corporation, by the board of township trustees only to the township police department, township police district police force, or office

of the constable, and by the board of park commissioners only to the park district police force or law enforcement department.

Additionally, no proceeds or forfeited moneys shall be allocated to or used by the state highway patrol, the department of public safety, the department of taxation, the state board of pharmacy, or a county sheriff, prosecuting attorney, municipal corporation police department, township police department, township police district police force, office of the constable, or park district police force or law enforcement department unless the state highway patrol, department of public safety, department of taxation, state board of pharmacy, sheriff, prosecuting attorney, municipal corporation police department, township police department, township police district police force, office of the constable, or park district police force or law enforcement department has adopted a written internal control policy under division (D)(3) of this section that addresses the use of moneys received from the ~~state~~ highway patrol state contraband, forfeiture, and other fund, the department of public safety investigative unit contraband, forfeiture, and other fund, the department of taxation enforcement fund, the board of pharmacy drug law enforcement fund, or the appropriate law enforcement trust fund.

The ~~state~~ highway patrol state contraband, forfeiture, and other fund, the department of public safety investigative unit contraband, forfeiture, and other fund, the department of taxation enforcement fund, and a law enforcement trust fund shall be expended only in accordance with the written internal control policy so adopted by the recipient, and, subject to the requirements specified in division (D)(3)(a)(ii) of this section, only to pay the costs of protracted or complex investigations or prosecutions, to provide reasonable technical training or expertise, to provide matching funds to obtain federal grants to aid law enforcement, in the support of DARE programs or other programs designed to educate adults or children with respect to the dangers associated with the use of drugs of abuse, to pay the costs of emergency action taken under section 3745.13 of the Revised Code relative to the operation of an illegal methamphetamine laboratory if the forfeited property or money involved was that of a person responsible for the operation of the laboratory, or for other law enforcement purposes that the superintendent of the state highway patrol, department of public safety, department of taxation, prosecuting attorney, county sheriff, legislative authority, board of township trustees, or board of park commissioners determines to be appropriate. The board of pharmacy drug law enforcement fund shall be expended only in accordance with the written internal control policy so adopted by the board and only in accordance with

section 4729.65 of the Revised Code, except that it also may be expended to pay the costs of emergency action taken under section 3745.13 of the Revised Code relative to the operation of an illegal methamphetamine laboratory if the forfeited property or money involved was that of a person responsible for the operation of the laboratory. The ~~state~~ highway patrol state contraband, forfeiture, and other fund, the department of public safety investigative unit contraband, forfeiture, and other fund, the department of taxation enforcement fund, the board of pharmacy drug law enforcement fund, and a law enforcement trust fund shall not be used to meet the operating costs of the state highway patrol, of the investigative unit of the department of public safety, of the department of taxation enforcement division, of the state board of pharmacy, of any political subdivision, or of any office of a prosecuting attorney or county sheriff that are unrelated to law enforcement.

Proceeds and forfeited moneys that are paid into the state treasury to be deposited into the peace officer training commission fund shall be used by the commission only to pay the costs of peace officer training.

Any sheriff or prosecuting attorney who receives proceeds or forfeited moneys pursuant to this division during any calendar year shall file a report with the county auditor, no later than the thirty-first day of January of the next calendar year, verifying that the proceeds and forfeited moneys were expended only for the purposes authorized by this division and division (D)(3)(a)(ii) of this section and specifying the amounts expended for each authorized purpose. Any municipal corporation police department that is allocated proceeds or forfeited moneys from a municipal corporation law enforcement trust fund pursuant to this division during any calendar year shall file a report with the legislative authority of the municipal corporation, no later than the thirty-first day of January of the next calendar year, verifying that the proceeds and forfeited moneys were expended only for the purposes authorized by this division and division (D)(3)(a)(ii) of this section and specifying the amounts expended for each authorized purpose. Any township police department, township police district police force, or office of the constable that is allocated proceeds or forfeited moneys from a township law enforcement trust fund pursuant to this division during any calendar year shall file a report with the board of township trustees of the township, no later than the thirty-first day of January of the next calendar year, verifying that the proceeds and forfeited moneys were expended only for the purposes authorized by this division and division (D)(3)(a)(ii) of this section and specifying the amounts expended for each authorized purpose. Any park district police force or law enforcement department that is



allocated proceeds or forfeited moneys from a park district law enforcement trust fund pursuant to this division during any calendar year shall file a report with the board of park commissioners of the park district, no later than the thirty-first day of January of the next calendar year, verifying that the proceeds and forfeited moneys were expended only for the purposes authorized by this division and division (D)(3)(a)(ii) of this section and specifying the amounts expended for each authorized purpose. The superintendent of the state highway patrol shall file a report with the attorney general, no later than the thirty-first day of January of each calendar year, verifying that proceeds and forfeited moneys paid into the ~~state~~ highway patrol state contraband, forfeiture, and other fund pursuant to this division during the prior calendar year were used by the state highway patrol during the prior calendar year only for the purposes authorized by this division and specifying the amounts expended for each authorized purpose. The executive director of the state board of pharmacy shall file a report with the attorney general, no later than the thirty-first day of January of each calendar year, verifying that proceeds and forfeited moneys paid into the board of pharmacy drug law enforcement fund during the prior calendar year were used only in accordance with section 4729.65 of the Revised Code and specifying the amounts expended for each authorized purpose. The peace officer training commission shall file a report with the attorney general, no later than the thirty-first day of January of each calendar year, verifying that proceeds and forfeited moneys paid into the peace officer training commission fund pursuant to this division during the prior calendar year were used by the commission during the prior calendar year only to pay the costs of peace officer training and specifying the amount used for that purpose.

The tax commissioner shall file a report with the attorney general, not later than the thirty-first day of January of each calendar year, verifying that proceeds and forfeited moneys paid into the department of taxation enforcement fund pursuant to this division during the prior calendar year were used by the enforcement division during the prior calendar year to pay only the costs of enforcing the tax laws and specifying the amount used for that purpose.

(2) If more than one law enforcement agency is substantially involved in the seizure of contraband that is forfeited pursuant to this section, the court ordering the forfeiture shall equitably divide the proceeds or forfeited moneys, after calculating any distribution to the law enforcement trust fund of the prosecuting attorney pursuant to division (D)(1)(c) of this section, among any county sheriff whose office is determined by the court to be

substantially involved in the seizure, any legislative authority of a municipal corporation whose police department is determined by the court to be substantially involved in the seizure, any board of township trustees whose law enforcement agency is determined by the court to be substantially involved in the seizure, any board of park commissioners of a park district whose police force or law enforcement department is determined by the court to be substantially involved in the seizure, the state board of pharmacy if it is determined by the court to be substantially involved in the seizure, the investigative unit of the department of public safety if it is determined by the court to be substantially involved in the seizure, the enforcement division of the department of taxation if it is determined by the court to be substantially involved in the seizure and the state highway patrol if it is determined by the court to be substantially involved in the seizure. The proceeds or forfeited moneys shall be deposited in the respective law enforcement trust funds of the county sheriff, municipal corporation, township, and park district, the board of pharmacy drug law enforcement fund, the department of public safety investigative unit contraband, forfeiture, and other fund, the department of taxation enforcement fund, or the ~~state~~ highway patrol state contraband, forfeiture, and other fund, in accordance with division (D)(1)(c) of this section. If a state law enforcement agency, other than the state highway patrol, the investigative unit of the department of public safety, the department of taxation, or the state board of pharmacy, is determined by the court to be substantially involved in the seizure, the state agency's equitable share of the proceeds and forfeited moneys shall be paid to the treasurer of state for deposit into the peace officer training commission fund.

(3)(a)(i) Prior to being allocated or using any proceeds or forfeited moneys out of the ~~state~~ highway patrol state contraband, forfeiture, and other fund, the department of public safety investigative unit contraband, forfeiture, and other fund, the department of taxation enforcement fund, the board of pharmacy drug law enforcement fund, or a law enforcement trust fund under division (D)(1)(c) of this section, the state highway patrol, the department of public safety, the department of taxation, the state board of pharmacy, and a county sheriff, prosecuting attorney, municipal corporation police department, township police department, township police district police force, office of the constable, or park district police force or law enforcement department shall adopt a written internal control policy that addresses the state highway patrol's, department of public safety's, department of taxation's, state board of pharmacy's, sheriff's, prosecuting attorney's, police department's, police force's, office of the constable's, or law enforcement department's use and disposition of all the proceeds and

forfeited moneys received and that provides for the keeping of detailed financial records of the receipts of the proceeds and forfeited moneys, the general types of expenditures made out of the proceeds and forfeited moneys, the specific amount of each general type of expenditure, and the amounts, portions, and programs described in division (D)(3)(a)(ii) of this section. The policy shall not provide for or permit the identification of any specific expenditure that is made in an ongoing investigation.

All financial records of the receipts of the proceeds and forfeited moneys, the general types of expenditures made out of the proceeds and forfeited moneys, the specific amount of each general type of expenditure by the state highway patrol, by the department of public safety, by the department of taxation, by the state board of pharmacy, and by a sheriff, prosecuting attorney, municipal corporation police department, township police department, township police district police force, office of the constable, or park district police force or law enforcement department, and the amounts, portions, and programs described in division (D)(3)(a)(ii) of this section are public records open for inspection under section 149.43 of the Revised Code. Additionally, a written internal control policy adopted under this division is a public record of that nature, and the state highway patrol, the department of public safety, the department of taxation, the state board of pharmacy, or the sheriff, prosecuting attorney, municipal corporation police department, township police department, township police district police force, office of the constable, or park district police force or law enforcement department that adopted it shall comply with it.

(ii) The written internal control policy of a county sheriff, prosecuting attorney, municipal corporation police department, township police department, township police district police force, office of the constable, or park district police force or law enforcement department shall provide that at least ten per cent of the first one hundred thousand dollars of proceeds and forfeited moneys deposited during each calendar year in the sheriff's, prosecuting attorney's, municipal corporation's, township's, or park district's law enforcement trust fund pursuant to division (B)(7)(c)(ii) of section 2923.46 or division (B)(8)(c)(ii) of section 2925.44 of the Revised Code, and at least twenty per cent of the proceeds and forfeited moneys exceeding one hundred thousand dollars that are so deposited, shall be used in connection with community preventive education programs. The manner in which the described percentages are so used shall be determined by the sheriff, prosecuting attorney, department, police force, or office of the constable after the receipt and consideration of advice on appropriate community preventive education programs from the county's board of

alcohol, drug addiction, and mental health services, from the county's alcohol and drug addiction services board, or through appropriate community dialogue. The financial records described in division (D)(3)(a)(i) of this section shall specify the amount of the proceeds and forfeited moneys deposited during each calendar year in the sheriff's, prosecuting attorney's, municipal corporation's, township's, or park district's law enforcement trust fund pursuant to division (B)(7)(c)(ii) of section 2923.46 or division (B)(8)(c)(ii) of section 2925.44 of the Revised Code, the portion of that amount that was used pursuant to the requirements of this division, and the community preventive education programs in connection with which the portion of that amount was so used.

As used in this division, "community preventive education programs" includes, but is not limited to, DARE programs and other programs designed to educate adults or children with respect to the dangers associated with the use of drugs or abuse.

(b) Each sheriff, prosecuting attorney, municipal corporation police department, township police department, township police district police force, office of the constable, or park district police force or law enforcement department that receives in any calendar year any proceeds or forfeited moneys out of a law enforcement trust fund under division (D)(1)(c) of this section or uses any proceeds or forfeited moneys in its law enforcement trust fund in any calendar year shall prepare a report covering the calendar year that cumulates all of the information contained in all of the public financial records kept by the sheriff, prosecuting attorney, municipal corporation police department, township police department, township police district police force, office of the constable, or park district police force or law enforcement department pursuant to division (D)(3)(a) of this section for that calendar year, and shall send a copy of the cumulative report, no later than the first day of March in the calendar year following the calendar year covered by the report, to the attorney general.

The superintendent of the state highway patrol shall prepare a report covering each calendar year in which the state highway patrol uses any proceeds or forfeited moneys in the ~~state~~ highway patrol state contraband, forfeiture, and other fund under division (D)(1)(c) of this section, that cumulates all of the information contained in all of the public financial records kept by the state highway patrol pursuant to division (D)(3)(a) of this section for that calendar year, and shall send a copy of the cumulative report, no later than the first day of March in the calendar year following the calendar year covered by the report, to the attorney general.

The department of public safety shall prepare a report covering each

fiscal year in which the department uses any proceeds or forfeited moneys in the department of public safety investigative unit contraband, forfeiture, and other fund under division (D)(1)(c) of this section that cumulates all of the information contained in all of the public financial records kept by the department pursuant to division (D)(3)(a) of this section for that fiscal year. The department shall send a copy of the cumulative report to the attorney general no later than the first day of August in the fiscal year following the fiscal year covered by the report. The director of public safety shall include in the report a verification that proceeds and forfeited moneys paid into the department of public safety investigative unit contraband, forfeiture, and other fund under division (D)(1)(c) of this section during the preceding fiscal year were used by the department during that fiscal year only for the purposes authorized by that division and shall specify the amount used for each authorized purpose.

The tax commissioner shall prepare a report covering each calendar year in which the department of taxation enforcement division uses any proceeds or forfeited moneys in the department of taxation enforcement fund under division (D)(1)(c) of this section, that cumulates all of the information contained in all of the public financial records kept by the department of taxation enforcement division pursuant to division (D)(3)(a) of this section for that calendar year, and shall send a copy of the cumulative report, not later than the first day of March in the calendar year following the calendar year covered by the report, to the attorney general.

The executive director of the state board of pharmacy shall prepare a report covering each calendar year in which the board uses any proceeds or forfeited moneys in the board of pharmacy drug law enforcement fund under division (D)(1)(c) of this section, that cumulates all of the information contained in all of the public financial records kept by the board pursuant to division (D)(3)(a) of this section for that calendar year, and shall send a copy of the cumulative report, no later than the first day of March in the calendar year following the calendar year covered by the report, to the attorney general. Each report received by the attorney general is a public record open for inspection under section 149.43 of the Revised Code. Not later than the fifteenth day of April in the calendar year in which the reports are received, the attorney general shall send to the president of the senate and the speaker of the house of representatives a written notification that does all of the following:

(i) Indicates that the attorney general has received from entities or persons specified in this division reports of the type described in this division that cover the previous calendar year and indicates that the reports

were received under this division;

(ii) Indicates that the reports are open for inspection under section 149.43 of the Revised Code;

(iii) Indicates that the attorney general will provide a copy of any or all of the reports to the president of the senate or the speaker of the house of representatives upon request.

(4)(a) A law enforcement agency that receives pursuant to federal law proceeds from a sale of forfeited contraband, proceeds from another disposition of forfeited contraband, or forfeited contraband moneys shall deposit, use, and account for the proceeds or forfeited moneys in accordance with, and otherwise comply with, the applicable federal law.

(b) If the state highway patrol receives pursuant to federal law proceeds from a sale of forfeited contraband, proceeds from another disposition of forfeited contraband, or forfeited contraband moneys, the appropriate governmental officials shall deposit the proceeds into the ~~state~~ highway patrol federal contraband, forfeiture, and other fund ~~all~~, which is hereby created in the state treasury. All interest or other earnings derived from the investment of the proceeds or forfeited moneys shall be credited to the fund. The state highway patrol shall use and account for that interest or other earnings in accordance with the applicable federal law.

(c) If the investigative unit of the department of public safety receives pursuant to federal law proceeds from a sale of forfeited contraband, proceeds from another disposition of forfeited contraband, or forfeited contraband moneys, the appropriate governmental officials shall deposit the proceeds into the department of public safety investigative unit ~~contraband, forfeiture, and other federal equitable share account~~ fund ~~all~~, which is hereby created in the state treasury. All interest or other earnings derived from the investment of the proceeds or forfeited moneys shall be credited to the fund. The department shall use and account for that interest or other earnings in accordance with the applicable federal law.

(d) If the tax commissioner receives pursuant to federal law proceeds from a sale of forfeited contraband, proceeds from another disposition of forfeited contraband, or forfeited contraband moneys, the appropriate governmental officials; shall deposit into the department of taxation enforcement fund all interest or other earnings derived from the investment of the proceeds or forfeited moneys. The department shall use and account for that interest or other earnings in accordance with the applicable federal law.

(e) Divisions (D)(1) to (3) of this section do not apply to proceeds or forfeited moneys received pursuant to federal law or to the interest or other

earnings that are derived from the investment of proceeds or forfeited moneys received pursuant to federal law and that are described in division (D)(4)(b) of this section.

(E) Upon the sale pursuant to this section of any property that is required to be titled or registered under law, the state shall issue an appropriate certificate of title or registration to the purchaser. If the state is vested with title pursuant to division (C) of this section and elects to retain property that is required to be titled or registered under law, the state shall issue an appropriate certificate of title or registration.

(F) Notwithstanding any provisions of this section to the contrary, any property that is lawfully seized in relation to a violation of section 2923.32 of the Revised Code shall be subject to forfeiture and disposition in accordance with sections 2923.32 to 2923.36 of the Revised Code; any property that is forfeited pursuant to section 2923.44 or 2923.45 of the Revised Code in relation to a violation of section 2923.42 of the Revised Code or in relation to an act of a juvenile that is a violation of section 2923.42 of the Revised Code may be subject to forfeiture and disposition in accordance with sections 2923.44 to 2923.47 of the Revised Code; and any property that is forfeited pursuant to section 2925.42 or 2925.43 of the Revised Code in relation to a felony drug abuse offense, as defined in section 2925.01 of the Revised Code, or in relation to an act that, if committed by an adult, would be a felony drug abuse offense of that nature, may be subject to forfeiture and disposition in accordance with sections 2925.41 to 2925.45 of the Revised Code or this section.

(G) Any failure of a law enforcement officer or agency, a prosecuting attorney, village solicitor, city director of law, or similar chief legal officer, a court, or the attorney general to comply with any duty imposed by this section in relation to any property seized or with any other provision of this section in relation to any property seized does not affect the validity of the seizure of the property, provided the seizure itself was made in accordance with law, and is not and shall not be considered to be the basis for the suppression of any evidence resulting from the seizure of the property, provided the seizure itself was made in accordance with law.

(H) Contraband that has been forfeited pursuant to division (C) of this section shall not be available for use to pay any fine imposed upon a person who is convicted of or pleads guilty to an underlying criminal offense or a different offense arising out of the same facts and circumstances.

Sec. 2933.74. (A)(1) With respect to forfeitable property ordered forfeited under section 2933.73 of the Revised Code, the court that issued the order, upon petition of the prosecuting attorney or attorney general who

prosecuted the case, may do any of the following:

(a) Authorize the prosecuting attorney or the attorney general to settle claims;

(b) Award compensation to persons who provide information that results in a forfeiture under section 2933.73 of the Revised Code;

(c) Take any other action to protect the rights of innocent persons that is in the interest of justice and that is consistent with the purposes of sections 2933.71 to 2933.75 of the Revised Code. ~~(2)~~

(2) The court shall maintain an accurate record of the actions it takes under division (A)(1) of this section with respect to the forfeitable property ordered forfeited. The record is a public record open for inspection under section 149.43 of the Revised Code.

(B)(1) Subject to division (A) of this section and notwithstanding any contrary provision of section 2933.41 of the Revised Code, the prosecuting attorney or attorney general who prosecuted the case shall order the disposal of forfeitable property ordered forfeited in any proceeding under section 2933.73 of the Revised Code as soon as feasible, making due provisions for the rights of innocent persons, by any of the following methods:

(a) Public sale;

(b) Transfer to a state governmental agency for official use;

(c) Sale or transfer to an innocent person;

(d) If the property is contraband and is not needed for evidence in any pending criminal or civil proceeding, pursuant to section 2933.41 or any other applicable section of the Revised Code.

(2) Any interest in personal or real property not disposed of pursuant to division (B) of this section and not exercisable by, or transferable for value to, the state shall expire and shall not revert to the person who was convicted of or pleaded guilty to the medicaid fraud offense. No person who was convicted of or pleaded guilty to the medicaid fraud offense and no person acting in concert with a person who was convicted of or pleaded guilty to the medicaid fraud offense is eligible to purchase forfeited property from the state.

(3) Upon application of a person, other than the person who was convicted of or pleaded guilty to the medicaid fraud offense or a person acting in concert with or on behalf of the person who was convicted of or pleaded guilty to the medicaid fraud offense, the court may restrain or stay the disposal of the forfeitable property pursuant to this division pending the conclusion of any appeal of the criminal case giving rise to the forfeiture or pending the determination of the validity of a claim to or interest in the property pursuant to division (F) of section 2933.73 of the Revised Code, if



the applicant demonstrates that proceeding with the disposal of the property will result in irreparable injury, harm, or loss to the applicant.

(4) The prosecuting attorney or attorney general who prosecuted the case shall maintain an accurate record of each item of property disposed of pursuant to division (B) of this section, which record shall include the date on which each item came into the prosecuting attorney's or attorney general's custody, the manner and date of disposition, and, if applicable, the name of the person who received the item. The record shall not identify or enable the identification of the individual officer who seized the property, and the record is a public record open for inspection under section 149.43 of the Revised Code.

Each prosecuting attorney who disposes in any calendar year of any item of property pursuant to division (B) of this section shall prepare a report covering the calendar year that cumulates all of the information contained in all of the records the prosecuting attorney kept pursuant to this division for that calendar year and shall send the cumulative report, no later than the first day of March in the calendar year following the calendar year covered by the report, to the attorney general. No later than the first day of March in the calendar year following the calendar year covered by the report, the attorney general shall prepare a report covering the calendar year that cumulates all of the records the attorney general kept pursuant to this division for that calendar year. Each report received or prepared by the attorney general is a public record open for inspection under section 149.43 of the Revised Code. Not later than the fifteenth day of April in the calendar year following the calendar year covered by the reports, the attorney general shall send to the president of the senate and the speaker of the house of representatives a written notification that does all of the following:

(a) Indicates that the attorney general has received from prosecuting attorneys reports of the type described in this division that cover the previous calendar year and indicates that the reports were received under this division;

(b) Lists the attorney general's own cumulative report covering the previous calendar year;

(c) Indicates that the reports are open for inspection under section 149.43 of the Revised Code;

(d) Indicates that the attorney general will provide a copy of any or all of the reports to the president of the senate or the speaker of the house of representatives upon request.

(C)(1) The proceeds of the sale of all forfeitable property ordered forfeited pursuant to section 2933.73 of the Revised Code shall be deposited

into the state treasury and credited to the medicaid fraud investigation and prosecution fund, which is hereby created.

(2) The proceeds credited to the medicaid fraud investigation and prosecution fund pursuant to division (C)(1) of this section shall be disposed of in the following order:

(a) To the payment of the fees and costs of the forfeiture and sale, including expenses of seizure, maintenance, and custody of the property pending its disposition, advertising, and court costs;

(b) Except as otherwise provided in division (C)(2)(b) of this section, the remainder shall be paid to the law enforcement trust fund of the prosecuting attorney that is established pursuant to division (D)(1)(c) of section 2933.43 of the Revised Code or to the attorney general, and to the law enforcement trust fund of the county sheriff that is established pursuant to that division if the county sheriff substantially conducted the investigation, to the law enforcement trust fund of a municipal corporation that is established pursuant to that division if its police department substantially conducted the investigation, to the law enforcement trust fund of a township that is established pursuant to that division if the investigation was substantially conducted by a township police department, township police district police force, or office of a township constable, or to the law enforcement trust fund of a park district created pursuant to section 511.18 or 1545.01 of the Revised Code that is established pursuant to that division if the investigation was substantially conducted by its park district police force or law enforcement department. The prosecuting attorney or attorney general may decline to accept any of the remaining proceeds, and, if the prosecuting attorney or attorney general so declines, they shall be applied to the fund described in division (C)(2)(b) of this section that relates to the appropriate law enforcement agency that substantially conducted the investigation.

If the state highway patrol substantially conducted the investigation, the director of budget and management shall transfer the remaining proceeds to the state highway patrol for deposit into the ~~state~~ highway patrol state contraband, forfeiture, and other fund that is created by division (D)(1)(c) of section 2933.43 of the Revised Code. If the state board of pharmacy substantially conducted the investigation, the director shall transfer the remaining proceeds to the board for deposit into the board of pharmacy drug law enforcement fund that is created by division (B)(1) of section 4729.65 of the Revised Code. If a state law enforcement agency, other than the state highway patrol, the board, or the attorney general, substantially conducted the investigation, the director shall transfer the remaining proceeds to the

treasurer of state for deposit into the peace officer training commission fund that is created by division (D)(1)(c) of section 2933.43 of the Revised Code.

The remaining proceeds that are paid to the attorney general shall be used and expended only in relation to the investigation and prosecution of medicaid fraud offenses or the activities identified in section 109.85 of the Revised Code, and those that are paid to a law enforcement trust fund or that are deposited into the ~~state~~ highway patrol state contraband, forfeiture, and other fund, the board of pharmacy drug law enforcement fund, or the peace officer training commission fund pursuant to division (C)(2)(b) of this section shall be allocated, used, and expended only in accordance with division (D)(1)(c) of section 2933.43 of the Revised Code, only in accordance with a written internal control policy adopted under division (D)(3) of that section, and, if applicable, only in accordance with division (B)(1) of section 4729.65 of the Revised Code. The annual reports that pertain to the funds and that are required by divisions (D)(1)(c) and (3)(b) of section 2933.43 of the Revised Code also shall address the remaining proceeds that are paid or deposited into the funds pursuant to division (C)(2)(b) of this section.

(3) If more than one law enforcement agency substantially conducted the investigation, the court ordering the forfeiture shall equitably divide the remaining proceeds among the law enforcement agencies that substantially conducted the investigation, in the manner described in division (D)(2) of section 2933.43 of the Revised Code for the equitable division of contraband proceeds and forfeited moneys. The equitable shares of the proceeds so determined by the court shall be paid or deposited into the appropriate funds specified in division (C)(2)(b) of this section.

(D) As used in this section, "law enforcement agency" includes, but is not limited to, the state board of pharmacy.

Sec. 2949.092. If a person is convicted of or pleads guilty to an offense and the court specifically is required, pursuant to section 2743.70 ~~or~~, 2949.091, or 2949.093 of the Revised Code or pursuant to any other section of the Revised Code, to impose a specified sum of money as costs in the case in addition to any other costs that the court is required or permitted by law to impose in the case, the court shall not waive the payment of the specified additional court costs that the section of the Revised Code specifically requires the court to impose unless the court determines that the offender is indigent and the court waives the payment of all court costs imposed upon the offender.

Sec. 2949.093. (A) A board of county commissioners of any county containing fifty-five or more law enforcement agencies by resolution may

elect to participate in a criminal justice regional information system, either by creating and maintaining a new criminal justice regional information system or by participating in an existing criminal justice regional information system.

(B) A county is not eligible to participate in any criminal justice regional information system unless it creates in its county treasury, pursuant to section 305.28 of the Revised Code, a criminal justice regional information fund.

(C) A county that elects to participate in a criminal justice regional information system shall obtain revenues to fund its participation by establishing an additional court cost not exceeding five dollars to be imposed for moving violations that occur in that county. The board of county commissioners of that county shall establish the amount of the additional court cost by resolution. The board shall give written notice to all courts located in that county that adjudicate or otherwise process moving violations that occur in that county of the county's election to participate in the system and of the amount of the additional court cost. Upon receipt of such notice, each recipient court shall impose that amount as an additional court cost for all moving violations the court adjudicates or otherwise processes, in accordance with divisions (D) and (E) of this section.

(D)(1) The court in which any person is convicted of or pleads guilty to any moving violation that occurs in a county that has elected to participate in a criminal justice regional information system shall impose the sum established by the board pursuant to division (C) of this section as costs in the case in addition to any other court costs that the court is required by law to impose upon the offender. The court shall not waive the payment of the additional court cost established by the board pursuant to division (C) of this section unless the court determines that the offender is indigent and waives the payment of all court costs imposed upon the indigent offender.

All such money collected during a month shall be transmitted on the first business day of the following month by the clerk of the court to the county treasurer of the county in which the court is located and thereafter the county treasurer shall deposit the money in that county's criminal justice regional information fund.

(2) The juvenile court in which a child is found to be a juvenile traffic offender for an act that is a moving violation occurring in a county participating in a criminal justice regional information system shall impose the sum established by the board pursuant to division (C) of this section as costs in the case in addition to any other court costs that the court is required by law to impose upon the juvenile traffic offender. The juvenile court shall

not waive the payment of the additional court cost established by the board pursuant to division (C) of this section unless the court determines that the juvenile is indigent and waives the payment of all court costs imposed upon the indigent offender.

All such money collected during a month shall be transmitted on the first business day of the following month by the clerk of the court to the county treasurer of the county in which the juvenile court is located and thereafter the county treasurer shall deposit the money in that county's criminal justice regional information fund.

(E) Whenever a person is charged with any offense that is a moving violation and posts bail, the court shall add to the amount of the bail the set sum required to be paid by division (D)(1) of this section. The clerk of the court shall retain that set sum until the person is convicted, pleads guilty, forfeits bail, is found not guilty, or has the charges dismissed. If the person is convicted, pleads guilty, or forfeits bail, the clerk shall transmit the set sum to the county treasurer, who shall deposit it in the county criminal justice regional information fund. If the person is found not guilty or the charges are dismissed, the clerk shall return the set sum to the person.

(F) No person shall be placed or held in a detention facility as defined in section 2921.01 of the Revised Code for failing to pay the court cost or bail that is required to be paid by this section.

(G)(1) Except as provided in division (G)(2) of this section, all funds collected by a county under this section shall be used by that county only to pay the costs it incurs in creating and maintaining a new criminal justice regional information system or to pay the costs it incurs in participating in an existing criminal justice regional information system.

(2) If the board of county commissioners of a county determines that the funds in that county's criminal justice regional information fund are more than sufficient to satisfy the purpose for which the additional court cost described in division (C) of this section was imposed, the board may declare a surplus in the fund. The county may expend the surplus only to pay the costs it incurs in improving the law enforcement computer technology of local law enforcement agencies located in that county.

(H) As used in this section:

(1) "Moving violation" means any violation of any statute or ordinance, other than section 4513.263 of the Revised Code or an ordinance that is substantially equivalent to that section, that regulates the operation of vehicles, streetcars, or trackless trolleys on highways or streets or that regulates size or load limitations or fitness requirements of vehicles. "Moving violation" does not include the violation of any statute or

ordinance that regulates pedestrians or the parking of vehicles.

(2) "Bail" means cash, a check, a money order, a credit card, or any other form of money that is posted by or for an offender pursuant to sections 2937.22 to 2937.46 of the Revised Code, Criminal Rule 46, or Traffic Rule 4 to prevent the offender from being placed or held in a detention facility, as defined in section 2921.01 of the Revised Code.

(3) "Criminal justice regional information system" means a governmental computer system that serves as a cooperative between political subdivisions in a particular region for the purpose of providing a consolidated computerized information system for criminal justice agencies in that region.

Sec. 2971.05. (A)(1) After control over an offender's service of a prison term imposed pursuant to division (A)(3) of section 2971.03 of the Revised Code has been transferred pursuant to section 2971.04 of the Revised Code to the court, the court shall schedule, within thirty days of any of the following, a hearing on whether to modify in accordance with division (C) of this section the requirement that the offender serve the entire prison term in a state correctional institution or to terminate the prison term in accordance with division (D) of this section:

(a) Control over the offender's service of a prison term is transferred pursuant to section 2971.04 of the Revised Code to the court, and no hearing to modify the requirement has been held;

(b) Two years elapse after the most recent prior hearing held pursuant to division (A)(1) or (2) of this section;

(c) The prosecuting attorney, the department of rehabilitation and correction, or the adult parole authority requests the hearing, and recommends that the requirement be modified or that the offender's prison term be terminated.

(2) After control over the offender's service of a prison term has been transferred pursuant to section 2971.04 of the Revised Code to the court, the court, within thirty days of either of the following, shall conduct a hearing on whether to modify in accordance with division (C) of this section the requirement that the offender serve the entire prison term in a state correctional institution, whether to continue, revise, or revoke an existing modification of that requirement, or whether to terminate the term in accordance with division (D) of this section:

(a) The requirement that the offender serve the entire prison term in a state correctional institution has been modified, and the offender is taken into custody for any reason.

(b) The department of rehabilitation and correction or the prosecuting

attorney notifies the court pursuant to section 2971.06 of the Revised Code regarding a known or suspected violation of a term or condition of the modification or a belief that there is a substantial likelihood that the offender has committed or is about to commit a sexually violent offense.

(3) After control over the offender's service of a prison term has been transferred pursuant to section 2971.04 of the Revised Code to the court, the court, in any of the following circumstances, may conduct a hearing within thirty days to determine whether to modify in accordance with division (C) of this section the requirement that the offender serve the entire prison term in a state correctional institution, whether to continue, revise, or revoke an existing modification of that requirement, or whether to terminate the sentence in accordance with division (D) of this section:

- (a) The offender requests the hearing;
- (b) Upon the court's own motion;
- (c) One or more examiners who have conducted a psychological examination and assessment of the offender file a statement that states that there no longer is a likelihood that the offender will engage in the future in a sexually violent offense.

(B)(1) Before a court holds a hearing pursuant to division (A) of this section, the court shall provide notice of the date, time, place, and purpose of the hearing to the offender, the prosecuting attorney, the department of rehabilitation and correction, and the adult parole authority and shall request the department to prepare pursuant to section 5120.61 of the Revised Code an update of the most recent risk assessment and report relative to the offender. The offender has the right to be present at any hearing held under this section. At the hearing, the offender and the prosecuting attorney may make a statement and present evidence as to whether the requirement should or should not be modified, whether the existing modification of the requirement should be continued, revised, or revoked, and whether the prison term should or should not be terminated.

(2) At a hearing held pursuant to division (A) of this section, the court may and, if the hearing is held pursuant to division (A)(1)(a), (1)(b), or (3)(c) of this section, shall determine by clear and convincing evidence whether the offender is unlikely to commit a sexually violent offense in the future.

(3) At the conclusion of the hearing held pursuant to division (A) of this section, the court may order that the requirement that the offender serve the entire prison term in a state correctional institution be continued, that the requirement be modified pursuant to division (C) of this section, that an existing modification be continued, revised, or revoked pursuant to division

(C) of this section, or that the prison term be terminated pursuant to division (D) of this section.

(C)(1) If, at the conclusion of a hearing held pursuant to division (A) of this section, the court determines by clear and convincing evidence that the offender will not represent a substantial risk of physical harm to others, the court may modify the requirement that the offender serve the entire prison term in a state correctional institution in a manner that the court considers appropriate. If the court modifies the requirement, the offender is subject to supervision under division (E) of this section.

(2) The modification of the requirement does not terminate the prison term but serves only to suspend the requirement that the offender serve the entire term in a state correctional institution. The prison term shall remain in effect for the offender's entire life unless the court terminates the prison term pursuant to division (D) of this section. The offender shall remain under the jurisdiction of the court for the offender's entire life unless the court so terminates the prison term. The modification of the requirement does not terminate the classification of the offender, as described in division (F) of section 2971.03 of the Revised Code, as a sexual predator for purposes of Chapter 2950. of the Revised Code, and the offender is subject to supervision under division (E) of this section.

(3) If the court revokes the modification under consideration, the court shall order that the offender be returned to the custody of the department of rehabilitation and correction to continue serving the prison term to which the modification applied, and section 2971.06 of the Revised Code applies regarding the offender.

(D)(1) If, at the conclusion of a hearing held pursuant to division (A) of this section, the court determines by clear and convincing evidence that the offender is unlikely to commit a sexually violent offense in the future, the court may terminate the offender's prison term imposed under division (A)(3) of section 2971.03 of the Revised Code, subject to the offender satisfactorily completing the period of conditional release required by this division and compliance with division (E) of this section. If the court terminates the prison term, the court shall place the offender on conditional release for five years, require the offender to comply with division (E) of this section, notify the adult parole authority of its determination and of the termination of the prison term, and order the adult parole authority to supervise the offender during the five-year period of conditional release and to supervise the offender pursuant to division (E) of this section. Upon receipt of a notice from a court pursuant to this division, the adult parole authority shall supervise the offender who is the subject of the notice during



the five-year period of conditional release, periodically notify the court of the offender's activities during that five-year period of conditional release, and file with the court no later than thirty days prior to the expiration of the five-year period of conditional release a written recommendation as to whether the termination of the offender's prison term should be finalized, whether the period of conditional release should be extended, or whether another type of action authorized pursuant to this chapter should be taken.

Upon receipt of a recommendation of the adult parole authority filed pursuant to this division, the court shall hold a hearing to determine whether to finalize the termination of the offender's prison term, to extend the period of conditional release, or to take another type of action authorized pursuant to this chapter. The court shall hold the hearing no later than the date on which the five-year period of conditional release terminates and shall provide notice of the date, time, place, and purpose of the hearing to the offender and to the prosecuting attorney. At the hearing, the offender, the prosecuting attorney, and the adult parole authority employee who supervised the offender during the period of conditional release may make a statement and present evidence.

(2) If the court determines to extend an offender's period of conditional release, it may do so for additional periods of one year in the same manner as the original period of conditional release, and except as otherwise described in this division, all procedures and requirements that applied to the original period of conditional release apply to the additional period of extended conditional release unless the court modifies a procedure or requirement. If an offender's period of conditional release is extended as described in this division, all references to a five-year period of conditional release that are contained in division (D)(1) of this section shall be construed, in applying the provisions of that division to the extension, as being references to the one-year period of the extension of the conditional release.

If the court determines to take another type of action authorized pursuant to this chapter, it may do so in the same manner as if the action had been taken at any other stage of the proceedings under this chapter. As used in this division, "another type of action" includes the revocation of the conditional release and the return of the offender to a state correctional institution to continue to serve the prison term.

If the court determines to finalize the termination of the offender's prison term, it shall notify the department of rehabilitation and correction, the department shall enter into its records a final release and issue to the offender a certificate of final release, and the prison term thereafter shall be

considered completed and terminated in every way.

The termination of the offender's prison term pursuant to division (D)(1) or (2) of this section does not affect the classification of the offender, as described in division (F) of section 2971.03 of the Revised Code, as a sexual predator for purposes of Chapter 2950. of the Revised Code, and does not terminate the adult parole authority's supervision of a sexually violent predator with an active global positioning system device, pursuant to division (E) of this section. The classification of the offender as a sexual predator is permanent and continues until the offender's death as described in division (D)(2) of section 2950.09 of the Revised Code.

(E) The adult parole authority shall supervise an offender whose prison term is modified as provided in division (C) of this section or whose prison term is terminated as provided in division (D) of this section with an active global positioning system device during any time period in which the offender is not incarcerated in a state correctional institution. Unless the court removes the offender's classification as a sexually violent predator, an offender is subject to supervision with an active global positioning system pursuant to this division for the offender's entire life. The costs of administering the supervision of sexually violent offenders with an active global positioning system device shall be paid out of funds from the reparations fund, created pursuant to section 2743.191 of the Revised Code. This division shall only apply to a sexually violent predator who is released from the custody of the department of rehabilitation and correction on or after the effective date of this amendment.

Sec. 3107.10. (A) Notwithstanding section 3107.01 of the Revised Code, as used in this section, "agency" does not include a public children services agency.

(B) An agency or attorney, whichever arranges a minor's adoption, shall file with the court a preliminary estimate accounting not later than the time the adoption petition for the minor is filed with the court. The agency or attorney, whichever arranges the adoption, also shall file a final accounting with the court before a final decree of adoption is issued or an interlocutory order of adoption is finalized for the minor. The agency or attorney shall complete and file accountings in a manner acceptable to the court.

An accounting shall specify all disbursements of anything of value the petitioner, a person on the petitioner's behalf, and the agency or attorney made and has agreed to make in connection with the minor's permanent surrender under division (B) of section 5103.15 of the Revised Code, placement under section 5103.16 of the Revised Code, and adoption under this chapter. The agency or attorney shall include in an accounting an

itemization of each expense listed in division (C) of this section. The itemization of the expenses specified in divisions (C)(3) and (4) of this section shall show the amount the agency or attorney charged or is going to charge for the services and the actual cost to the agency or attorney of providing the services. An accounting shall indicate whether any expenses listed in division (C) of this section do not apply to the adoption proceeding for which the accounting is filed.

The agency or attorney shall include with a preliminary estimate accounting and a final accounting a written statement signed by the petitioner that the petitioner has reviewed the accounting and attests to its accuracy.

(C) No petitioner, person acting on a petitioner's behalf, or agency or attorney shall make or agree to make any disbursements in connection with the minor's permanent surrender, placement, or adoption other than for the following:

(1) Physician expenses incurred on behalf of the birth mother or minor in connection with prenatal care, delivery, and confinement prior to or following the minor's birth;

(2) Hospital or other medical facility expenses incurred on behalf of the birth mother or minor in connection with the minor's birth;

(3) Expenses charged by the attorney arranging the adoption for providing legal services in connection with the placement and adoption, including expenses incurred by the attorney pursuant to sections 3107.031, 3107.081, 3107.082, 3107.09, and 3107.12 of the Revised Code;

(4) Expenses charged by the agency arranging the adoption for providing services in connection with the permanent surrender and adoption, including the agency's application fee and the expenses incurred by the agency pursuant to sections 3107.031, 3107.09, 3107.12, 5103.151, and 5103.152 of the Revised Code;

(5) Temporary costs of routine maintenance and medical care for a minor required under section 5103.16 of the Revised Code if the person seeking to adopt the minor refuses to accept placement of the minor;

(6) Guardian ad litem fees incurred on behalf of the minor in any court proceedings;

(7) Foster care expenses incurred in connection with any temporary care and maintenance of the minor;

(8) Court expenses incurred in connection with the minor's permanent surrender, placement, and adoption.

(D) If a court determines from an accounting that an amount that is going to be disbursed for an expense listed in division (C) of this section is

unreasonable, the court may order a reduction in the amount to be disbursed. If a court determines from an accounting that an unreasonable amount was disbursed for an expense listed in division (C) of this section, the court may order the person who received the disbursement to refund to the person who made the disbursement an amount the court orders.

If a court determines from an accounting that a disbursement for an expense not permitted by division (C) of this section is going to be made, the court may issue an injunction prohibiting the disbursement. If a court determines from an accounting that a disbursement for an expense not permitted by division (C) of this section was made, the court may order the person who received the disbursement to return it to the person who made the disbursement.

If a court determines that a final accounting does not completely report all the disbursements that are going to be made or have been made in connection with the minor's permanent surrender, placement, and adoption, the court shall order the agency or attorney to file with the court an accounting that completely reports all such disbursements.

The agency or attorney shall file the final accounting with the court not later than ten days prior to the date scheduled for the final hearing on the adoption. The court may not issue a final decree of adoption or finalize an interlocutory order of adoption of a minor until at least ten days after the agency or attorney files the final accounting.

~~(E) At the conclusion of each adoption proceeding, the court shall prepare a summary of the proceeding, and on or before the tenth day of each month, send copies of the summaries for all proceedings concluded during the preceding calendar month to the department of job and family services. The summary shall contain:~~

~~(1) A notation of the nature and approximate value or amount of anything paid in connection with the proceeding, compiled from the final accounting required by division (B) of this section and indicating the category of division (C) of this section to which any payment relates;~~

~~(2) If the court has not issued a decree because of the requirements of division (D) of this section, a notation of that fact and a statement of the reason for refusing to issue the decree, related to the financial data summarized under division (E)(1) of this section;~~

~~(3) If the adoption was arranged by an attorney, a notation of that fact.~~

~~The summary shall contain no information identifying by name any party to the proceeding or any other person, but may contain additional narrative material that the court considers useful to an analysis of the summary.~~

~~(F)~~ This section does not apply to an adoption by a stepparent whose spouse is a biological or adoptive parent of the minor.

Sec. 3111.04. (A) An action to determine the existence or nonexistence of the father and child relationship may be brought by the child or the child's personal representative, the child's mother or her personal representative, a man alleged or alleging himself to be the child's father, the child support enforcement agency of the county in which the child resides if the child's mother is a recipient of public assistance or of services under Title IV-D of the "Social Security Act," 88 Stat. 2351 (1975), 42 U.S.C.A. 651, as amended, or the alleged father's personal representative.

(B) An agreement does not bar an action under this section.

(C) If an action under this section is brought before the birth of the child and if the action is contested, all proceedings, except service of process and the taking of depositions to perpetuate testimony, may be stayed until after the birth.

(D) A recipient of public assistance or of services under Title IV-D of the "Social Security Act," 88 Stat. 2351 (1975), 42 U.S.C.A. 651, as amended, shall cooperate with the child support enforcement agency of the county in which a child resides to obtain an administrative determination pursuant to sections 3111.38 to 3111.54 of the Revised Code, or, if necessary, a court determination pursuant to sections 3111.01 to 3111.18 of the Revised Code, of the existence or nonexistence of a parent and child relationship between the father and the child. If the recipient fails to cooperate, the agency may commence an action to determine the existence or nonexistence of a parent and child relationship between the father and the child pursuant to sections 3111.01 to 3111.18 of the Revised Code.

(E) As used in this section, "public assistance" means medical assistance under Chapter 5111. of the Revised Code, assistance under Chapter 5107. of the Revised Code, or disability financial assistance under Chapter 5115. of the Revised Code, ~~or disability medical assistance under Chapter 5115. of the Revised Code.~~

Sec. 3119.54. If either party to a child support order issued in accordance with section 3119.30 of the Revised Code is eligible for medical assistance under Chapter 5111. ~~or 5115.~~ of the Revised Code and the other party has obtained health insurance coverage, the party eligible for medical assistance shall notify any physician, hospital, or other provider of medical services for which medical assistance is available of the name and address of the other party's insurer and of the number of the other party's health insurance or health care policy, contract, or plan. Any physician, hospital, or other provider of medical services for which medical assistance is available

under Chapter 5111. ~~or 5115.~~ of the Revised Code who is notified under this division of the existence of a health insurance or health care policy, contract, or plan with coverage for children who are eligible for medical assistance shall first bill the insurer for any services provided for those children. If the insurer fails to pay all or any part of a claim filed under this section and the services for which the claim is filed are covered by Chapter 5111. ~~or 5115.~~ of the Revised Code, the physician, hospital, or other medical services provider shall bill the remaining unpaid costs of the services in accordance with Chapter 5111. ~~or 5115.~~ of the Revised Code.

Sec. 3121.12. (A) On receipt of a notice that a lump sum payment of one hundred fifty dollars or more is to be paid to the obligor, the court, with respect to a court support order, or the child support enforcement agency, with respect to an administrative child support order, shall do either of the following:

(1) If the obligor is in default under the support order or has any arrearages under the support order, issue an order requiring the transmittal of the lump sum payment, or any portion of the lump sum payment sufficient to pay the arrearage in full, to the office of child support;

(2) If the obligor is not in default under the support order and does not have any arrearages under the support order, issue an order directing the person who gave the notice to the court or agency to immediately pay the full amount of the lump sum payment to the obligor.

(B) ~~On receipt of any~~ Any moneys received by the office of child support pursuant to division (A) of this section, the office of child support shall pay the amount of the lump sum payment that is necessary to discharge all of the obligor's arrearages to the obligee and, within two business days after its receipt of the money, any amount that is remaining after the payment of the arrearages to the obligor be distributed in accordance with rules adopted under section 3121.71 of the Revised Code.

(C) A court that issued an order prior to January 1, 1998, requiring an employer to withhold an amount from an obligor's personal earnings for the payment of support shall issue a supplemental order that does not change the original order or the related support order requiring the employer to do all of the following:

(1) No later than the earlier of forty-five days before a lump sum payment is to be made or, if the obligor's right to a lump sum payment is determined less than forty-five days before it is to be made, the date on which that determination is made, notify the child support enforcement agency of any lump sum payment of any kind of one hundred fifty dollars or more that is to be paid to the obligor;

(2) Hold the lump sum payment for thirty days after the date on which it would otherwise be paid to the obligor;

(3) On order of the court, pay any specified amount of the lump sum payment to the office of child support.

(D) An employer that knowingly fails to notify the child support enforcement agency in accordance with this section or section 3121.03 of the Revised Code of any lump sum payment to be made to an obligor is liable for any support payment not made to the obligee as a result of its knowing failure to give the notice.

Sec. 3121.50. On receipt of any amount forwarded from a payor or financial institution, the office of child support shall distribute the amount to the obligee within two business days of its receipt of the amount forwarded. The Unless otherwise prohibited from doing so by a law of this state or the United States, the office may distribute the amount by means of electronic disbursement, and the obligee shall accept payment by means of electronic disbursement. The director of job and family services may adopt, revise, or amend rules under Chapter 119. of the Revised Code to assist in the implementation of this section.

Sec. 3125.18. A child support enforcement agency shall administer a Title IV-A program identified under division (A)(~~3~~)(4)(c) or (~~d~~)(f) of section 5101.80 of the Revised Code that the department of job and family services provides for the agency to administer under the department's supervision pursuant to section 5101.801 of the Revised Code.

Sec. 3125.191. There is hereby created in the state treasury the child support operating fund, which is a state special revenue fund. The department of job and family services may deposit into the fund a portion of the federal incentives described in division (A) of section 3125.19 of the Revised Code and authorized by 42 U.S.C. 658a that are received by the department of job and family services from the United States department of health and human services. The department of job and family services may use money in the child support operating fund for program and administrative purposes associated with the program of child support enforcement authorized by section 3125.03 of the Revised Code.

Sec. 3301.079. (A)(1) Not later than December 31, 2001, the state board of education shall adopt statewide academic standards for each of grades kindergarten through twelve in reading, writing, and mathematics. Not later than December 31, 2002, the state board shall adopt statewide academic standards for each of grades kindergarten through twelve in science and social studies. The standards shall specify the academic content and skills that students are expected to know and be able to do at each grade level.

(2) When academic standards have been completed for any subject area required by this division, the state board shall inform all school districts of the content of those standards.

(B) Not later than eighteen months after the completion of academic standards for any subject area required by division (A) of this section, the state board shall adopt a model curriculum for instruction in that subject area for each of grades kindergarten through twelve that is sufficient to meet the needs of students in every community. The model curriculum shall be aligned with the standards to ensure that the academic content and skills specified for each grade level are taught to students. When any model curriculum has been completed, the state board shall inform all school districts of the content of that model curriculum.

All school districts may utilize the state standards and the model curriculum established by the state board, together with other relevant resources, examples, or models to ensure that students have the opportunity to attain the academic standards. Upon request, the department of education shall provide technical assistance to any district in implementing the model curriculum.

Nothing in this section requires any school district to utilize all or any part of a model curriculum developed under this division.

(C) The state board shall develop achievement tests aligned with the academic standards and model curriculum for each of the subject areas and grade levels required by section 3301.0710 of the Revised Code.

When any achievement test has been completed, the state board shall inform all school districts of its completion, and the department of education shall make the achievement test available to the districts. School districts shall administer the achievement test beginning in the school year indicated in section 3301.0712 of the Revised Code.

~~(D)(1) Not later than July 1, 2008, and except as provided in division (D)(3) of this section, the~~ The state board shall adopt a diagnostic assessment aligned with the academic standards and model curriculum for each of grades kindergarten through two in reading, writing, and mathematics and for each of grades grade three through eight in reading, writing, ~~mathematics, science, and social studies~~. The diagnostic assessment shall be designed to measure student comprehension of academic content and mastery of related skills for the relevant subject area and grade level. Any diagnostic assessment shall not include components to identify gifted students. Blank copies of diagnostic tests shall be public records.

(2) When each diagnostic assessment has been completed, the state board shall inform all school districts of its completion and the department



of education shall make the diagnostic assessment available to the districts at no cost to the district. School districts shall administer the diagnostic assessment pursuant to section 3301.0715 of the Revised Code beginning the first school year following the development of the assessment.

~~(3) The state board shall not adopt a diagnostic assessment for any subject area and grade level for which the state board develops an achievement test under division (C) of this section.~~

(E) Whenever the state board or the department of education consults with persons for the purpose of drafting or reviewing any standards, diagnostic assessments, achievement tests, or model curriculum required under this section, the state board or the department shall first consult with parents of students in kindergarten through twelfth grade and with active Ohio classroom teachers, other school personnel, and administrators with expertise in the appropriate subject area. Whenever practicable, the state board and department shall consult with teachers recognized as outstanding in their fields.

If the department contracts with more than one outside entity for the development of the achievement tests required by this section, the department shall ensure the interchangeability of those tests.

(F) The fairness sensitivity review committee, established by rule of the state board of education, shall not allow any question on any achievement test or diagnostic assessment developed under this section or any proficiency test prescribed by former section 3301.0710 of the Revised Code, as it existed prior to September 11, 2001, to include, be written to promote, or inquire as to individual moral or social values or beliefs. The decision of the committee shall be final. This section does not create a private cause of action.

Sec. 3301.0710. The state board of education shall adopt rules establishing a statewide program to test student achievement. The state board shall ensure that all tests administered under the testing program are aligned with the academic standards and model curricula adopted by the state board and are created with input from Ohio parents, Ohio classroom teachers, Ohio school administrators, and other Ohio school personnel pursuant to section 3301.079 of the Revised Code.

The testing program shall be designed to ensure that students who receive a high school diploma demonstrate at least high school levels of achievement in reading, writing, mathematics, science, and social studies.

(A)(1) The state board shall prescribe all of the following:

(a) Two statewide achievement tests, one each designed to measure the level of reading and mathematics skill expected at the end of third grade;

(b) Three statewide achievement tests, one each designed to measure the level of reading, writing, and mathematics skill expected at the end of fourth grade;

(c) Four statewide achievement tests, one each designed to measure the level of reading, mathematics, science, and social studies skill expected at the end of fifth grade;

(d) Two statewide achievement tests, one each designed to measure the level of reading and mathematics skill expected at the end of sixth grade;

(e) Three statewide achievement tests, one each designed to measure the level of reading, writing, and mathematics skill expected at the end of seventh grade;

(f) Four statewide achievement tests, one each designed to measure the level of reading, mathematics, science, and social studies skill expected at the end of eighth grade.

(2) The state board shall determine and designate at least five ranges of scores on each of the achievement tests described in divisions (A)(1) and (B) of this section. Each range of scores shall be deemed to demonstrate a level of achievement so that any student attaining a score within such range has achieved one of the following:

- (a) An advanced level of skill;
- (b) An accelerated level of skill;
- (c) A proficient level of skill;
- (d) A basic level of skill;
- (e) A limited level of skill.

(B) The tests prescribed under this division shall collectively be known as the Ohio graduation tests. The state board shall prescribe five statewide high school achievement tests, one each designed to measure the level of reading, writing, mathematics, science, and social studies skill expected at the end of tenth grade. The state board shall designate a score in at least the range designated under division (A)(2)(c) of this section on each such test that shall be deemed to be a passing score on the test as a condition toward granting high school diplomas under sections 3313.61, 3313.611, 3313.612, and 3325.08 of the Revised Code.

The state board may enter into a reciprocal agreement with the appropriate body or agency of any other state that has similar statewide achievement testing requirements for receiving high school diplomas, under which any student who has met an achievement testing requirement of one state is recognized as having met the similar achievement testing requirement of the other state for purposes of receiving a high school diploma. For purposes of this section and sections 3301.0711 and 3313.61

of the Revised Code, any student enrolled in any public high school in this state who has met an achievement testing requirement specified in a reciprocal agreement entered into under this division shall be deemed to have attained at least the applicable score designated under this division on each test required by this division that is specified in the agreement.

(C) ~~The~~ Except as provided in division (H) of this section, the state board shall annually designate as follows the dates on which the tests prescribed under this section shall be administered:

(1) For the reading test prescribed under division (A)(1)(a) of this section, as follows:

(a) One date prior to the thirty-first day of December each school year;

(b) At least one date of each school year that is not earlier than Monday of the week containing the ~~eighth~~ first day of ~~March~~ May;

(c) One date during the summer that is not earlier than the tenth day of June nor later than the fifteenth day of July for students receiving summer remediation services under section 3313.608 of the Revised Code.

(2) For the mathematics test prescribed under division (A)(1)(a) of this section and the tests prescribed under divisions (A)(1)(b), (c), (d), (e), and (f) of this section, at least one date of each school year that is not earlier than Monday of the week containing the ~~eighth~~ first day of ~~March~~ May;

(3) For the tests prescribed under division (B) of this section, at least one date in each school year that is not earlier than Monday of the week containing the fifteenth day of March for all tenth grade students and at least one date prior to the thirty-first day of December and at least one date subsequent to that date but prior to the thirty-first day of March of each school year for eleventh and twelfth grade students.

(D) In prescribing test dates pursuant to division (C)(3) of this section, the state board shall, to the greatest extent practicable, provide options to school districts in the case of tests administered under that division to eleventh and twelfth grade students and in the case of tests administered to students pursuant to division (C)(2) of section 3301.0711 of the Revised Code. Such options shall include at least an opportunity for school districts to give such tests outside of regular school hours.

(E) In prescribing test dates pursuant to this section, the state board of education shall designate the dates in such a way as to allow a reasonable length of time between the administration of tests prescribed under this section and any administration of the National Assessment of Education Progress Test given to students in the same grade level pursuant to section 3301.27 of the Revised Code or federal law.

(F) The state board shall prescribe a practice version of each Ohio

graduation test described in division (B) of this section that is of comparable length to the actual test.

(G) Any committee established by the department of education for the purpose of making recommendations to the state board regarding the state board's designation of scores on the tests described by this section shall inform the state board of the probable percentage of students who would score in each of the ranges established under division (A)(2) of this section on the tests if the committee's recommendations are adopted by the state board. To the extent possible, these percentages shall be disaggregated by gender, major racial and ethnic groups, limited English proficient students, economically disadvantaged students, students with disabilities, and migrant students.

If the state board intends to make any change to the committee's recommendations, the state board shall explain the intended change to the Ohio accountability task force established by section 3302.021 of the Revised Code. The task force shall recommend whether the state board should proceed to adopt the intended change. Nothing in this division shall require the state board to designate test scores based upon the recommendations of the task force.

(H)(1) The state board shall require any alternate assessment administered to a student under division (C)(1) of section 3301.0711 of the Revised Code to be completed and submitted to the entity with which the department contracts for the scoring of the test not later than the first day of April of the school year in which the test is administered.

(2) For any test prescribed by this section, the state board may designate a date one week earlier than the applicable date designated under division (C) of this section for the administration of the test to limited English proficient students.

(3) In designating days for the administration of the tests prescribed by division (A) of this section, the state board shall require the tests for each grade level to be administered on consecutive days.

Sec. 3301.0711. (A) The department of education shall:

(1) Annually furnish to, grade, and score all tests required by section 3301.0710 of the Revised Code to be administered by city, local, exempted village, and joint vocational school districts, except that each district shall score any test administered pursuant to division (B)(10) of this section. Each test so furnished shall include the data verification code of the student to whom the test will be administered, as assigned pursuant to division (D)(2) of section 3301.0714 of the Revised Code. In furnishing the practice versions of Ohio graduation tests prescribed by division (F) of section

3301.0710 of the Revised Code, the department shall make the tests available on its web site for reproduction by districts. In awarding contracts for grading tests, the department shall give preference to Ohio-based entities employing Ohio residents.

(2) Adopt rules for the ethical use of tests and prescribing the manner in which the tests prescribed by section 3301.0710 of the Revised Code shall be administered to students.

(B) Except as provided in divisions (C) and (J) of this section, the board of education of each city, local, and exempted village school district shall, in accordance with rules adopted under division (A) of this section:

(1) Administer the reading test prescribed under division (A)(1)(a) of section 3301.0710 of the Revised Code twice annually to all students in the third grade who have not attained the score designated for that test under division (A)(2)(c) of section 3301.0710 of the Revised Code and once each summer to students receiving summer remediation services under section 3313.608 of the Revised Code.

(2) Administer the mathematics test prescribed under division (A)(1)(a) of section 3301.0710 of the Revised Code at least once annually to all students in the third grade.

(3) Administer the tests prescribed under division (A)(1)(b) of section 3301.0710 of the Revised Code at least once annually to all students in the fourth grade.

(4) Administer the tests prescribed under division (A)(1)(c) of section 3301.0710 of the Revised Code at least once annually to all students in the fifth grade.

(5) Administer the tests prescribed under division (A)(1)(d) of section 3301.0710 of the Revised Code at least once annually to all students in the sixth grade.

(6) Administer the tests prescribed under division (A)(1)(e) of section 3301.0710 of the Revised Code at least once annually to all students in the seventh grade.

(7) Administer the tests prescribed under division (A)(1)(f) of section 3301.0710 of the Revised Code at least once annually to all students in the eighth grade.

(8) Except as provided in division (B)(9) of this section, administer any test prescribed under division (B) of section 3301.0710 of the Revised Code as follows:

(a) At least once annually to all tenth grade students and at least twice annually to all students in eleventh or twelfth grade who have not yet attained the score on that test designated under that division;

(b) To any person who has successfully completed the curriculum in any high school or the individualized education program developed for the person by any high school pursuant to section 3323.08 of the Revised Code but has not received a high school diploma and who requests to take such test, at any time such test is administered in the district.

(9) In lieu of the board of education of any city, local, or exempted village school district in which the student is also enrolled, the board of a joint vocational school district shall administer any test prescribed under division (B) of section 3301.0710 of the Revised Code at least twice annually to any student enrolled in the joint vocational school district who has not yet attained the score on that test designated under that division. A board of a joint vocational school district may also administer such a test to any student described in division (B)(8)(b) of this section.

(10) If the district has been declared to be under an academic watch or in a state of academic emergency pursuant to section 3302.03 of the Revised Code or has a three-year average graduation rate of not more than seventy-five per cent, administer each test prescribed by division (F) of section 3301.0710 of the Revised Code in September to all ninth grade students, beginning in the school year that starts July 1, 2005.

(C)(1)(a) Any student receiving special education services under Chapter 3323. of the Revised Code may be excused from taking any particular test required to be administered under this section if the individualized education program developed for the student pursuant to section 3323.08 of the Revised Code excuses the student from taking that test and instead specifies an alternate assessment method approved by the department of education as conforming to requirements of federal law for receipt of federal funds for disadvantaged pupils. To the extent possible, the individualized education program shall not excuse the student from taking a test unless no reasonable accommodation can be made to enable the student to take the test.

(b) Any alternate assessment approved by the department for a student under this division shall produce measurable results comparable to those produced by the tests which the alternate assessments are replacing in order to allow for the student's assessment results to be included in the data compiled for a school district or building under section 3302.03 of the Revised Code.

(c) Any student enrolled in a chartered nonpublic school who has been identified, based on an evaluation conducted in accordance with section 3323.03 of the Revised Code or section 504 of the "Rehabilitation Act of 1973," 87 Stat. 355, 29 U.S.C.A. 794, as amended, as a child with a

disability shall be excused from taking any particular test required to be administered under this section if a plan developed for the student pursuant to rules adopted by the state board excuses the student from taking that test. In the case of any student so excused from taking a test, the chartered nonpublic school shall not prohibit the student from taking the test.

(2) A district board may, for medical reasons or other good cause, excuse a student from taking a test administered under this section on the date scheduled, but any such test shall be administered to such excused student not later than nine days following the scheduled date. The board shall annually report the number of students who have not taken one or more of the tests required by this section to the state board of education not later than the thirtieth day of June.

(3) As used in this division, "limited English proficient student" has the same meaning as in 20 U.S.C. 7801.

No school district board shall excuse any limited English proficient student from taking any particular test required to be administered under this section, except that any limited English proficient student who has been enrolled in United States schools for less than one full school year shall not be required to take any such reading or writing test. However, no board shall prohibit a limited English proficient student who is not required to take a test under this division from taking the test. A board may permit any limited English proficient student to take any test required to be administered under this section with appropriate accommodations, as determined by the department. For each limited English proficient student, each school district shall annually assess that student's progress in learning English, in accordance with procedures approved by the department.

The governing authority of a chartered nonpublic school may excuse a limited English proficient student from taking any test administered under this section. However, no governing authority shall prohibit a limited English proficient student from taking the test.

(D)(1) In the school year next succeeding the school year in which the tests prescribed by division (A)(1) or (B) of section 3301.0710 of the Revised Code or former division (A)(1), (A)(2), or (B) of section 3301.0710 of the Revised Code as it existed prior to September 11, 2001, are administered to any student, the board of education of any school district in which the student is enrolled in that year shall provide to the student intervention services commensurate with the student's test performance, including any intensive intervention required under section 3313.608 of the Revised Code, in any skill in which the student failed to demonstrate at least a score at the proficient level on the test.

(2) Following any administration of the tests prescribed by division (F) of section 3301.0710 of the Revised Code to ninth grade students, each school district that has a three-year average graduation rate of not more than seventy-five per cent shall determine for each high school in the district whether the school shall be required to provide intervention services to any students who took the tests. In determining which high schools shall provide intervention services based on the resources available, the district shall consider each school's graduation rate and scores on the practice tests. The district also shall consider the scores received by ninth grade students on the reading and mathematics tests prescribed under division (A)(1)(f) of section 3301.0710 of the Revised Code in the eighth grade in determining which high schools shall provide intervention services.

Each high school selected to provide intervention services under this division shall provide intervention services to any student whose test results indicate that the student is failing to make satisfactory progress toward being able to attain scores at the proficient level on the Ohio graduation tests. Intervention services shall be provided in any skill in which a student demonstrates unsatisfactory progress and shall be commensurate with the student's test performance. Schools shall provide the intervention services prior to the end of the school year, during the summer following the ninth grade, in the next succeeding school year, or at any combination of those times.

(E) Except as provided in section 3313.608 of the Revised Code and division (M) of this section, no school district board of education shall utilize any student's failure to attain a specified score on any test administered under this section as a factor in any decision to deny the student promotion to a higher grade level. However, a district board may choose not to promote to the next grade level any student who does not take any test administered under this section or make up such test as provided by division (C)(2) of this section and who is not exempt from the requirement to take the test under division (C)(3) of this section.

(F) No person shall be charged a fee for taking any test administered under this section.

(G) ~~Not later than sixty days after any administration of any test prescribed by division (A)(1) or (B) of section 3301.0710 of the Revised Code, the~~ (1) Each school district board shall submit the tests administered in the spring under division (B)(1) of this section and the tests administered under divisions (B)(2) to (7) of this section to the entity with which the department contracts for the scoring of the tests not later than the Friday after the tests are administered, except that any such test that a student takes



during the make-up period described in division (C)(2) of this section shall be submitted not later than the Friday following the day the student takes the test.

(2) The department or an entity with which the department contracts for the scoring of the test shall send to each school district board a list of the individual test scores of all persons taking the any test prescribed by division (A)(1) or (B) of section 3301.0710 of the Revised Code within sixty days after its administration, but in no case shall the scores be returned later than the fifteenth day of June following the administration. For any tests administered under this section by a joint vocational school district, the department or entity shall also send to each city, local, or exempted village school district a list of the individual test scores of any students of such city, local, or exempted village school district who are attending school in the joint vocational school district.

(H) Individual test scores on any tests administered under this section shall be released by a district board only in accordance with section 3319.321 of the Revised Code and the rules adopted under division (A) of this section. No district board or its employees shall utilize individual or aggregate test results in any manner that conflicts with rules for the ethical use of tests adopted pursuant to division (A) of this section.

(I) Except as provided in division (G) of this section, the department or an entity with which the department contracts for the scoring of the test shall not release any individual test scores on any test administered under this section and. The state board of education shall adopt rules to ensure the protection of student confidentiality at all times. The rules may require the use of the data verification codes assigned to students pursuant to division (D)(2) of section 3301.0714 of the Revised Code to protect the confidentiality of student test scores.

(J) Notwithstanding division (D) of section 3311.52 of the Revised Code, this section does not apply to the board of education of any cooperative education school district except as provided under rules adopted pursuant to this division.

(1) In accordance with rules that the state board of education shall adopt, the board of education of any city, exempted village, or local school district with territory in a cooperative education school district established pursuant to divisions (A) to (C) of section 3311.52 of the Revised Code may enter into an agreement with the board of education of the cooperative education school district for administering any test prescribed under this section to students of the city, exempted village, or local school district who are attending school in the cooperative education school district.

(2) In accordance with rules that the state board of education shall adopt, the board of education of any city, exempted village, or local school district with territory in a cooperative education school district established pursuant to section 3311.521 of the Revised Code shall enter into an agreement with the cooperative district that provides for the administration of any test prescribed under this section to both of the following:

(a) Students who are attending school in the cooperative district and who, if the cooperative district were not established, would be entitled to attend school in the city, local, or exempted village school district pursuant to section 3313.64 or 3313.65 of the Revised Code;

(b) Persons described in division (B)(8)(b) of this section.

Any testing of students pursuant to such an agreement shall be in lieu of any testing of such students or persons pursuant to this section.

(K)(1) Any chartered nonpublic school may participate in the testing program by administering any of the tests prescribed by section 3301.0710 or 3301.0712 of the Revised Code if the chief administrator of the school specifies which tests the school wishes to administer. Such specification shall be made in writing to the superintendent of public instruction prior to the first day of August of any school year in which tests are administered and shall include a pledge that the nonpublic school will administer the specified tests in the same manner as public schools are required to do under this section and rules adopted by the department.

(2) The department of education shall furnish the tests prescribed by section 3301.0710 or 3301.0712 of the Revised Code to any chartered nonpublic school electing to participate under this division.

(L)(1) The superintendent of the state school for the blind and the superintendent of the state school for the deaf shall administer the tests described by section 3301.0710 of the Revised Code. Each superintendent shall administer the tests in the same manner as district boards are required to do under this section and rules adopted by the department of education and in conformity with division (C)(1)(a) of this section.

(2) The department of education shall furnish the tests described by section 3301.0710 of the Revised Code to each superintendent.

(M) Notwithstanding division (E) of this section, a school district may use a student's failure to attain a score in at least the basic range on the mathematics test described by division (A)(1)(a) of section 3301.0710 of the Revised Code or on any of the tests described by division (A)(1)(b), (c), (d), (e), or (f) of section 3301.0710 of the Revised Code as a factor in retaining that student in the current grade level.

(N)(1) ~~The~~ In the manner specified in divisions (N)(3) to (5) of this

section, the tests required by section 3301.0710 of the Revised Code shall become public records pursuant to section 149.43 of the Revised Code on the first day of July following the school year that the test was administered, except that the reading test prescribed under division (A)(1)(a) of section 3301.0710 of the Revised Code shall become a public record on the sixteenth day of July following the school year that the test was administered.

(2) The department may field test proposed test questions with samples of students to determine the validity, reliability, or appropriateness of test questions for possible inclusion in a future year's test. The department also may use anchor questions on tests to ensure that different versions of the same test are of comparable difficulty.

Field test questions and anchor questions shall not be considered in computing test scores for individual students. Field test questions and anchor questions may be included as part of the administration of any test required by section 3301.0710 of the Revised Code.

(3) Any field test question or anchor question administered under division (N)(2) of this section shall not be a public record. Such field test questions and anchor questions shall be redacted from any tests which are released as a public record pursuant to division (N)(1) of this section.

(4) This division applies to the tests prescribed by division (A) of section 3301.0710 of the Revised Code.

(a) The first administration of each test, as specified in section 3301.0712 of the Revised Code, shall be a public record.

(b) For subsequent administrations of each test, not less than forty per cent of the questions on the test that are used to compute a student's score shall be a public record. The department shall determine which questions will be needed for reuse on a future test and those questions shall not be public records and shall be redacted from the test prior to its release as a public record.

(5) Each test prescribed by division (B) of section 3301.0710 of the Revised Code that is administered in the spring shall be a public record. Each test prescribed by that division that is administered in the fall or summer shall not be a public record.

(O) As used in this section:

(1) "Three-year average" means the average of the most recent consecutive three school years of data.

(2) "Dropout" means a student who withdraws from school before completing course requirements for graduation and who is not enrolled in an education program approved by the state board of education or an education

program outside the state. "Dropout" does not include a student who has departed the country.

(3) "Graduation rate" means the ratio of students receiving a diploma to the number of students who entered ninth grade four years earlier. Students who transfer into the district are added to the calculation. Students who transfer out of the district for reasons other than dropout are subtracted from the calculation. If a student who was a dropout in any previous year returns to the same school district, that student shall be entered into the calculation as if the student had entered ninth grade four years before the graduation year of the graduating class that the student joins.

Sec. 3301.0714. (A) The state board of education shall adopt rules for a statewide education management information system. The rules shall require the state board to establish guidelines for the establishment and maintenance of the system in accordance with this section and the rules adopted under this section. The guidelines shall include:

(1) Standards identifying and defining the types of data in the system in accordance with divisions (B) and (C) of this section;

(2) Procedures for annually collecting and reporting the data to the state board in accordance with division (D) of this section;

(3) Procedures for annually compiling the data in accordance with division (G) of this section;

(4) Procedures for annually reporting the data to the public in accordance with division (H) of this section.

(B) The guidelines adopted under this section shall require the data maintained in the education management information system to include at least the following:

(1) Student participation and performance data, for each grade in each school district as a whole and for each grade in each school building in each school district, that includes:

(a) The numbers of students receiving each category of instructional service offered by the school district, such as regular education instruction, vocational education instruction, specialized instruction programs or enrichment instruction that is part of the educational curriculum, instruction for gifted students, instruction for handicapped students, and remedial instruction. The guidelines shall require instructional services under this division to be divided into discrete categories if an instructional service is limited to a specific subject, a specific type of student, or both, such as regular instructional services in mathematics, remedial reading instructional services, instructional services specifically for students gifted in mathematics or some other subject area, or instructional services for

students with a specific type of handicap. The categories of instructional services required by the guidelines under this division shall be the same as the categories of instructional services used in determining cost units pursuant to division (C)(3) of this section.

(b) The numbers of students receiving support or extracurricular services for each of the support services or extracurricular programs offered by the school district, such as counseling services, health services, and extracurricular sports and fine arts programs. The categories of services required by the guidelines under this division shall be the same as the categories of services used in determining cost units pursuant to division (C)(4)(a) of this section.

(c) Average student grades in each subject in grades nine through twelve;

(d) Academic achievement levels as assessed by the testing of student achievement under sections 3301.0710 and 3301.0711 of the Revised Code;

(e) The number of students designated as having a handicapping condition pursuant to division (C)(1) of section 3301.0711 of the Revised Code;

(f) The numbers of students reported to the state board pursuant to division (C)(2) of section 3301.0711 of the Revised Code;

(g) Attendance rates and the average daily attendance for the year. For purposes of this division, a student shall be counted as present for any field trip that is approved by the school administration.

(h) Expulsion rates;

(i) Suspension rates;

(j) The percentage of students receiving corporal punishment;

(k) Dropout rates;

(l) Rates of retention in grade;

(m) For pupils in grades nine through twelve, the average number of carnegie units, as calculated in accordance with state board of education rules;

(n) Graduation rates, to be calculated in a manner specified by the department of education that reflects the rate at which students who were in the ninth grade three years prior to the current year complete school and that is consistent with nationally accepted reporting requirements;

(o) Results of diagnostic assessments administered to kindergarten students as required under section 3301.0715 of the Revised Code to permit a comparison of the academic readiness of kindergarten students. However, no district shall be required to report to the department the results of any diagnostic assessment administered to a kindergarten student if the parent of

that student requests the district not to report those results.

(2) Personnel and classroom enrollment data for each school district, including:

(a) The total numbers of licensed employees and nonlicensed employees and the numbers of full-time equivalent licensed employees and nonlicensed employees providing each category of instructional service, instructional support service, and administrative support service used pursuant to division (C)(3) of this section. The guidelines adopted under this section shall require these categories of data to be maintained for the school district as a whole and, wherever applicable, for each grade in the school district as a whole, for each school building as a whole, and for each grade in each school building.

(b) The total number of employees and the number of full-time equivalent employees providing each category of service used pursuant to divisions (C)(4)(a) and (b) of this section, and the total numbers of licensed employees and nonlicensed employees and the numbers of full-time equivalent licensed employees and nonlicensed employees providing each category used pursuant to division (C)(4)(c) of this section. The guidelines adopted under this section shall require these categories of data to be maintained for the school district as a whole and, wherever applicable, for each grade in the school district as a whole, for each school building as a whole, and for each grade in each school building.

(c) The total number of regular classroom teachers teaching classes of regular education and the average number of pupils enrolled in each such class, in each of grades kindergarten through five in the district as a whole and in each school building in the school district.

(d) The number of master teachers employed by each school district and each school building, once a definition of master teacher has been developed by the educator standards board pursuant to section 3319.61 of the Revised Code.

(3)(a) Student demographic data for each school district, including information regarding the gender ratio of the school district's pupils, the racial make-up of the school district's pupils, the number of limited English proficient students in the district, and an appropriate measure of the number of the school district's pupils who reside in economically disadvantaged households. The demographic data shall be collected in a manner to allow correlation with data collected under division (B)(1) of this section. Categories for data collected pursuant to division (B)(3) of this section shall conform, where appropriate, to standard practices of agencies of the federal government.

(b) With respect to each student entering kindergarten, whether the student previously participated in a public preschool program, a private preschool program, or a head start program, and the number of years the student participated in each of these programs.

(4) Any data required to be collected pursuant to federal law.

(C) The education management information system shall include cost accounting data for each district as a whole and for each school building in each school district. The guidelines adopted under this section shall require the cost data for each school district to be maintained in a system of mutually exclusive cost units and shall require all of the costs of each school district to be divided among the cost units. The guidelines shall require the system of mutually exclusive cost units to include at least the following:

(1) Administrative costs for the school district as a whole. The guidelines shall require the cost units under this division (C)(1) to be designed so that each of them may be compiled and reported in terms of average expenditure per pupil in formula ADM in the school district, as determined pursuant to section 3317.03 of the Revised Code.

(2) Administrative costs for each school building in the school district. The guidelines shall require the cost units under this division (C)(2) to be designed so that each of them may be compiled and reported in terms of average expenditure per full-time equivalent pupil receiving instructional or support services in each building.

(3) Instructional services costs for each category of instructional service provided directly to students and required by guidelines adopted pursuant to division (B)(1)(a) of this section. The guidelines shall require the cost units under division (C)(3) of this section to be designed so that each of them may be compiled and reported in terms of average expenditure per pupil receiving the service in the school district as a whole and average expenditure per pupil receiving the service in each building in the school district and in terms of a total cost for each category of service and, as a breakdown of the total cost, a cost for each of the following components:

(a) The cost of each instructional services category required by guidelines adopted under division (B)(1)(a) of this section that is provided directly to students by a classroom teacher;

(b) The cost of the instructional support services, such as services provided by a speech-language pathologist, classroom aide, multimedia aide, or librarian, provided directly to students in conjunction with each instructional services category;

(c) The cost of the administrative support services related to each instructional services category, such as the cost of personnel that develop

the curriculum for the instructional services category and the cost of personnel supervising or coordinating the delivery of the instructional services category.

(4) Support or extracurricular services costs for each category of service directly provided to students and required by guidelines adopted pursuant to division (B)(1)(b) of this section. The guidelines shall require the cost units under division (C)(4) of this section to be designed so that each of them may be compiled and reported in terms of average expenditure per pupil receiving the service in the school district as a whole and average expenditure per pupil receiving the service in each building in the school district and in terms of a total cost for each category of service and, as a breakdown of the total cost, a cost for each of the following components:

(a) The cost of each support or extracurricular services category required by guidelines adopted under division (B)(1)(b) of this section that is provided directly to students by a licensed employee, such as services provided by a guidance counselor or any services provided by a licensed employee under a supplemental contract;

(b) The cost of each such services category provided directly to students by a nonlicensed employee, such as janitorial services, cafeteria services, or services of a sports trainer;

(c) The cost of the administrative services related to each services category in division (C)(4)(a) or (b) of this section, such as the cost of any licensed or nonlicensed employees that develop, supervise, coordinate, or otherwise are involved in administering or aiding the delivery of each services category.

(D)(1) The guidelines adopted under this section shall require school districts to collect information about individual students, staff members, or both in connection with any data required by division (B) or (C) of this section or other reporting requirements established in the Revised Code. The guidelines may also require school districts to report information about individual staff members in connection with any data required by division (B) or (C) of this section or other reporting requirements established in the Revised Code. The guidelines shall not authorize school districts to request social security numbers of individual students. The guidelines shall prohibit the reporting under this section of a student's name, address, and social security number to the state board of education or the department of education. The guidelines shall also prohibit the reporting under this section of any personally identifiable information about any student, except for the purpose of assigning the data verification code required by division (D)(2) of this section, to any other person unless such person is employed by the



school district or the data acquisition site operated under section 3301.075 of the Revised Code and is authorized by the district or acquisition site to have access to such information or is employed by an entity with which the department contracts for the scoring of tests administered under section 3301.0711 or 3301.0712 of the Revised Code. The guidelines may require school districts to provide the social security numbers of individual staff members.

(2) The guidelines shall provide for each school district or community school to assign a data verification code that is unique on a statewide basis over time to each student whose initial Ohio enrollment is in that district or school and to report all required individual student data for that student utilizing such code. The guidelines shall also provide for assigning data verification codes to all students enrolled in districts or community schools on the effective date of the guidelines established under this section.

Individual student data shall be reported to the department through the data acquisition sites utilizing the code but at no time shall the state board or the department have access to information that would enable any data verification code to be matched to personally identifiable student data.

Each school district shall ensure that the data verification code is included in the student's records reported to any subsequent school district or community school in which the student enrolls. Any such subsequent district or school shall utilize the same identifier in its reporting of data under this section.

(E) The guidelines adopted under this section may require school districts to collect and report data, information, or reports other than that described in divisions (A), (B), and (C) of this section for the purpose of complying with other reporting requirements established in the Revised Code. The other data, information, or reports may be maintained in the education management information system but are not required to be compiled as part of the profile formats required under division (G) of this section or the annual statewide report required under division (H) of this section.

(F) Beginning with the school year that begins July 1, 1991, the board of education of each school district shall annually collect and report to the state board, in accordance with the guidelines established by the board, the data required pursuant to this section. A school district may collect and report these data notwithstanding section 2151.358 or 3319.321 of the Revised Code.

(G) The state board shall, in accordance with the procedures it adopts, annually compile the data reported by each school district pursuant to

division (D) of this section. The state board shall design formats for profiling each school district as a whole and each school building within each district and shall compile the data in accordance with these formats. These profile formats shall:

(1) Include all of the data gathered under this section in a manner that facilitates comparison among school districts and among school buildings within each school district;

(2) Present the data on academic achievement levels as assessed by the testing of student achievement maintained pursuant to division (B)(1)(d) of this section.

(H)(1) The state board shall, in accordance with the procedures it adopts, annually prepare a statewide report for all school districts and the general public that includes the profile of each of the school districts developed pursuant to division (G) of this section. Copies of the report shall be sent to each school district.

(2) The state board shall, in accordance with the procedures it adopts, annually prepare an individual report for each school district and the general public that includes the profiles of each of the school buildings in that school district developed pursuant to division (G) of this section. Copies of the report shall be sent to the superintendent of the district and to each member of the district board of education.

(3) Copies of the reports received from the state board under divisions (H)(1) and (2) of this section shall be made available to the general public at each school district's offices. Each district board of education shall make copies of each report available to any person upon request and payment of a reasonable fee for the cost of reproducing the report. The board shall annually publish in a newspaper of general circulation in the school district, at least twice during the two weeks prior to the week in which the reports will first be available, a notice containing the address where the reports are available and the date on which the reports will be available.

(I) Any data that is collected or maintained pursuant to this section and that identifies an individual pupil is not a public record for the purposes of section 149.43 of the Revised Code.

(J) As used in this section:

(1) "School district" means any city, local, exempted village, or joint vocational school district.

(2) "Cost" means any expenditure for operating expenses made by a school district excluding any expenditures for debt retirement except for payments made to any commercial lending institution for any loan approved pursuant to section 3313.483 of the Revised Code.

(K) Any person who removes data from the information system established under this section for the purpose of releasing it to any person not entitled under law to have access to such information is subject to section 2913.42 of the Revised Code prohibiting tampering with data.

(L) Any time the department of education determines that a school district has taken any of the actions described under division (L)(1), (2), or (3) of this section, it shall make a report of the actions of the district, send a copy of the report to the superintendent of such school district, and maintain a copy of the report in its files:

(1) The school district fails to meet any deadline established pursuant to this section for the reporting of any data to the education management information system;

(2) The school district fails to meet any deadline established pursuant to this section for the correction of any data reported to the education management information system;

(3) The school district reports data to the education management information system in a condition, as determined by the department, that indicates that the district did not make a good faith effort in reporting the data to the system.

Any report made under this division shall include recommendations for corrective action by the school district.

Upon making a report for the first time in a fiscal year, the department shall withhold ten per cent of the total amount due during that fiscal year under Chapter 3317. of the Revised Code to the school district to which the report applies. Upon making a second report in a fiscal year, the department shall withhold an additional twenty per cent of such total amount due during that fiscal year to the school district to which the report applies. The department shall not release such funds unless it determines that the district has taken corrective action. However, no such release of funds shall occur if the district fails to take corrective action within forty-five days of the date upon which the report was made by the department.

(M) No data acquisition site or school district shall acquire, change, or update its student administration software package to manage and report data required to be reported to the department unless it converts to a student software package that is certified by the department.

(N) The state board of education, in accordance with sections 3319.31 and 3319.311 of the Revised Code, may suspend or revoke a license as defined under division (A) of section 3319.31 of the Revised Code that has been issued to any school district employee found to have willfully reported erroneous, inaccurate, or incomplete data to the education management

information system.

(O) No person shall release or maintain any information about any student in violation of this section. Whoever violates this division is guilty of a misdemeanor of the fourth degree.

(P) The department shall disaggregate the data collected under division (B)(1)(o) of this section according to the race and socioeconomic status of the students assessed. No data collected under that division shall be included on the report cards required by section 3302.03 of the Revised Code.

(Q) If the department cannot compile any of the information required by division (C)(5) of section 3302.03 of the Revised Code based upon the data collected under this section, the department shall develop a plan and a reasonable timeline for the collection of any data necessary to comply with that division.

Sec. 3301.0715. (A) Except as provided in division (E) of this section, the board of education of each city, local, and exempted village school district shall administer each applicable diagnostic assessment developed and provided to the district in accordance with section 3301.079 of the Revised Code to the following:

(1) Each student enrolled in a building subject to division (E) of section 3302.04 of the Revised Code;

(2) Any student who transfers into the district or to a different school within the district if each applicable diagnostic assessment was not administered by the district or school the student previously attended in the current school year, within thirty days after the date of transfer. If the district or school into which the student transfers cannot determine whether the student has taken any applicable diagnostic assessment in the current school year, the district or school may administer the diagnostic assessment to the student.

(3) Each kindergarten student, not later than six weeks after the first day of school. For the purpose of division (A)(3) of this section, the district shall administer the kindergarten readiness assessment provided by the department of education. The district may administer the readiness assessment to a student prior to the student's enrollment in kindergarten, but in no case shall the results of the readiness assessment be used to prohibit the student from enrolling in kindergarten.

(4) Each student enrolled in first or second grade.

(B) Each district board shall administer each diagnostic assessment as the board deems appropriate. However, the board shall administer any diagnostic assessment at least once annually to all students in the appropriate grade level. A district board may administer any diagnostic

assessment in the fall and spring of a school year to measure the amount of academic growth attributable to the instruction received by students during that school year.

(C) Each district board shall utilize and score any diagnostic assessment administered under division (A) of this section in accordance with rules established by the department. Except as required by division (B)(1)(o) of section 3301.0714 of the Revised Code, neither the state board of education nor the department shall require school districts to report the results of diagnostic assessments for any students to the department or to make any such results available in any form to the public. After the administration of any diagnostic assessment, each district shall provide a student's completed diagnostic assessment, the results of such assessment, and any other accompanying documents used during the administration of the assessment to the parent of that student upon the parent's request.

(D) Each district board shall provide intervention services to students whose diagnostic assessments show that they are failing to make satisfactory progress toward attaining the academic standards for their grade level.

(E) Any district that made adequate yearly progress, as defined in section 3302.01 of the Revised Code, in the immediately preceding school year may assess student progress in grades one through ~~eight~~ three using a diagnostic assessment other than the diagnostic assessment required by division (A) of this section.

(F) A district board may administer ~~any~~ the third grade writing diagnostic assessment provided to the district in accordance with section 3301.079 of the Revised Code to any student enrolled in a building that is not subject to division (A)(1) of this section. Any district electing to administer the ~~diagnostic assessments~~ assessment to students under this division shall provide intervention services to any such student whose diagnostic assessment shows unsatisfactory progress toward attaining the academic standards for the student's grade level.

Sec. 3301.12. (A) The superintendent of public instruction in addition to the authority otherwise imposed on ~~him~~ the superintendent, shall perform the following duties:

(1) ~~He~~ The superintendent shall provide technical and professional assistance and advice to all school districts in reference to all aspects of education, including finance, buildings and equipment, administration, organization of school districts, curriculum and instruction, transportation of pupils, personnel problems, and the interpretation of school laws and state regulations.

(2) ~~He~~ The superintendent shall prescribe and require the preparation

and filing of such financial and other reports from school districts, officers, and employees as are necessary or proper. ~~He~~ The superintendent shall prescribe and require the installation by school districts of such standardized reporting forms and accounting procedures as are essential to the businesslike operations of the public schools of the state.

(3) ~~He~~ The superintendent shall conduct such studies and research projects as are necessary or desirable for the improvement of public school education in Ohio, and such as may be assigned to ~~him~~ the superintendent by the state board of education. Such studies and projects may include analysis of data contained in the education management information system established under section 3301.0714 of the Revised Code. For any study or project that requires the analysis of individual student data, the department of education or any entity with which the superintendent or department contracts to conduct the study or project shall maintain the confidentiality of student data at all times. For this purpose, the department or contracting entity shall use the data verification code assigned pursuant to division (D)(2) of section 3301.0714 of the Revised Code for each student whose data is analyzed. Except as otherwise provided in division (D)(1) of section 3301.0714 of the Revised Code, at no time shall the superintendent, the department, the state board of education, or any entity conducting a study or research project on the superintendent's behalf have access to a student's name, address, or social security number while analyzing individual student data.

(4) ~~He~~ The superintendent shall prepare and submit annually to the state board of education a report of the activities of the department of education and the status, problems, and needs of education in the state of Ohio.

(5) ~~He~~ The superintendent shall supervise all agencies over which the board exercises administrative control, including schools for education of handicapped persons.

(B) The superintendent of public instruction may annually inspect and analyze the expenditures of each school district and make a determination as to the efficiency of each district's costs, relative to other school districts in the state, for instructional, administrative, and student support services. The superintendent shall notify each school district as to the nature of, and reasons for, ~~his~~ the determination. The state board of education shall adopt rules in accordance with Chapter 119. of the Revised Code setting forth the procedures and standards for the performance of the inspection and analysis.

Sec. 3301.16. Pursuant to standards prescribed by the state board of education as provided in division (D) of section 3301.07 of the Revised Code, the state board shall classify and charter school districts and

individual schools within each district except that no charter shall be granted to a nonpublic school unless pursuant to division (K) of section 3301.0711 of the Revised Code the school elects to administer the tests prescribed by division (B) of section 3301.0710 of the Revised Code beginning July 1, 1995. ~~The~~

In the course of considering the charter of a new school district created under section 3311.26 or 3311.38 of the Revised Code, the state board shall require the party proposing creation of the district to submit to the board a map, certified by the county auditor of the county in which the proposed new district is located, showing the boundaries of the proposed new district. In the case of a proposed new district located in more than one county, the map shall be certified by the county auditor of each county in which the proposed district is located.

The state board shall revoke the charter of any school district or school which fails to meet the standards for elementary and high schools as prescribed by the board. The state board shall also revoke the charter of any nonpublic school that does not comply with section 3313.612 of the Revised Code or, on or after July 1, 1995, does not participate in the testing program prescribed by division (B) of section 3301.0710 of the Revised Code. ~~In~~

In the issuance and revocation of school district or school charters, the state board shall be governed by the provisions of Chapter 119. of the Revised Code.

No school district, or individual school operated by a school district, shall operate without a charter issued by the state board under this section.

In case a school district charter is revoked pursuant to this section, the state board may dissolve the school district and transfer its territory to one or more adjacent districts. An equitable division of the funds, property, and indebtedness of the school district shall be made by the state board among the receiving districts. The board of education of a receiving district shall accept such territory pursuant to the order of the state board. Prior to dissolving the school district, the state board shall notify the appropriate educational service center governing board and all adjacent school district boards of education of its intention to do so. Boards so notified may make recommendations to the state board regarding the proposed dissolution and subsequent transfer of territory. Except as provided in section 3301.161 of the Revised Code, the transfer ordered by the state board shall become effective on the date specified by the state board, but the date shall be at least thirty days following the date of issuance of the order.

A high school is one of higher grade than an elementary school, in which instruction and training are given in accordance with sections 3301.07

and 3313.60 of the Revised Code and which also offers other subjects of study more advanced than those taught in the elementary schools and such other subjects as may be approved by the state board of education.

An elementary school is one in which instruction and training are given in accordance with sections 3301.07 and 3313.60 of the Revised Code and which offers such other subjects as may be approved by the state board of education. In districts wherein a junior high school is maintained, the elementary schools in that district may be considered to include only the work of the first six school years inclusive, plus the kindergarten year.

Sec. 3301.311. (A) As used in this section, "preschool program" has the same meaning as in section 3301.52 of the Revised Code.

~~After June 30, 2001~~ (B)(1) Subject to division (B)(2) of this section, after July 1, 2005, no head-start preschool program, and no early childhood education program or early learning program as defined by the department of education shall receive any funds from the state unless fifty per cent of the staff members employed by that program as teachers are working toward an associate degree of a type approved by the department of education. ~~After June 30, 2003, no head-start program shall receive any funds from the state unless each staff member employed by that program as a teacher is working toward an associate degree of a type approved by the department of education.~~ Beginning ~~Subject to division (B)(2) of this section, beginning in fiscal year 2008, no head-start preschool program, early childhood education program, or early learning program, shall receive any funds from the state unless every staff member employed by that program as a teacher has attained such a degree.~~

(2) After July 1, 2010, no preschool program, and no early childhood education program or early learning program as defined by the department of education, shall receive any funds from the state unless fifty per cent of the staff members employed by the program as teachers have attained a bachelor's degree of a type approved by the department.

Sec. 3301.32. (A)(1) The chief administrator of any head start agency shall request the superintendent of the bureau of criminal identification and investigation to conduct a criminal records check with respect to any applicant who has applied to the head start agency for employment as a person responsible for the care, custody, or control of a child. If the applicant does not present proof that the applicant has been a resident of this state for the five-year period immediately prior to the date upon which the criminal records check is requested or does not provide evidence that within that five-year period the superintendent has requested information about the applicant from the federal bureau of investigation in a criminal records



check, the chief administrator shall request that the superintendent obtain information from the federal bureau of investigation as a part of the criminal records check for the applicant. If the applicant presents proof that the applicant has been a resident of this state for that five-year period, the chief administrator may request that the superintendent include information from the federal bureau of investigation in the criminal records check.

(2) Any person required by division (A)(1) of this section to request a criminal records check shall provide to each applicant a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code, provide to each applicant a standard impression sheet to obtain fingerprint impressions prescribed pursuant to division (C)(2) of section 109.572 of the Revised Code, obtain the completed form and impression sheet from each applicant, and forward the completed form and impression sheet to the superintendent of the bureau of criminal identification and investigation at the time the chief administrator requests a criminal records check pursuant to division (A)(1) of this section.

(3) Any applicant who receives pursuant to division (A)(2) of this section a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a copy of an impression sheet prescribed pursuant to division (C)(2) of that section and who is requested to complete the form and provide a set of fingerprint impressions shall complete the form or provide all the information necessary to complete the form and shall provide the impression sheets with the impressions of the applicant's fingerprints. If an applicant, upon request, fails to provide the information necessary to complete the form or fails to provide impressions of the applicant's fingerprints, the head start agency shall not employ that applicant for any position for which a criminal records check is required by division (A)(1) of this section.

(B)(1) Except as provided in rules adopted by the director of job and family services in accordance with division (E) of this section, no head start agency shall employ a person as a person responsible for the care, custody, or control of a child if the person previously has been convicted of or pleaded guilty to any of the following:

(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code, a violation of section 2905.04 of

the Revised Code as it existed prior to July 1, 1996, a violation of section 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had the violation occurred prior to that date, a violation of section 2925.11 of the Revised Code that is not a minor drug possession offense, or felonious sexual penetration in violation of former section 2907.12 of the Revised Code;

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

(2) A head start agency may employ an applicant conditionally until the criminal records check required by this section is completed and the agency receives the results of the criminal records check. If the results of the criminal records check indicate that, pursuant to division (B)(1) of this section, the applicant does not qualify for employment, the agency shall release the applicant from employment.

(C)(1) Each head start agency shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted in accordance with that section upon the request pursuant to division (A)(1) of this section of the chief administrator of the head start agency.

(2) A head start agency may charge an applicant a fee for the costs it incurs in obtaining a criminal records check under this section. A fee charged under this division shall not exceed the amount of fees the agency pays under division (C)(1) of this section. If a fee is charged under this division, the agency shall notify the applicant at the time of the applicant's initial application for employment of the amount of the fee and that, unless the fee is paid, the head start agency will not consider the applicant for employment.

(D) The report of any criminal records check conducted by the bureau of criminal identification and investigation in accordance with section 109.572 of the Revised Code and pursuant to a request made under division (A)(1) of this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the applicant who is the subject of the criminal records check or the applicant's representative, the head start agency requesting the criminal records check or its representative, and any court, hearing officer, or other necessary individual involved in a case dealing with the denial of employment to the applicant.

(E) The director of job and family services shall adopt rules pursuant to Chapter 119. of the Revised Code to implement this section, including rules specifying circumstances under which a head start agency may hire a person who has been convicted of an offense listed in division (B)(1) of this section but who meets standards in regard to rehabilitation set by the director.

(F) Any person required by division (A)(1) of this section to request a criminal records check shall inform each person, at the time of the person's initial application for employment, that the person is required to provide a set of impressions of the person's fingerprints and that a criminal records check is required to be conducted and satisfactorily completed in accordance with section 109.572 of the Revised Code if the person comes under final consideration for appointment or employment as a precondition to employment for that position.

(G) As used in this section:

(1) "Applicant" means a person who is under final consideration for appointment or employment in a position with a head start agency as a person responsible for the care, custody, or control of a child.

(2) "Head start agency" ~~has the same meaning as in section 3301.31 of the Revised Code~~ means an entity in this state that has been approved to be an agency for purposes of the "Head Start Act," 95 State 489 (1981), 42 U.S.C. 9831, as amended.

(3) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.

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

Sec. 3301.56. (A) The director of each preschool program shall be responsible for the following:

(1) Ensuring that the health and safety of the children are safeguarded by an organized program of school health services designed to identify child health problems and to coordinate school and community health resources for children, as evidenced by but not limited to:

(a) Requiring immunization and compliance with emergency medical authorization requirements in accordance with rules adopted by the state board of education under section 3301.53 of the Revised Code;

(b) Providing procedures for emergency situations, including fire drills, rapid dismissals, and tornado drills in accordance with section 3737.73 of the Revised Code, and keeping records of such drills or dismissals;

(c) Posting emergency procedures in preschool rooms and making them available to school personnel, children, and parents;

(d) Posting emergency numbers by each telephone;

(e) Supervising grounds, play areas, and other facilities when scheduled for use by children;

(f) Providing first-aid facilities and materials.

(2) Maintaining cumulative records for each child;

(3) Supervising each child's admission, placement, and withdrawal according to established procedures;

(4) Preparing at least once annually for each group of children in the program a roster of names and telephone numbers of parents, guardians, and custodians of children in the group and, on request, furnishing the roster for each group to the parents, guardians, and custodians of children in that group. The director may prepare a similar roster of all children in the program and, on request, make it available to the parents, guardians, and custodians, of children in the program. The director shall not include in either roster the name or telephone number of any parent, guardian, or custodian who requests that the parent's, guardian's, or custodian's name or number not be included, and shall not furnish any roster to any person other than a parent, guardian, or custodian of a child in the program.

(5) Ensuring that clerical and custodial services are provided for the program;

(6) Supervising the instructional program and the daily operation of the program;

(7) Supervising and evaluating preschool staff members according to a planned sequence of observations and evaluation conferences, and supervising nonteaching employees.

(B)(1) In each program the maximum number of children per preschool staff member and the maximum group size by age category of children shall be as follows:

Age Group	Maximum	
	Group Size	Staff Member/Child Ratio
Birth to less than 12 months	12	1:5, or 2:12 if two preschool staff members are in the room
12 months to less than 18 months	12	1:6
18 months to less than 30 months	14	1:7
30 months to less than 3 years	16	1:8
3-year-olds	24	1:12
4- and 5-year-olds not in school	28	1:14

(2) When age groups are combined, the maximum number of children

per preschool staff member shall be determined by the age of the youngest child in the group, except that when no more than one child thirty months of age or older receives child care in a group in which all the other children are in the next older age group, the maximum number of children per child-care staff member and maximum group size requirements of the older age group established under division (B)(1) of this section shall apply.

(3) In a room where children are napping, if all the children are at least eighteen months of age, the maximum number of children per preschool staff member shall, for a period not to exceed one and one-half hours in any twenty-four hour day, be twice the maximum number of children per preschool staff member established under division (B)(1) of this section if all the following criteria are met:

- (a) At least one preschool staff member is present in the room;
- (b) Sufficient preschool staff members are present on the preschool program premises to comply with division (B)(1) of this section;
- (c) Naptime preparations have been completed and the children are resting or napping.

(4) Any accredited program that uses the Montessori method endorsed by the American Montessori society or the association Montessori internationale as its primary method of instruction and is licensed as a preschool program under section 3301.58 of the Revised Code may combine preschool children of ages three to five years old with children enrolled in kindergarten. Notwithstanding anything to the contrary in division (B)(2) of this section, when such age groups are combined, the maximum number of children per preschool staff member shall be twelve and the maximum group size shall be twenty-four children.

(C) In each building in which a preschool program is operated there shall be on the premises, and readily available at all times, at least one employee who has completed a course in first aid and in the prevention, recognition, and management of communicable diseases which is approved by the state department of health, and an employee who has completed a course in child abuse recognition and prevention.

(D) Any parent, guardian, or custodian of a child enrolled in a preschool program shall be permitted unlimited access to the school during its hours of operation to contact the parent's, guardian's, or custodian's child, evaluate the care provided by the program, or evaluate the premises, or for other purposes approved by the director. Upon entering the premises, the parent, guardian, or custodian shall report to the school office.

Sec. 3301.86. The ~~OhioReads~~ classroom reading improvement grants program is hereby established. ~~The OhioReads council shall award grants~~

~~under the program in accordance with the standards it establishes under section 3301.91 of the Revised Code. The OhioReads office is the fiscal agent for the program and shall pay the grants awarded by the council. Under the program, the department of education shall award reading intervention grants to public schools and classrooms operated by city, local, and exempted village school districts, by community schools, and by educational service centers. The grants shall be used to fund the engagement of volunteers to assist struggling students in grades kindergarten through twelve improve their reading skills, to improve reading outcomes in low-performing schools, and to facilitate closing the achievement gap between students of different subgroups.~~

Sec. 3301.88. (A) A recipient of a grant under section 3301.86 ~~or 3301.87~~ of the Revised Code ~~or an entity approved by the OhioReads council~~ may request from the bureau of criminal identification and investigation a criminal records check on any individual, other than an individual described in division (B) of this section, who applies to participate in providing directly to children any program or service ~~through an entity approved by the OhioReads council~~ or funded in whole or in part by the grant. If a recipient ~~or an entity approved by the OhioReads council~~ elects to request a criminal records check, the request shall consist of a request for the information a school district board of education may request under division (F)(2)(a) of section 109.57 of the Revised Code and shall be accompanied by one of the following identification options:

(1) The form and standard impression sheet prescribed by the bureau under division (C) of section 109.572 of the Revised Code;

(2) A form prescribed by the bureau on which is specified the individual's name, social security number, and date of birth.

(B) A grant recipient ~~or an entity approved by the OhioReads council~~ shall not request a criminal records check under division (A) of this section with respect to any individual who furnishes the grant recipient ~~or an entity approved by the OhioReads council~~ with a certified copy of a report of a criminal records check completed by the bureau within one year prior to applying to participate in providing programs or services ~~through an entity approved by the OhioReads council~~ or under an OhioReads the grant.

(C) Except as provided in rules adopted under division (G)(2) of this section, a grant recipient ~~or an entity approved by the OhioReads council~~ shall not allow an individual to participate in providing directly to children any program or service ~~through an entity approved by the OhioReads council~~ or funded in whole or in part by the grant if the information requested under this section from the bureau indicates that the individual has

ever pleaded guilty to or been found guilty by a jury or court of any of the following:

- (1) A felony;
- (2) A violation of section 2903.16, 2903.34, 2905.05, 2907.04, 2907.06, 2907.07, 2907.08, 2907.09, 2907.23, 2907.25, 2907.31, 2919.12, 2919.22, 2919.24, 2925.04, or 3716.11 of the Revised Code; a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996; or a violation of section 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had it been committed prior to that date;
- (3) An offense of violence;
- (4) A theft offense, as defined in section 2913.01 of the Revised Code;
- (5) A drug abuse offense, as defined in section 2925.01 of the Revised Code;
- (6) A violation of an existing or former ordinance of a municipal corporation or law of the United States or another state that is substantively comparable to an offense listed in divisions (C)(1) to (5) of this section.

(D) A grant recipient ~~or an entity approved by the OhioReads council~~ that elects to request criminal records checks may conditionally allow an individual to participate in providing programs or services directly to children until the criminal records check is completed and the grant recipient ~~or an entity approved by the OhioReads council~~ receives the results. If the results of the criminal records check indicate that the individual has been convicted of or pleaded guilty to an offense listed in division (C) of this section, the grant recipient ~~or an entity approved by the OhioReads council~~ shall not allow the individual to further participate in providing directly to children any program or service ~~through an entity approved by the OhioReads council~~ or funded in whole or in part by the grant, except as provided in the rules adopted under division (G)(2) of this section.

(E) The report of any criminal records check conducted in accordance with division (F)(5) of section 109.57 of the Revised Code pursuant to a request under this section is not a public record for purposes of section 149.43 of the Revised Code. The report shall not be made available to any person other than the individual who is the subject of the criminal records check or the individual's representative, the grant recipient or the grant recipient's representative ~~or an entity approved by the OhioReads council~~, and any court, hearing officer, or other necessary individual in a case dealing with the denial of the individual's participation in a program or service ~~through an entity approved by the OhioReads council~~ or funded by ~~an OhioReads~~ a grant awarded under section 3301.86 of the Revised Code.

(F) The ~~OhioReads office~~ department of education shall reimburse each grant recipient ~~or an entity approved by the OhioReads council~~ for each criminal records check the actual amount paid by the grant recipient ~~or an entity approved by the OhioReads council~~ for the portion of the criminal records check conducted by the bureau of criminal identification and investigation. Reimbursement shall be paid under this division only for criminal records checks on individuals who apply to participate in providing directly to children any program or service ~~through an entity approved by the OhioReads council~~ or funded in whole or in part by the grant. To receive it, the grant recipient ~~or an entity approved by the OhioReads council~~ must submit information to the ~~office~~ department in the form and manner required by the ~~office~~ department. The reimbursement is in addition to the grant awarded to the recipient under section 3301.86 ~~or 3301.87~~ of the Revised Code.

(G) The ~~department~~ state board of education shall adopt rules in accordance with Chapter 119. of the Revised Code:

(1) Prescribing the form and manner in which grant recipients ~~or an entity approved by the OhioReads council~~ must submit information to the ~~OhioReads office~~ department to receive reimbursement under division (F) of this section;

(2) Specifying circumstances under which a grant recipient ~~or an entity approved by the OhioReads council~~ may allow an individual whose criminal records check report indicates that the individual has been convicted of or pleaded guilty to an offense listed in division (C) of this section, but who meets standards in regard to rehabilitation set forth in the rules, to participate in providing directly to children any program or service ~~through an entity approved by the OhioReads council~~ or funded in whole or in part by the grant.

Sec. 3302.03. (A) Annually the department of education shall report for each school district and each school building in a district all of the following:

(1) The extent to which the school district or building meets each of the applicable performance indicators created by the state board of education under section 3302.02 of the Revised Code and the number of applicable performance indicators that have been achieved;

(2) The performance index score of the school district or building;

(3) Whether the school district or building has made adequate yearly progress;

(4) Whether the school district or building is excellent, effective, needs continuous improvement, is under an academic watch, or is in a state of



academic emergency.

(B)~~(4)~~ Except as otherwise provided in division (B)(6) of this section:

(1) A school district or building shall be declared excellent if it fulfills one of the following requirements:

(a) It makes adequate yearly progress and either meets at least ninety-four per cent of the applicable state performance indicators or has a performance index score established by the department.

(b) It has failed to make adequate yearly progress for not more than two consecutive years and either meets at least ninety-four per cent of the applicable state performance indicators or has a performance index score established by the department.

(2) A school district or building shall be declared effective if it fulfills one of the following requirements:

(a) It makes adequate yearly progress and either meets at least seventy-five per cent but less than ninety-four per cent of the applicable state performance indicators or has a performance index score established by the department.

(b) It does not make adequate yearly progress and either meets at least seventy-five per cent of the applicable state performance indicators or has a performance index score established by the department, except that if it does not make adequate yearly progress for three consecutive years, it shall be declared in need of continuous improvement.

(3) A school district or building shall be declared to be in need of continuous improvement if it fulfills one of the following requirements:

(a) It makes adequate yearly progress, meets less than seventy-five per cent of the applicable state performance indicators, and has a performance index score established by the department.

(b) It does not make adequate yearly progress and either meets at least fifty per cent but less than seventy-five per cent of the applicable state performance indicators or has a performance index score established by the department.

(4) A school district or building shall be declared to be under an academic watch if it does not make adequate yearly progress and either meets at least thirty-one per cent but less than fifty per cent of the applicable state performance indicators or has a performance index score established by the department.

(5) A school district or building shall be declared to be in a state of academic emergency if it does not make adequate yearly progress, does not meet at least thirty-one per cent of the applicable state performance indicators, and has a performance index score established by the department.

(6) When designating performance ratings for school districts and buildings under divisions (B)(1) to (5) of this section, the department shall not assign a school district or building a lower designation from its previous year's designation based solely on one subgroup not making adequate yearly progress.

(C)(1) The department shall issue annual report cards for each school district, each building within each district, and for the state as a whole reflecting performance on the indicators created by the state board under section 3302.02 of the Revised Code, the performance index score, and adequate yearly progress.

(2) The department shall include on the report card for each district information pertaining to any change from the previous year made by the school district or school buildings within the district on any performance indicator.

(3) When reporting data on student performance, the department shall disaggregate that data according to the following categories:

- (a) Performance of students by age group;
- (b) Performance of students by race and ethnic group;
- (c) Performance of students by gender;
- (d) Performance of students grouped by those who have been enrolled in a district or school for three or more years;
- (e) Performance of students grouped by those who have been enrolled in a district or school for more than one year and less than three years;
- (f) Performance of students grouped by those who have been enrolled in a district or school for one year or less;
- (g) Performance of students grouped by those who are economically disadvantaged;
- (h) Performance of students grouped by those who are enrolled in a conversion community school established under Chapter 3314. of the Revised Code;
- (i) Performance of students grouped by those who are classified as limited English proficient;
- (j) Performance of students grouped by those who have disabilities;
- (k) Performance of students grouped by those who are classified as migrants;
- (l) Performance of students grouped by those who are identified as gifted pursuant to Chapter 3324. of the Revised Code.

The department may disaggregate data on student performance according to other categories that the department determines are appropriate. To the extent possible, the department shall disaggregate data on student

performance according to any combinations of two or more of the categories listed in divisions (C)(3)(a) to (l) of this section that it deems relevant.

In reporting data pursuant to division (C)(3) of this section, the department shall not include in the report cards any data statistical in nature that is statistically unreliable or that could result in the identification of individual students. For this purpose, the department shall not report student performance data for any group identified in division (C)(3) of this section that contains less than ten students.

(4) The department may include with the report cards any additional education and fiscal performance data it deems valuable.

(5) The department shall include on each report card a list of additional information collected by the department that is available regarding the district or building for which the report card is issued. When available, such additional information shall include student mobility data disaggregated by race and socioeconomic status, college enrollment data, and the reports prepared under section 3302.031 of the Revised Code.

The department shall maintain a site on the world wide web. The report card shall include the address of the site and shall specify that such additional information is available to the public at that site. The department shall also provide a copy of each item on the list to the superintendent of each school district. The district superintendent shall provide a copy of any item on the list to anyone who requests it.

(6) ~~For~~ This division does not apply to conversion community schools that primarily enroll students between sixteen and twenty-two years of age who dropped out of high school or are at risk of dropping out of high school due to poor attendance, disciplinary problems, or suspensions.

For any district that sponsors a conversion community school under Chapter 3314. of the Revised Code, the department shall combine data regarding the academic performance of students enrolled in the community school with comparable data from the schools of the district for the purpose of calculating the performance of the district as a whole on the report card issued for the district.

(7) The department shall include on each report card the percentage of teachers in the district or building who are highly qualified, as defined by the "No Child Left Behind Act of 2001," and a comparison of that percentage with the percentages of such teachers in similar districts and buildings.

(8) The department shall include on the report card the number of master teachers employed by each district and each building once the data is available from the education management information system established

under section 3301.0714 of the Revised Code.

(D)(1) In calculating reading, writing, mathematics, social studies, or science proficiency or achievement test passage rates used to determine school district or building performance under this section, the department shall include all students taking a test with accommodation or to whom an alternate assessment is administered pursuant to division (C)(1) or (3) of section 3301.0711 of the Revised Code.

(2) In calculating performance index scores, rates of achievement on the performance indicators established by the state board under section 3302.02 of the Revised Code, and adequate yearly progress for school districts and buildings under this section, the department shall do all of the following:

(a) Include for each district or building only those students who are included in the ADM certified for the first full school week of October and are continuously enrolled in the district or building through the time of the spring administration of any test prescribed by section 3301.0710 of the Revised Code that is administered to the student's grade level;

(b) Include cumulative totals from both the fall and spring administrations of the third grade reading achievement test;

(c) Except as required by the "No Child Left Behind Act of 2001" for the calculation of adequate yearly progress, exclude for each district or building any limited English proficient student who has been enrolled in United States schools for less than one full school year.

Sec. 3302.10. (A) Beginning July 1, 2007, the superintendent of public instruction shall establish an academic distress commission for each school district that has been declared to be in a state of academic emergency pursuant to section 3302.03 of the Revised Code and has failed to make adequate yearly progress for four or more consecutive school years. Each commission shall assist the district for which it was established in improving the district's academic performance.

(B) Each academic distress commission shall consist of five voting members, three of whom shall be appointed by the superintendent of public instruction and two of whom shall be appointed by the president of the board of education of the applicable school district.

(C) Each academic distress commission shall seek input from the district board of education regarding ways to improve the district's academic performance, but any decision of the commission related to any authority granted to the commission under this section shall be final.

The commission may do any of the following:

(1) Appoint school building administrators and reassign administrative personnel;

(2) Terminate the contracts of administrators or administrative personnel. The commission shall not be required to comply with section 3319.16 of the Revised Code with respect to any contract terminated under this division.

(3) Contract with a private entity to perform school or district management functions;

(4) Establish a budget for the district and approve district expenditures, unless a financial planning and supervision commission has been established for the district pursuant to section 3316.05 of the Revised Code.

(D) If the board of education of a district for which an academic distress commission has been established under this section renews any collective bargaining agreement under Chapter 4117. of the Revised Code during the existence of the commission, the district board shall not enter into any agreement that would render any decision of the commission unenforceable. Section 3302.08 of the Revised Code does not apply to this division.

Notwithstanding any provision to the contrary in Chapter 4117. of the Revised Code, if the board of education has entered into a collective bargaining agreement after the effective date of this section that contains stipulations relinquishing one or more of the rights or responsibilities listed in division (C) of section 4117.08 of the Revised Code, those stipulations are not enforceable and the district board shall resume holding those rights or responsibilities as if it had not relinquished them in that agreement until such time as both the academic distress commission ceases to exist and the district board agrees to relinquish those rights or responsibilities in a new collective bargaining agreement. The provisions of this paragraph apply to a collective bargaining agreement entered into after the effective date of this section and those provisions are deemed to be part of that agreement regardless of whether the district satisfied the conditions prescribed in division (A) of this section at the time the district entered into that agreement.

(E) An academic distress commission shall cease to exist when the district for which it was established receives a performance rating under section 3302.03 of the Revised Code of in need of continuous improvement or better for two out of three school years; however, the superintendent of public instruction may dissolve the commission earlier if the superintendent determines that the district can perform adequately without the supervision of the commission.

Sec. 3310.01. As used in sections 3310.01 to 3310.17 of the Revised Code:

(A) "Chartered nonpublic school" means a nonpublic school that holds a

valid charter issued by the state board of education under section 3301.16 of the Revised Code and meets the standards established for such schools in rules adopted by the state board.

(B) An "eligible student" is a student who satisfies the conditions specified in section 3310.03 of the Revised Code.

(C) "Parent" has the same meaning as in section 3313.98 of the Revised Code.

(D) "Resident district" means the school district in which a student is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code.

(E) "School year" has the same meaning as in section 3313.62 of the Revised Code.

Sec. 3310.02. The educational choice scholarship pilot program is hereby established. Under the program, the department of education annually shall pay scholarships to attend chartered nonpublic schools in accordance with section 3310.08 of the Revised Code for up to the number of eligible students prescribed by the general assembly. If the number of students who apply for a scholarship exceeds the number prescribed by the general assembly, the department first shall award scholarships to eligible students who received scholarships in the prior school year, and then shall give priority to eligible students with family incomes at or below two hundred per cent of the federal poverty guidelines, as defined in section 5101.46 of the Revised Code. After awarding scholarships to previous recipients and to low-income eligible students, the department shall select students by lot to receive any remaining scholarships.

Sec. 3310.03. (A) A student is an "eligible student" for purposes of the educational choice scholarship pilot program if the student satisfies both of the following conditions:

(1) The student either:

(a) Is enrolled in a school building that is operated by the student's resident district and that the department of education declared, in the most recent rating of school buildings published prior to the first day of July of the school year for which a scholarship is sought and in the two preceding school years, to be in a state of academic emergency under section 3302.03 of the Revised Code;

(b) Is eligible to enroll in kindergarten in the school year for which a scholarship is sought and otherwise would be assigned under section 3319.01 of the Revised Code to a school building described in division (A)(1)(a) of this section;

(c) Is enrolled in a community school established under Chapter 3314.

of the Revised Code but otherwise would be assigned under section 3319.01 of the Revised Code to a building described in division (A)(1)(a) of this section.

(2) The student's resident district is not a school district in which the pilot project scholarship program is operating under sections 3313.974 to 3313.979 of the Revised Code.

(B) A student who receives a scholarship under the educational choice scholarship pilot program remains an eligible student and may continue to receive scholarships in subsequent school years until the student completes grade twelve, so long as all of the following apply:

(1) The student's resident district remains the same;

(2) The student takes each state test prescribed for the student's grade level under section 3301.0710 or 3301.0712 of the Revised Code while enrolled in a chartered nonpublic school;

(3) In each school year that the student is enrolled in a chartered nonpublic school, the student is absent from school for not more than twenty days that the school is open for instruction, not including absences due to illness or injury confirmed in writing by a physician.

(C) The superintendent shall cease awarding first-time scholarships with respect to a school building that, in the most recent ratings of school buildings published under section 3302.03 of the Revised Code prior to the first day of July of the school year, ceases to be in a state of academic emergency. However, students who have received scholarships in the prior school year remain eligible students pursuant to division (B) of this section.

Sec. 3310.04. Any eligible student who is enrolled in a chartered nonpublic school and for whom a scholarship under the educational choice scholarship pilot program has been awarded shall be entitled to transportation to and from the chartered nonpublic school by the student's resident district in the manner prescribed in section 3327.01 of the Revised Code.

Sec. 3310.05. A scholarship under the educational choice scholarship pilot program is not available for any student whose resident district is a school district in which the pilot project scholarship program is operating under sections 3313.974 to 3313.979 of the Revised Code. The two pilot programs are separate and distinct. The general assembly has prescribed separate scholarship amounts for the two pilot programs in recognition of their differing eligibility criteria. The pilot project scholarship program operating under sections 3313.974 to 3313.979 of the Revised Code is a district-wide program that may award scholarships to students who do not attend district schools that face academic challenges, whereas the

educational choice scholarship pilot program established under sections 3310.01 to 3310.17 of the Revised Code is limited to students of individual district school buildings that face academic challenges.

Sec. 3310.06. It is the policy adopted by the general assembly that the educational choice scholarship pilot program shall be construed as one of several educational options available for students enrolled in academic emergency school buildings. Students may be enrolled in the schools of the student's resident district, in a community school established under Chapter 3314. of the Revised Code, in the schools of another school district pursuant to an open enrollment policy adopted under section 3313.98 of the Revised Code, in a chartered nonpublic school with or without a scholarship under the educational choice scholarship pilot program, or in other schools as the law may provide.

Sec. 3310.07. Any parent, or any student who is at least eighteen years of age, who is seeking a scholarship under the educational choice scholarship pilot program shall notify the department of education of the student's and parent's names and address, the chartered nonpublic school in which the student has been accepted for enrollment, and the tuition charged by the school.

Sec. 3310.08. (A) The amount paid for an eligible student under the educational choice scholarship pilot program shall be the lesser of the tuition of the chartered nonpublic school in which the student is enrolled or the maximum amount prescribed in section 3310.09 of the Revised Code.

(B)(1) The department shall pay to the parent of each eligible student for whom a scholarship is awarded under the program, or to the student if at least eighteen years of age, periodic partial payments of the scholarship.

(2) The department shall proportionately reduce or terminate the payments for any student who withdraws from a chartered nonpublic school prior to the end of the school year.

(C)(1) The department shall deduct from the payments made to each school district under Chapter 3317. and, if necessary, sections 321.24 and 323.156 of the Revised Code the amount of five thousand two hundred dollars for each eligible student awarded a scholarship under the educational choice scholarship pilot program who is entitled under section 3313.64 or 3313.65 of the Revised Code to attend school in the district. The amount deducted under this division funds scholarships for students under both the educational choice scholarship pilot program and the pilot project scholarship program under sections 3313.974 to 3313.979 of the Revised Code.

(2) If the department reduces or terminates payments to a parent or a



student, as prescribed in division (B)(2) of this section, and the student re-enrolls in the schools of the student's resident district before the end of the school year, the department shall proportionally restore to the resident district the amount deducted for that student under division (C)(1) of this section.

(D) In the case of any school district from which a deduction is made under division (C) of this section, the department shall disclose on the district's SF-3 form, or any successor to that form used to calculate a district's state funding for operating expenses, a comparison of the following:

(1) The district's state base-cost payment, as calculated under division (A)(1) of section 3317.022 of the Revised Code prior to making the adjustments under divisions (A)(2) and (3) of that section, with the scholarship students included in the district's formula ADM;

(2) What the district's state base-cost payment would have been, as calculated under division (A)(1) of that section prior to making the adjustments under divisions (A)(2) and (3) of that section, if the scholarship students were not included in the district's formula ADM.

This comparison shall display both the aggregate difference between the amounts described in divisions (D)(1) and (2) of this section, and the quotient of that aggregate difference divided by the number of eligible students for whom deductions are made under division (C) of this section.

Sec. 3310.09. (A) The maximum amount awarded to an eligible student in fiscal year 2007 under the educational choice scholarship pilot program shall be as follows:

(1) For grades kindergarten through eight, four thousand two hundred fifty dollars;

(2) For grades nine through twelve, five thousand dollars.

(B) In fiscal year 2008 and in each fiscal year thereafter, the maximum amount awarded under the program shall be the applicable maximum amount awarded in the previous fiscal year increased by the same percentage by which the general assembly increased the formula amount, as defined in section 3317.02 of the Revised Code, from the previous fiscal year.

Sec. 3310.10. A scholarship awarded under section 3310.08 of the Revised Code may be used only to pay tuition to any chartered nonpublic school.

Sec. 3310.13. (A) No chartered nonpublic school shall charge any student whose family income is at or below two hundred per cent of the federal poverty guidelines, as defined in section 5101.46 of the Revised

Code, a tuition fee that is greater than the total amount paid for that student under section 3310.08 of the Revised Code.

(B) A chartered nonpublic school may charge any other student who is paid a scholarship under that section the difference between the amount of the scholarship and the regular tuition charge of the school. Each chartered nonpublic school shall permit such an eligible student's family, at the family's option, to provide volunteer services in lieu of cash payment to pay all or part of the amount of the school's tuition not covered by the scholarship paid under section 3310.08 of the Revised Code.

Sec. 3310.14. Notwithstanding division (K) of section 3301.0711 of the Revised Code, each chartered nonpublic school that enrolls students awarded scholarships under sections 3310.01 to 3310.17 of the Revised Code annually shall administer the tests prescribed by section 3301.0710 or 3301.0712 of the Revised Code to each scholarship student in accordance with section 3301.0711 of the Revised Code. Each chartered nonpublic school shall report to the department of education the results of each test administered to each scholarship student under this section.

Nothing in this section requires a chartered nonpublic school to administer any achievement test, except for an Ohio graduation test prescribed by division (B) of section 3301.0710 of the Revised Code, as required by section 3313.612 of the Revised Code, to any student enrolled in the school who is not a scholarship student.

Sec. 3310.16. (A) The state board of education shall adopt rules in accordance with Chapter 119. of the Revised Code prescribing procedures for the administration of the educational choice scholarship pilot program.

(B) The state board and the department of education shall not require chartered nonpublic schools to comply with any education laws or rules or other requirements that are not specified in sections 3310.01 to 3310.17 of the Revised Code and that otherwise would not apply to a chartered nonpublic school.

Sec. 3310.17. The general assembly shall prescribe the number of students that may be selected each fiscal year for scholarships under the educational choice scholarship pilot program.

Sec. 3311.11. If the state board of education adopts a resolution under this chapter proposing the creation of a new city or local school district that was not in operation during the 2004-2005 school year, the district shall not be created unless both houses of the general assembly approve the creation of the district through passage of a concurrent resolution.

Sec. 3311.19. (A) The management and control of a joint vocational school district shall be vested in the joint vocational school district board of

education. Where a joint vocational school district is composed only of two or more local school districts located in one county, or when all the participating districts are in one county and the boards of such participating districts so choose, the educational service center governing board of the county in which the joint vocational school district is located shall serve as the joint vocational school district board of education. Where a joint vocational school district is composed of local school districts of more than one county, or of any combination of city, local, or exempted village school districts or educational service centers, unless administration by the educational service center governing board has been chosen by all the participating districts in one county pursuant to this section, the board of education of the joint vocational school district shall be composed of one or more persons who are members of the boards of education from each of the city or exempted village school districts or members of the educational service centers' governing boards affected to be appointed by the boards of education or governing boards of such school districts and educational service centers. In such joint vocational school districts the number and terms of members of the joint vocational school district board of education and the allocation of a given number of members to each of the city and exempted village districts and educational service centers shall be determined in the plan for such district, provided that each such joint vocational school district board of education shall be composed of an odd number of members.

(B) Notwithstanding division (A) of this section, a governing board of an educational service center that has members of its governing board serving on a joint vocational school district board of education may make a request to the joint vocational district board that the joint vocational school district plan be revised to provide for one or more members of boards of education of local school districts that are within the territory of the educational service district and within the joint vocational school district to serve in the place of or in addition to its educational service center governing board members. If agreement is obtained among a majority of the boards of education and governing boards that have a member serving on the joint vocational school district board of education and among a majority of the local school district boards of education included in the district and located within the territory of the educational service center whose board requests the substitution or addition, the state board of education may revise the joint vocational school district plan to conform with such agreement.

(C) If the board of education of any school district or educational service center governing board included within a joint vocational district

that has had its board or governing board membership revised under division (B) of this section requests the joint vocational school district board to submit to the state board of education a revised plan under which one or more joint vocational board members chosen in accordance with a plan revised under such division would again be chosen in the manner prescribed by division (A) of this section, the joint vocational board shall submit the revised plan to the state board of education, provided the plan is agreed to by a majority of the boards of education represented on the joint vocational board, a majority of the local school district boards included within the joint vocational district, and each educational service center governing board affected by such plan. The state board of education may revise the joint vocational school district plan to conform with the revised plan.

(D) The vocational schools in such joint vocational school district shall be available to all youth of school age within the joint vocational school district subject to the rules adopted by the joint vocational school district board of education in regard to the standards requisite to admission. A joint vocational school district board of education shall have the same powers, duties, and authority for the management and operation of such joint vocational school district as is granted by law, except by this chapter and Chapters 124., 3317., 3323., and 3331. of the Revised Code, to a board of education of a city school district, and shall be subject to all the provisions of law that apply to a city school district, except such provisions in this chapter and Chapters 124., 3317., 3323., and 3331. of the Revised Code.

(E) Where a governing board of an educational service center has been designated to serve as the joint vocational school district board of education, the educational service center superintendent shall be the executive officer for the joint vocational school district, and the governing board may provide for additional compensation to be paid to the educational service center superintendent by the joint vocational school district, but the educational service center superintendent shall have no continuing tenure other than that of educational service center superintendent. The superintendent of schools of a joint vocational school district shall exercise the duties and authority vested by law in a superintendent of schools pertaining to the operation of a school district and the employment and supervision of its personnel. The joint vocational school district board of education shall appoint a treasurer of the joint vocational school district who shall be the fiscal officer for such district and who shall have all the powers, duties, and authority vested by law in a treasurer of a board of education. Where a governing board of an educational service center has been designated to serve as the joint vocational school district board of education, such board may appoint the

educational service center superintendent as the treasurer of the joint vocational school district.

(F) Each member of a joint vocational school district board of education may be paid such compensation as the board provides by resolution, but it shall not exceed one hundred twenty-five dollars per member for each meeting attended plus mileage, at the rate per mile provided by resolution of the board, to and from meetings of the board.

The board may provide by resolution for the deduction of amounts payable for benefits under ~~division (D) of section 3313.202 of the Revised Code. No member of a board of a joint vocational school district who is purchasing any category of benefits under such section offered by a city, local, or exempted village school board or educational service center governing board, shall purchase the same category of benefits as a member of the joint vocational school board.~~

Each member of a joint vocational school district board may be paid such compensation as the board provides by resolution for attendance at an approved training program, provided that such compensation shall not exceed sixty dollars per day for attendance at a training program three hours or fewer in length and one hundred twenty-five dollars a day for attendance at a training program longer than three hours in length. However, no board member shall be compensated for the same training program under this section and section 3313.12 of the Revised Code.

Sec. 3313.12. Each member of the educational service center governing board may be paid such compensation as the governing board provides by resolution, provided that any such compensation shall not exceed one hundred twenty-five dollars a day plus mileage both ways, at the rate per mile provided by resolution of the governing board, for attendance at any meeting of the board. Such compensation and the expenses of the educational service center superintendent, itemized and verified, shall be paid from the educational service center governing board fund upon vouchers signed by the president of the governing board.

The board of education of any city, local, or exempted village school district may provide by resolution for compensation of its members, provided that such compensation shall not exceed one hundred twenty-five dollars per member for meetings attended. The board may provide by resolution for the deduction of amounts payable for benefits under ~~division (D) of section 3313.202 of the Revised Code.~~

Each member of a district board or educational service center governing board may be paid such compensation as the respective board provides by resolution for attendance at an approved training program, provided that

such compensation shall not exceed sixty dollars a day for attendance at a training program three hours or fewer in length and one hundred twenty-five dollars a day for attendance at a training program longer than three hours in length.

Sec. 3313.202. ~~(A) The board of education of a school district may procure and pay all or part of the cost of group term life, hospitalization, surgical care, or major medical insurance, disability, dental care, vision care, medical care, hearing aids, prescription drugs, sickness and accident insurance, group legal services, or a combination of any of the foregoing types of insurance or coverage, whether issued by an insurance company or a health insuring corporation duly licensed by this state, covering the teaching or nonteaching employees of the school district, or a combination of both, or the dependent children and spouses of such employees, provided if such coverage affects only the teaching employees of the district such coverage shall be with the consent of a majority of such employees of the school district, or if such coverage affects only the nonteaching employees of the district such coverage shall be with the consent of a majority of such employees. If such coverage is proposed to cover all the employees of a school district, both teaching and nonteaching employees, such coverage shall be with the consent of a majority of all the employees of a school district. A board of education shall continue to carry, on payroll records, all school employees whose sick leave accumulation has expired, or who are on a disability leave of absence or an approved leave of absence, for the purpose of group term life, hospitalization, surgical, major medical, or any other insurance. A board of education may pay all or part of such coverage except when such employees are on an approved leave of absence, or on a disability leave of absence for that period exceeding two years. As used in this section, "teaching employees" means any person employed in the public schools of this state in a position for which the person is required to have a certificate or license pursuant to sections 3319.22 to 3319.31 of the Revised Code. "Nonteaching employees" as used in this section means any person employed in the public schools of the state in a position for which the person is not required to have a certificate or license issued pursuant to sections 3319.22 to 3319.31 of the Revised Code.~~

~~(B) The board of education of a school district may enter into an agreement with a jointly administered trust fund which receives contributions pursuant to a collective bargaining agreement entered into between the board and any collective bargaining representative of the employees of the board for the purpose of providing for self-insurance of all risk in the provision of fringe benefits similar to those that may be paid~~

~~pursuant to division (A) of this section, and may provide through the self insurance method specific fringe benefits as authorized by the rules of the board of trustees of the jointly administered trust fund. Benefits provided under this section include, but are not limited to, hospitalization, surgical care, major medical care, disability, dental care, vision care, medical care, hearing aids, prescription drugs, group life insurance, sickness and accident insurance, group legal services, or a combination of the above benefits, for the employees and their dependents.~~

~~(C) Notwithstanding any other provision of the Revised Code, the board of education and any collective bargaining representative of employees of the board may agree in a collective bargaining agreement that any mutually agreed fringe benefit, including, but not limited to, hospitalization, surgical care, major medical care, disability, dental care, vision care, medical care, hearing aids, prescription drugs, group life insurance, sickness and accident insurance, group legal services, or a combination thereof, for employees and their dependents be provided through a mutually agreed upon contribution to a jointly administered trust fund. The amount, type, and structure of fringe benefits provided under this division are subject to the determination of the board of trustees of the jointly administered trust fund. Notwithstanding any other provision of the Revised Code, competitive bidding does not apply to the purchase of fringe benefits for employees under this division through a jointly administered trust fund.~~

~~(D) Any elected or appointed member of the board of education of a school district and the dependent children and spouse of the member may be covered, at the option of the member, as an employee of the school district under any benefit medical plan adopted designed by the school employees health care board under this section 9.901 of the Revised Code. The member shall pay to the school district the amount certified all premiums for that coverage under division (D)(1) or (2) of this section. Payments for such coverage shall be made, in advance, in a manner prescribed by the school employees health care board. The member's exercise of an option to be covered under this section shall be in writing, announced at a regular public meeting of the board of education, and recorded as a public record in the minutes of the board.~~

~~For the purposes of determining the cost to board members under this division:~~

~~(1) In the case of a benefit plan purchased under division (A) of this section, the provider of the benefits shall certify to the board the provider's charge for coverage under each option available to employees under that benefit plan;~~

~~(2) In the case of benefits provided under division (B) or (C) of this section, the board of trustees of the jointly administered trust fund shall certify to the board of education the trustees' charge for coverage under each option available to employees under each benefit plan.~~

~~(E) The board may provide the benefits described in this section through an individual self-insurance program or a joint self-insurance program as provided in section 9.833 of the Revised Code.~~

Sec. 3313.207. As used in sections 3313.207 to 3313.209 of the Revised Code:

(A) "Children" means children who are enrolled in kindergarten or who are of compulsory school age.

(B) "Latchkey program" means a program under which children are provided with child care during a fiscal year at any time outside of regular school hours. A program that contains any religious content, that uses any religious materials, or that in any way promotes or furthers any religious beliefs is not a latchkey program.

~~(C) "School district" means a city, local, or exempted village school district.~~

~~(D)~~ "Program provider" means any agency, organization, or individual, licensed under Chapter 5104. of the Revised Code or exempted from the licensing requirements of that chapter.

~~(E)~~~~(D)~~ "Ancillary services" means any of the following:

(1) Space in a building that is owned or controlled by a school district and that is used for other school district purposes in addition to latchkey programs;

(2) Utilities furnished in conjunction with such space;

(3) Transportation to a latchkey program on regular school buses.

Sec. 3313.208. A board of education of a school district or the governing board of an educational service center may assess the need for latchkey programs in its district or territory and determine the best and most efficient manner of providing latchkey programs to children residing in the district or territory. Prior to operating any latchkey program, making any payments, or providing any employees or ancillary services under sections 3313.207 to 3313.209 of the Revised Code, a board ~~of education~~ shall provide notification to parents and other interested parties that the board is considering ~~district~~ participation in the provision of latchkey programs and shall adopt a policy ensuring public input on the board's decision whether or not to participate, as well as any decisions concerning the district's or service center's role in the implementation and funding of any latchkey programs if the board does decide to participate. The policy shall also



include provision for regular, periodic public input in the evaluation of any school district or service center participation in the provision of latchkey programs.

A board ~~of education~~ may ~~operate~~ provide a latchkey program, subject to the following limitations:

(A) The program shall be maintained and operated and pupils shall be admitted pursuant to rules adopted by the board;

(B) Fees or tuition, in amounts determined by the board, may be charged for participation in the program and shall be deposited in a special fund;

~~(C) The board shall not expend any money from the general fund of the district for the program, except as follows:~~

~~(1) The board may expend any money in the district's general fund resulting from an appropriation of the general assembly that specifically permits the expenditure of such appropriated funds for such a program.~~

~~(2) The board may provide ancillary services for the program notwithstanding the fact that some portions of such services may be supported by money from the district's general fund.~~

Sec. 3313.209. (A) A board of education of a school district that does not ~~operate~~ provide a latchkey program may provide ancillary services to and may make payments to any program provider that operates a latchkey program that enrolls one or more children who are residents of the school district.

(B) A board of education of a school district that does not ~~operate~~ provide a latchkey program and that does not make payments under division (A) of this section may furnish to any person or entity that operates a latchkey program ancillary services or employees for use solely in conjunction with the program's operation.

~~(C) No board of education shall expend any money from the general fund of the district pursuant to division (A) or (B) of this section, except as follows:~~

~~(1) The board may expend any money in the district's general fund resulting from an appropriation of the general assembly that specifically permits the expenditure of such appropriated funds for latchkey programs.~~

~~(2) The board may provide ancillary services pursuant to division (A) or (B) of this section notwithstanding the fact that some portion of such services may be supported by money from the district's general fund.~~

~~(D)~~ A board of education shall enter into a contract with a program provider as a condition for making any payments or furnishing any ancillary services or employees authorized by division (A) or (B) of this section.

Sec. 3313.33. (A) Conveyances made by a board of education shall be executed by the president and treasurer thereof.

(B) Except as provided in division (C) of this section, no member of the board shall have, directly or indirectly, any pecuniary interest in any contract of the board or be employed in any manner for compensation by the board of which the person is a member. No contract shall be binding upon any board unless it is made or authorized at a regular or special meeting of such board.

(C) A member of the board may have a pecuniary interest in a contract of the board if all of the following apply:

(1) The member's pecuniary interest in that contract is that the member is employed by a political subdivision, instrumentality, or agency of the state that is contracting with the board;

(2) The member does not participate in any discussion or debate regarding the contract or vote on the contract;

(3) The member files with the school district treasurer an affidavit stating the member's exact employment status with the political subdivision, instrumentality, or agency contracting with the board.

(D) This section does not apply where a member of the board, being a shareholder of a corporation but not being an officer or director thereof, owns not in excess of five per cent of the stock of such corporation. If a stockholder desires to avail self of the exception, before entering upon such contract such person shall first file with the treasurer an affidavit stating the stockholder's exact status and connection with said corporation.

This section does not apply where a member of the board elects to be covered by a ~~benefit medical plan of the school district under division (D) of~~ section 3313.202 of the Revised Code.

Sec. 3313.489. (A) The superintendent of public instruction shall examine each ~~spending plan and appropriations measure~~ five-year projection of revenues and expenditures submitted under section 5705.391 of the Revised Code and shall determine whether the information contained therein, together with any other relevant information, indicates that the district may be financially unable to operate its instructional program on all days set forth in its adopted school calendars and pay all obligated expenses during the current fiscal year. If a board of education has not adopted a school calendar for the school year beginning on the first day of July of the current fiscal year at the time an examination is required under this division, the superintendent shall examine the ~~spending plan and appropriations measure~~ five-year projection and determine whether the district may be financially unable to pay all obligated expenses and operate its instructional

program for the number of days on which instruction was held in the preceding fiscal year.

(B) If the superintendent of public instruction determines pursuant to division (A) of this section that a school district may be financially unable to operate its instructional program on all days required by such division and pay all obligated expenses during the current fiscal year, the superintendent shall provide written notification of such determination to the president of the district's board of education and the auditor of state.

(C) This section does not apply to a school district declared to be under a fiscal emergency pursuant to division (B) of section 3316.03 of the Revised Code.

Sec. 3313.6410. This section applies to any school that is operated by a school district and in which the enrolled students work primarily on assignments in nonclassroom-based learning opportunities provided via an internet- or other computer-based instructional method.

(A) Any school to which this section applies shall withdraw from the school any student who, for two consecutive school years, has failed to participate in the spring administration of any test prescribed under section 3301.0710 or 3301.0712 of the Revised Code for the student's grade level and was not excused from the test pursuant to division (C)(1) or (3) of section 3301.0711 of the Revised Code. The school shall report any such student's data verification code, as assigned pursuant to section 3301.0714 of the Revised Code, to the department of education to be added to the list maintained by the department under section 3314.26 of the Revised Code.

(B) No school to which this section applies shall receive any state funds under Chapter 3317. of the Revised Code for any enrolled student whose data verification code appears on the list maintained by the department under section 3314.26 of the Revised Code. Notwithstanding any provision of the Revised Code to the contrary, the parent of any such student shall pay tuition to the school district that operates the school in an amount equal to the state funds the district otherwise would receive for that student, as determined by the department. A school to which this section applies may withdraw any student for whom the parent does not pay tuition as required by this division.

Sec. 3313.975. As used in this section and in sections 3313.975 to 3313.979 of the Revised Code, "the pilot project school district" or "the district" means any school district included in the pilot project scholarship program pursuant to this section.

(A) The superintendent of public instruction shall establish a pilot project scholarship program and shall include in such program any school

districts that are or have ever been under federal court order requiring supervision and operational management of the district by the state superintendent. The program shall provide for a number of students residing in any such district to receive scholarships to attend alternative schools, and for an equal number of students to receive tutorial assistance grants while attending public school in any such district.

(B) The state superintendent shall establish an application process and deadline for accepting applications from students residing in the district to participate in the scholarship program. In the initial year of the program students may only use a scholarship to attend school in grades kindergarten through third.

The state superintendent shall award as many scholarships and tutorial assistance grants as can be funded given the amount appropriated for the program. In no case, however, shall more than fifty per cent of all scholarships awarded be used by students who were enrolled in a nonpublic school during the school year of application for a scholarship.

(C)(1) The pilot project program shall continue in effect each year that the general assembly has appropriated sufficient money to fund scholarships and tutorial assistance grants. In each year the program continues, no new students may receive scholarships unless they are enrolled in ~~grade~~ grades kindergarten, ~~one, two, or three~~ to eight. However, any student who has received a scholarship the preceding year may continue to receive one until the student has completed grade ~~eight~~ ten. Beginning in the ~~2003-2004~~ 2005-2006 academic year, a student who previously has received a scholarship may receive a scholarship in grade ~~nine~~ eleven. Beginning in the ~~2004-2005~~ 2006-2007 academic year, a student who previously has received a scholarship may receive a scholarship in grade ~~ten~~ twelve.

(2) If the general assembly discontinues the scholarship program, all students who are attending an alternative school under the pilot project shall be entitled to continued admittance to that specific school through all grades ~~up to the tenth grade~~ that are provided in such school, under the same conditions as when they were participating in the pilot project. The state superintendent shall continue to make scholarship payments in accordance with division (A) or (B) of section 3313.979 of the Revised Code for students who remain enrolled in an alternative school under this provision in any year that funds have been appropriated for this purpose.

If funds are not appropriated, the tuition charged to the parents of a student who remains enrolled in an alternative school under this provision shall not be increased beyond the amount equal to the amount of the scholarship plus any additional amount charged that student's parent in the

most recent year of attendance as a participant in the pilot project, except that tuition for all the students enrolled in such school may be increased by the same percentage.

(D) Notwithstanding sections 124.39, 3307.54, and 3319.17 of the Revised Code, if the pilot project school district experiences a decrease in enrollment due to participation in a state-sponsored scholarship program pursuant to sections 3313.974 to 3313.979 of the Revised Code, the district board of education may enter into an agreement with any teacher it employs to provide to that teacher severance pay or early retirement incentives, or both, if the teacher agrees to terminate the employment contract with the district board, provided any collective bargaining agreement in force pursuant to Chapter 4117. of the Revised Code does not prohibit such an agreement for termination of a teacher's employment contract.

Sec. 3313.976. (A) No private school may receive scholarship payments from parents pursuant to section 3313.979 of the Revised Code until the chief administrator of the private school registers the school with the superintendent of public instruction. The state superintendent shall register any school that meets the following requirements:

(1) The school is located within the boundaries of the pilot project school district;

(2) The school indicates in writing its commitment to follow all requirements for a state-sponsored scholarship program specified under sections 3313.974 to 3313.979 of the Revised Code, including, but not limited to, the requirements for admitting students pursuant to section 3313.977 of the Revised Code;

(3) The school meets all state minimum standards for chartered nonpublic schools in effect on July 1, 1992, except that the state superintendent at the superintendent's discretion may register nonchartered nonpublic schools meeting the other requirements of this division;

(4) The school does not discriminate on the basis of race, religion, or ethnic background;

(5) The school enrolls a minimum of ten students per class or a sum of at least twenty-five students in all the classes offered;

(6) The school does not advocate or foster unlawful behavior or teach hatred of any person or group on the basis of race, ethnicity, national origin, or religion;

(7) The school does not provide false or misleading information about the school to parents, students, or the general public;

(8) For students in grades kindergarten through eight, the school agrees not to charge any tuition to low-income families receiving ninety per cent of

the scholarship amount through the scholarship program, pursuant to division (A) of section 3313.978 of the Revised Code, in excess of ten per cent of the scholarship amount established pursuant to division (C)(1) of section 3313.978 of the Revised Code, excluding any increase described in division (C)(2) of that section. The school shall permit any such tuition, at the discretion of the parent, to be satisfied by the low-income family's provision of in-kind contributions or services.

(9) For students in grades kindergarten through eight, the school agrees not to charge any tuition to low-income families receiving a seventy-five per cent scholarship amount through the scholarship program, pursuant to division (A) of section 3313.978 of the Revised Code, in excess of the difference between the actual tuition charge of the school and seventy-five per cent of the scholarship amount established pursuant to division (C)(1) of section 3313.978 of the Revised Code, excluding any increase described in division (C)(2) of that section. The school shall permit such tuition, at the discretion of the parent, to be satisfied by the low-income family's provision of in-kind contributions or services.

(10) The school agrees not to charge any tuition to families of students in grades nine ~~and ten~~ through twelve receiving a scholarship in excess of the actual tuition charge of the school less seventy-five or ninety per cent of the scholarship amount established pursuant to division (C)(1) of section 3313.978 of the Revised Code, as applicable, excluding any increase described in division (C)(2) of that section.

(B) The state superintendent shall revoke the registration of any school if, after a hearing, the superintendent determines that the school is in violation of any of the provisions of division (A) of this section.

(C) Any public school located in a school district adjacent to the pilot project district may receive scholarship payments on behalf of parents pursuant to section 3313.979 of the Revised Code if the superintendent of the district in which such public school is located notifies the state superintendent prior to the first day of March that the district intends to admit students from the pilot project district for the ensuing school year pursuant to section 3327.06 of the Revised Code.

(D) Any parent wishing to purchase tutorial assistance from any person or governmental entity pursuant to the pilot project program under sections 3313.974 to 3313.979 of the Revised Code shall apply to the state superintendent. The state superintendent shall approve providers who appear to possess the capability of furnishing the instructional services they are offering to provide.

Sec. 3313.977. (A)(1) Each registered private school shall admit

students to kindergarten and first, second, and third grades in accordance with the following priorities:

- (a) Students who were enrolled in the school during the preceding year;
- (b) Siblings of students enrolled in the school during the preceding year, at the discretion of the school;

- (c) Children from low-income families attending school or residing in the school district in which the school is located until the number of such students in each grade equals the number that constituted twenty per cent of the total number of students enrolled in the school during the preceding year in such grade. Admission of such twenty per cent shall be by lot from among all low-income family applicants who apply prior to the fifteenth day of February prior to admission.

- (d) All other applicants residing anywhere, provided that all remaining available spaces shall be filled from among such applicants by lot.

Children from low-income families not selected by lot under division (A)(1)(c) of this section shall be included in the lottery of all remaining applicants pursuant to division (A)(1)(d) of this section.

(2) Each registered private school shall first admit to grades four through ~~ten~~ twelve students who were enrolled in the school during the preceding year. Any remaining spaces for students in these grades may be filled as determined by the school.

(B) Notwithstanding division (A) of this section, except where otherwise prohibited by federal law, a registered private school may elect to admit students of only one gender and may deny admission to any separately educated handicapped student.

(C) If a scholarship student who has been accepted in accordance with this section fails to enroll in the school for any reason or withdraws from the school during the school year for any reason, the school may elect to replace such student with another scholarship student only by first offering the admission to any low-income scholarship students who filed applications by the preceding fifteenth day of February and who were not accepted at that time due to space limitations.

Sec. 3313.978. (A) Annually by the first day of November, the superintendent of public instruction shall notify the pilot project school district of the number of initial scholarships that the state superintendent will be awarding in each of grades kindergarten through ~~third~~ eight.

The state superintendent shall provide information about the scholarship program to all students residing in the district, shall accept applications from any such students until such date as shall be established by the state superintendent as a deadline for applications, and shall establish criteria for

the selection of students to receive scholarships from among all those applying prior to the deadline, which criteria shall give preference to students from low-income families. For each student selected, the state superintendent shall also determine whether the student qualifies for seventy-five or ninety per cent of the scholarship amount. Students whose family income is at or above two hundred per cent of the maximum income level established by the state superintendent for low-income families shall qualify for seventy-five per cent of the scholarship amount and students whose family income is below two hundred per cent of that maximum income level shall qualify for ninety per cent of the scholarship amount. The state superintendent shall notify students of their selection prior to the fifteenth day of January and whether they qualify for seventy-five or ninety per cent of the scholarship amount.

(1) A student receiving a pilot project scholarship may utilize it at an alternative public school by notifying the district superintendent, at any time before the beginning of the school year, of the name of the public school in an adjacent school district to which the student has been accepted pursuant to section 3327.06 of the Revised Code.

(2) A student may decide to utilize a pilot project scholarship at a registered private school in the district if all of the following conditions are met:

(a) By the fifteenth day of February of the preceding school year, or at any time prior to the start of the school year, the parent makes an application on behalf of the student to a registered private school.

(b) The registered private school notifies the parent and the state superintendent as follows that the student has been admitted:

(i) By the fifteenth day of March of the preceding school year if the student filed an application by the fifteenth day of February and was admitted by the school pursuant to division (A) of section 3313.977 of the Revised Code;

(ii) Within one week of the decision to admit the student if the student is admitted pursuant to division (C) of section 3313.977 of the Revised Code.

(c) The student actually enrolls in the registered private school to which the student was first admitted or in another registered private school in the district or in a public school in an adjacent school district.

(B) The state superintendent shall also award in any school year tutorial assistance grants to a number of students equal to the number of students who receive scholarships under division (A) of this section. Tutorial assistance grants shall be awarded solely to students who are enrolled in the public schools of the district in a grade level covered by the pilot project.



Tutorial assistance grants may be used solely to obtain tutorial assistance from a provider approved pursuant to division (D) of section 3313.976 of the Revised Code.

All students wishing to obtain tutorial assistance grants shall make application to the state superintendent by the first day of the school year in which the assistance will be used. The state superintendent shall award assistance grants in accordance with criteria the superintendent shall establish. For each student awarded a grant, the state superintendent shall also determine whether the student qualifies for seventy-five or ninety per cent of the grant amount and so notify the student. Students whose family income is at or above two hundred per cent of the maximum income level established by the state superintendent for low-income families shall qualify for seventy-five per cent of the grant amount and students whose family income is below two hundred per cent of that maximum income level shall qualify for ninety per cent of the grant amount.

(C)(1) In the case of basic scholarships for students in grades kindergarten through eight, the scholarship amount shall not exceed the lesser of the tuition charges of the alternative school the scholarship recipient attends or ~~an amount established by the state superintendent not in excess of three thousand dollars~~ before fiscal year 2007 and three thousand four hundred fifty dollars in fiscal year 2007 and thereafter.

In the case of basic scholarships for students in grades nine ~~and ten through twelve~~, the scholarship amount shall not exceed the lesser of the tuition charges of the alternative school the scholarship recipient attends or ~~an amount established by the state superintendent not in excess of two thousand seven hundred dollars~~ before fiscal year 2007 and three thousand four hundred fifty dollars in fiscal year 2007 and thereafter.

(2) The state superintendent shall provide for an increase in the basic scholarship amount in the case of any student who is a mainstreamed handicapped student and shall further increase such amount in the case of any separately educated handicapped child. Such increases shall take into account the instruction, related services, and transportation costs of educating such students.

(3) In the case of tutorial assistance grants, the grant amount shall not exceed the lesser of the provider's actual charges for such assistance or a:

(a) Before fiscal year 2007, a percentage established by the state superintendent, not to exceed twenty per cent, of the amount of the pilot project school district's average basic scholarship amount;

(b) In fiscal year 2007 and thereafter, four hundred dollars.

(4) No scholarship or tutorial assistance grant shall be awarded unless

the state superintendent determines that twenty-five or ten per cent, as applicable, of the amount specified for such scholarship or grant pursuant to division (C)(1), (2), or (3) of this section will be furnished by a political subdivision, a private nonprofit or for profit entity, or another person. Only seventy-five or ninety per cent of such amounts, as applicable, shall be paid from state funds pursuant to section 3313.979 of the Revised Code.

(D)(1) Annually by the first day of November, the state superintendent shall estimate the maximum per-pupil scholarship amounts for the ensuing school year. The state superintendent shall make this estimate available to the general public at the offices of the district board of education together with the forms required by division (D)(2) of this section.

(2) Annually by the fifteenth day of January, the chief administrator of each registered private school located in the pilot project district and the principal of each public school in such district shall complete a parental information form and forward it to the president of the board of education. The parental information form shall be prescribed by the department of education and shall provide information about the grade levels offered, the numbers of students, tuition amounts, achievement test results, and any sectarian or other organizational affiliations.

Sec. 3313.98. Notwithstanding division (D) of section 3311.19 and division (D) of section 3311.52 of the Revised Code, the provisions of this section and sections 3313.981 to 3313.983 of the Revised Code that apply to a city school district do not apply to a joint vocational or cooperative education school district unless expressly specified.

(A) As used in this section and sections 3313.981 to 3313.983 of the Revised Code:

(1) "Parent" means either of the natural or adoptive parents of a student, except under the following conditions:

(a) When the marriage of the natural or adoptive parents of the student has been terminated by a divorce, dissolution of marriage, or annulment or the natural or adoptive parents of the student are living separate and apart under a legal separation decree and the court has issued an order allocating the parental rights and responsibilities with respect to the student, "parent" means the residential parent as designated by the court except that "parent" means either parent when the court issues a shared parenting decree.

(b) When a court has granted temporary or permanent custody of the student to an individual or agency other than either of the natural or adoptive parents of the student, "parent" means the legal custodian of the child.

(c) When a court has appointed a guardian for the student, "parent" means the guardian of the student.

(2) "Native student" means a student entitled under section 3313.64 or 3313.65 of the Revised Code to attend school in a district adopting a resolution under this section.

(3) "Adjacent district" means a city, exempted village, or local school district having territory that abuts the territory of a district adopting a resolution under this section.

(4) "Adjacent district student" means a student entitled under section 3313.64 or 3313.65 of the Revised Code to attend school in an adjacent district.

(5) "Adjacent district joint vocational student" means an adjacent district student who enrolls in a city, exempted village, or local school district pursuant to this section and who also enrolls in a joint vocational school district that does not contain the territory of the district for which that student is a native student and does contain the territory of the city, exempted village, or local district in which the student enrolls.

(6) "Formula amount" has the same meaning as in section 3317.02 of the Revised Code.

(7) "Adjusted formula amount" means the greater of the following:

(a) The fiscal year 2005 formula amount multiplied by the fiscal year 2005 cost-of-doing-business factor for a district defined in the version of section 3317.02 of the Revised Code in effect that year;

(b) The sum of (the current formula amount times the current cost-of-doing-business factor as defined in section 3317.02 of the Revised Code) plus the per pupil amount of the base funding supplements specified in divisions (C)(1) to (4) of section 3317.012 of the Revised Code.

(8) "Poverty line" means the poverty line established by the director of the United States office of management and budget as revised by the director of the office of community services in accordance with section 673(2) of the "Community Services Block Grant Act," 95 Stat. 1609, 42 U.S.C.A. 9902, as amended.

(9) "IEP" means an individualized education program defined by division (E) of section 3323.01 of the Revised Code.

(10) "Other district" means a city, exempted village, or local school district having territory outside of the territory of a district adopting a resolution under this section.

(11) "Other district student" means a student entitled under section 3313.64 or 3313.65 of the Revised Code to attend school in an other district.

(12) "Other district joint vocational student" means a student who is enrolled in any city, exempted village, or local school district and who also enrolls in a joint vocational school district that does not contain the territory

of the district for which that student is a native student in accordance with a policy adopted under section 3313.983 of the Revised Code.

(B)(1) The board of education of each city, local, and exempted village school district shall adopt a resolution establishing for the school district one of the following policies:

(a) A policy that entirely prohibits the enrollment of students from adjacent districts or other districts, other than students for whom tuition is paid in accordance with section 3317.08 of the Revised Code;

(b) A policy that permits enrollment of students from all adjacent districts in accordance with policy statements contained in the resolution;

(c) A policy that permits enrollment of students from all other districts in accordance with policy statements contained in the resolution.

(2) A policy permitting enrollment of students from adjacent or from other districts, as applicable, shall provide for all of the following:

(a) Application procedures, including deadlines for application and for notification of students and the superintendent of the applicable district whenever an adjacent or other district student's application is approved.

(b) Procedures for admitting adjacent or other district applicants free of any tuition obligation to the district's schools, including, but not limited to:

(i) The establishment of district capacity limits by grade level, school building, and education program;

(ii) A requirement that all native students wishing to be enrolled in the district will be enrolled and that any adjacent or other district students previously enrolled in the district shall receive preference over first-time applicants;

(iii) Procedures to ensure that an appropriate racial balance is maintained in the district schools.

(C) Except as provided in section 3313.982 of the Revised Code, the procedures for admitting adjacent or other district students, as applicable, shall not include:

(1) Any requirement of academic ability, or any level of athletic, artistic, or other extracurricular skills;

(2) Limitations on admitting applicants because of handicapping conditions, except that a board may refuse to admit a student receiving services under Chapter 3323. of the Revised Code, if the services described in the student's IEP are not available in the district's schools;

(3) A requirement that the student be proficient in the English language;

(4) Rejection of any applicant because the student has been subject to disciplinary proceedings, except that if an applicant has been suspended or expelled by the student's district for ten consecutive days or more in the

term for which admission is sought or in the term immediately preceding the term for which admission is sought, the procedures may include a provision denying admission of such applicant.

(D)(1) Each school board permitting only enrollment of adjacent district students shall provide information about the policy adopted under this section, including the application procedures and deadlines, to the superintendent and the board of education of each adjacent district and, upon request, to the parent of any adjacent district student.

(2) Each school board permitting enrollment of other district students shall provide information about the policy adopted under this section, including the application procedures and deadlines, upon request, to the board of education of any other school district or to the parent of any student anywhere in the state.

(E) Any school board shall accept all credits toward graduation earned in adjacent or other district schools by an adjacent or other district student or a native student.

(F)(1) No board of education may adopt a policy discouraging or prohibiting its native students from applying to enroll in the schools of an adjacent or any other district that has adopted a policy permitting such enrollment, except that:

(a) A district may object to the enrollment of a native student in an adjacent or other district in order to maintain an appropriate racial balance.

(b) The board of education of a district receiving funds under 64 Stat. 1100 (1950), 20 U.S.C.A. 236 et seq., as amended, may adopt a resolution objecting to the enrollment of its native students in adjacent or other districts if at least ten per cent of its students are included in the determination of the United States secretary of education made under section 20 U.S.C.A. 238(a).

(2) If a board objects to enrollment of native students under this division, any adjacent or other district shall refuse to enroll such native students unless tuition is paid for the students in accordance with section 3317.08 of the Revised Code. An adjacent or other district enrolling such students may not receive funding for those students in accordance with section 3313.981 of the Revised Code.

(G) The state board of education shall monitor school districts to ensure compliance with this section and the districts' policies. The board may adopt rules requiring uniform application procedures, deadlines for application, notification procedures, and record-keeping requirements for all school boards that adopt policies permitting the enrollment of adjacent or other district students, as applicable. If the state board adopts such rules, no school board shall adopt a policy that conflicts with those rules.

(H) A resolution adopted by a board of education under this section that entirely prohibits the enrollment of students from adjacent and from other school districts does not abrogate any agreement entered into under section 3313.841 or 3313.92 of the Revised Code or any contract entered into under section 3313.90 of the Revised Code between the board of education adopting the resolution and the board of education of any adjacent or other district or prohibit these boards of education from entering into any such agreement or contract.

(I) Nothing in this section shall be construed to permit or require the board of education of a city, exempted village, or local school district to exclude any native student of the district from enrolling in the district.

Sec. 3314.013. (A)(1) Until July 1, 2000, no more than seventy-five contracts between start-up schools and the state board of education may be in effect outside the pilot project area at any time under this chapter.

(2) After July 1, 2000, and until July 1, 2001, no more than one hundred twenty-five contracts between start-up schools and the state board of education may be in effect outside the pilot project area at any time under this chapter.

(3) This division applies only to contracts between start-up schools and the state board of education and contracts between start-up schools and entities described in divisions (C)(1)(b) to (f) of section 3314.02 of the Revised Code.

Until July 1, 2005, not more than two hundred twenty-five contracts to which this division applies may be in effect at any time under this chapter.

(4) This division applies only to contracts between start-up schools and entities described in divisions (C)(1)(b) to (f) of section 3314.02 of the Revised Code.

Except as otherwise provided in section 3314.014 of the Revised Code, after July 1, 2005, and until July 1, 2007, the number of contracts to which this division applies in effect at any time under this chapter shall be not more than thirty plus the number of such contracts with schools that were open for operation as of May 1, 2005.

(5) This division applies only to contracts between a conversion school that is an internet- or computer-based community school or a start-up school and the board of education of the school district in which the school is or is proposed to be located.

Except as otherwise provided in section 3314.014 of the Revised Code, until July 1, 2007, the number of contracts to which this division applies in effect at any time under this chapter shall be not more than thirty plus the number of such contracts with schools that were open for operation as of

May 1, 2005.

(6) Until the effective date of any standards enacted by the general assembly governing the operation of internet- or computer-based community schools, no internet- or computer-based community school shall operate unless the school was open for instruction as of May 1, 2005. No entity described in division (C)(1) of section 3314.02 of the Revised Code shall enter into a contract to sponsor an internet- or computer-based community school, including a conversion school, between May 1, 2005, and the effective date of any standards enacted by the general assembly governing the operation of internet- or computer-based community schools, except as follows:

(a) Any entity described in division (C)(1) of that section may renew a contract that the entity entered into with an internet- or computer-based community school prior to May 1, 2005, if the school was open for operation as of that date.

(b) Any entity described in divisions (C)(1)(a) to (e) of that section may assume sponsorship of an existing internet- or computer-based community school that was formerly sponsored by another entity and may enter into a contract with that community school in accordance with section 3314.03 of the Revised Code.

(c) Any entity described in division (C)(1)(f) of that section may assume sponsorship of an existing internet- or computer-based community school in accordance with division (A)(7) of this section and may enter into a contract with that community school in accordance with section 3314.03 of the Revised Code.

If a sponsor entered into a contract with an internet- or computer-based community school, including a conversion school, but the school was not open for operation as of May 1, 2005, the contract shall be void and the entity shall not enter into another contract with the school until the effective date of any standards enacted by the general assembly governing the operation of internet- or computer-based community schools.

(7) Until July 1, 2005, any entity described in division (C)(1)(f) of section 3314.02 of the Revised Code may sponsor only a community school that formerly was sponsored by the state board of education under division (C)(1)(d) of that section, as it existed prior to April 8, 2003. After July 1, 2005, any such entity may assume sponsorship of any existing community school, and may sponsor any new community school that is not an internet- or computer-based community school. Beginning on the effective date of any standards enacted by the general assembly governing the operation of internet- or computer-based community schools, any such entity may

sponsor a new internet- or computer-based community school.

(8) Nothing in division (A) of this section prohibits a community school from increasing the number of grade levels it offers.

(B) Within twenty-four hours of a request by any person, the superintendent of public instruction shall indicate the number of preliminary agreements for start-up schools currently outstanding and the number of contracts for these schools in effect at the time of the request.

(C) It is the intent of the general assembly to consider whether to provide limitations on the number of start-up community schools after July 1, 2001, following its examination of the results of the studies by the legislative office of education oversight required under Section 50.39 of Am. Sub. H.B. No. 215 of the 122nd general assembly and Section 50.52.2 of Am. Sub. H.B. No. 215 of the 122nd general assembly, as amended by Am. Sub. H.B. No. 770 of the 122nd general assembly.

Sec. 3314.014. As used in this section, "operator" means an organization that manages the daily operations of a community school pursuant to a contract between the operator and the school's governing authority.

(A)(1) Notwithstanding the limit prescribed by division (A)(4) of section 3314.013 of the Revised Code, a start-up school sponsored by an entity described in divisions (C)(1)(b) to (f) of section 3314.02 of the Revised Code may be established after the date that limit is reached, provided the school's governing authority enters into a contract with an operator permitted to manage the school under division (B) of this section.

(2) Notwithstanding the limit prescribed by division (A)(5) of section 3314.013 of the Revised Code, a conversion school that is an internet- or computer-based community school or a start-up school sponsored by the school district in which the school is or is proposed to be located may be established after the date that limit is reached, provided the school's governing authority enters into a contract with an operator permitted to manage the school under division (B) of this section. However, a conversion school that is an internet- or computer-based community school may be established after that date only if the prohibition prescribed by division (A)(6) of section 3314.013 of the Revised Code is no longer in effect.

(B) An operator may enter into contracts with the governing authorities of community schools established after the date the limit prescribed by division (A)(4) or (5) of section 3314.013 of the Revised Code, as applicable, is reached, provided the total number of schools for which the operator enters into such contracts, excluding conversion schools that are not internet- or computer-based community schools, does not exceed the number of community schools managed by the operator on the applicable



date that are rated excellent, effective, or in need of continuous improvement pursuant to section 3302.03 of the Revised Code.

Sec. 3314.015. (A) The department of education shall be responsible for the oversight of sponsors of the community schools established under this chapter and shall provide technical assistance to schools and sponsors in their compliance with applicable laws and the terms of the contracts entered into under section 3314.03 of the Revised Code and in the development and start-up activities of those schools. In carrying out its duties under this section, the department shall do all of the following:

(1) In providing technical assistance to proposing parties, governing authorities, and sponsors, conduct training sessions and distribute informational materials;

(2) Approve entities to be sponsors of community schools and monitor the effectiveness of those sponsors in their oversight of the schools with which they have contracted;

(3) By December thirty-first of each year, issue a report to the governor, the speaker of the house of representatives, the president of the senate, and the chairpersons of the house and senate committees principally responsible for education matters regarding the effectiveness of academic programs, operations, and legal compliance and of the financial condition of all community schools established under this chapter;

(4) From time to time, make legislative recommendations to the general assembly designed to enhance the operation and performance of community schools.

(B)(1) No entity listed in division (C)(1) of section 3314.02 of the Revised Code shall enter into a preliminary agreement under division (C)(2) of section 3314.02 of the Revised Code until it has received approval from the department of education to sponsor community schools under this chapter and has entered into a written agreement with the department regarding the manner in which the entity will conduct such sponsorship. The department shall adopt in accordance with Chapter 119. of the Revised Code rules containing criteria, procedures, and deadlines for processing applications for such approval, for oversight of sponsors, for revocation of the approval of sponsors, and for entering into written agreements with sponsors. The rules shall require an entity to submit evidence of the entity's ability and willingness to comply with the provisions of division (D) of section 3314.03 of the Revised Code. The rules also shall require entities approved as sponsors on and after the effective date of this amendment to demonstrate a record of financial responsibility and successful implementation of educational programs. If an entity seeking approval on or

after the effective date of this amendment to sponsor community schools in this state sponsors or operates schools in another state, at least one of the schools sponsored or operated by the entity must be comparable to or better than the performance of Ohio schools in a state of academic watch under section 3302.03 of the Revised Code, as determined by the department.

An entity that ~~is approved to sponsor~~ sponsors community schools may enter into ~~any number of~~ preliminary agreements and sponsor ~~any number of~~ schools as follows, provided each school and the contract for sponsorship meets the requirements of this chapter:

(a) An entity that sponsored fifty or fewer schools that were open for operation as of May 1, 2005, may sponsor not more than fifty schools.

(b) An entity that sponsored more than fifty but not more than seventy-five schools that were open for operation as of May 1, 2005, may sponsor not more than the number of schools the entity sponsored that were open for operation as of May 1, 2005.

(c) Until June 30, 2006, an entity that sponsored more than seventy-five schools that were open for operation as of May 1, 2005, may sponsor not more than the number of schools the entity sponsored that were open for operation as of May 1, 2005. After June 30, 2006, such an entity may sponsor not more than seventy-five schools.

Upon approval of an entity to be a sponsor under this division, the department shall notify the entity of the number of schools the entity may sponsor.

The limit imposed on an entity to which division (B)(1)(b) or (c) of this section applies shall be decreased by one for each school sponsored by the entity that permanently closes until the number of schools sponsored by the entity is fifty.

If at any time an entity exceeds the number of schools it may sponsor under this division, the department shall assist the schools in excess of the entity's limit in securing new sponsors. If a school is unable to secure a new sponsor, the department shall assume sponsorship of the school in accordance with division (C) of this section. Those schools for which another sponsor or the department assumes sponsorship shall be the schools that most recently entered into contracts with the entity under section 3314.03 of the Revised Code.

(2) The department of education shall determine, pursuant to criteria adopted by rule of the department, whether the mission proposed to be specified in the contract of a community school to be sponsored by a state university board of trustees or the board's designee under division (C)(1)(e) of section 3314.02 of the Revised Code complies with the requirements of

that division. Such determination of the department is final.

(3) The department of education shall determine, pursuant to criteria adopted by rule of the department, if any tax-exempt entity under section 501(c)(3) of the Internal Revenue Code that is proposed to be a sponsor of a community school is an education-oriented entity for purpose of satisfying the condition prescribed in division (C)(1)~~(e)(iv)~~~~(f)(iii)~~ of section 3314.02 of the Revised Code. Such determination of the department is final.

(C) If at any time the state board of education finds that a sponsor is not in compliance or is no longer willing to comply with its contract with any community school or with the department's rules for sponsorship, the state board or designee shall conduct a hearing in accordance with Chapter 119. of the Revised Code on that matter. If after the hearing, the state board or designee has confirmed the original finding, the department of education may revoke the sponsor's approval to sponsor community schools and may assume the sponsorship of any schools with which the sponsor has contracted until the earlier of the expiration of two school years or until a new sponsor as described in division (C)(1) of section 3314.02 of the Revised Code is secured by the school's governing authority. The department may extend the term of the contract in the case of a school for which it has assumed sponsorship under this division as necessary to accommodate the term of the department's authorization to sponsor the school specified in this division.

(D) The decision of the department to disapprove an entity for sponsorship of a community school or to revoke approval for such sponsorship, as provided in division (C) of this section, may be appealed by the entity in accordance with section 119.12 of the Revised Code.

(E) The department shall adopt procedures for use by a community school governing authority and sponsor when the school permanently closes and ceases operation, which shall include at least procedures for data reporting to the department, handling of student records, distribution of assets in accordance with section 3314.074 of the Revised Code, and other matters related to ceasing operation of the school.

(F) In carrying out its duties under this chapter, the department shall not impose requirements on community schools or their sponsors that are not permitted by law or duly adopted rules.

Sec. 3314.02. (A) As used in this chapter:

(1) "Sponsor" means an entity listed in division (C)(1) of this section, which has been approved by the department of education to sponsor community schools and with which the governing authority of the proposed community school enters into a contract pursuant to this section.

(2) "Pilot project area" means the school districts included in the territory of the former community school pilot project established by former Section 50.52 of Am. Sub. H.B. No. 215 of the 122nd general assembly.

(3) "Challenged school district" means any of the following:

(a) A school district that is part of the pilot project area;

(b) A school district that is either in a state of academic emergency or in a state of academic watch under section 3302.03 of the Revised Code;

(c) A big eight school district.

(4) "Big eight school district" means a school district that for fiscal year 1997 had both of the following:

(a) A percentage of children residing in the district and participating in the predecessor of Ohio works first greater than thirty per cent, as reported pursuant to section 3317.10 of the Revised Code;

(b) An average daily membership greater than twelve thousand, as reported pursuant to former division (A) of section 3317.03 of the Revised Code.

(5) "New start-up school" means a community school other than one created by converting all or part of an existing public school, as designated in the school's contract pursuant to division (A)(17) of section 3314.03 of the Revised Code.

(6) "Urban school district" means one of the state's twenty-one urban school districts as defined in division (O) of section 3317.02 of the Revised Code as that section existed prior to July 1, 1998.

(7) "Internet- or computer-based community school" means a community school established under this chapter in which the enrolled students work primarily from their residences on assignments in nonclassroom-based learning opportunities provided via an internet- or other computer-based instructional method that does not rely on regular classroom instruction or via comprehensive instructional methods that include internet-based, other computer-based, and noncomputer-based learning opportunities.

(B) Any person or group of individuals may initially propose under this division the conversion of all or a portion of a public school to a community school. The proposal shall be made to the board of education of the city, local, or exempted village school district in which the public school is proposed to be converted. Upon receipt of a proposal, a board may enter into a preliminary agreement with the person or group proposing the conversion of the public school, indicating the intention of the board of education to support the conversion to a community school. A proposing person or group that has a preliminary agreement under this division may proceed to finalize

plans for the school, establish a governing authority for the school, and negotiate a contract with the board of education. Provided the proposing person or group adheres to the preliminary agreement and all provisions of this chapter, the board of education shall negotiate in good faith to enter into a contract in accordance with section 3314.03 of the Revised Code and division (C) of this section.

(C)(1) Any person or group of individuals may propose under this division the establishment of a new start-up school to be located in a challenged school district. The proposal may be made to any of the following entities:

(a) The board of education of the district in which the school is proposed to be located;

(b) The board of education of any joint vocational school district with territory in the county in which is located the majority of the territory of the district in which the school is proposed to be located;

(c) The board of education of any other city, local, or exempted village school district having territory in the same county where the district in which the school is proposed to be located has the major portion of its territory;

(d) The governing board of any educational service center;

(e) A sponsoring authority designated by the board of trustees of any of the thirteen state universities listed in section 3345.011 of the Revised Code or the board of trustees itself as long as a mission of the proposed school to be specified in the contract under division (A)(2) of section 3314.03 of the Revised Code and as approved by the department of education under division (B)(2) of section 3314.015 of the Revised Code will be the practical demonstration of teaching methods, educational technology, or other teaching practices that are included in the curriculum of the university's teacher preparation program approved by the state board of education;

(f) Any qualified tax-exempt entity under section 501(c)(3) of the Internal Revenue Code as long as all of the following conditions are satisfied:

(i) The entity has been in operation for at least five years prior to applying to be a community school sponsor.

(ii) The entity has assets of at least five hundred thousand dollars.

(iii) The department of education has determined that the entity is an education-oriented entity under division (B)(3) of section 3314.015 of the Revised Code.

~~Until July 1, 2005, any entity described in division (C)(1)(f) of this section may sponsor only schools that formerly were sponsored by the state~~

~~board of education under division (C)(1)(d) of this section, as it existed prior to April 8, 2003. After July 1, 2005, such entity may sponsor any new or existing school.~~

Any entity described in division (C)(1) of this section may enter into a preliminary agreement pursuant to division (C)(2) of this section with the proposing person or group.

(2) A preliminary agreement indicates the intention of an entity described in division (C)(1) of this section to sponsor the community school. A proposing person or group that has such a preliminary agreement may proceed to finalize plans for the school, establish a governing authority as described in division (E) of this section for the school, and negotiate a contract with the entity. Provided the proposing person or group adheres to the preliminary agreement and all provisions of this chapter, the entity shall negotiate in good faith to enter into a contract in accordance with section 3314.03 of the Revised Code.

(3) A new start-up school that is established in a school district while that district is either in a state of academic emergency or in a state of academic watch under section 3302.03 of the Revised Code may continue in existence once the school district is no longer in a state of academic emergency or academic watch, provided there is a valid contract between the school and a sponsor.

(4) A copy of every preliminary agreement entered into under this division shall be filed with the superintendent of public instruction.

(D) A majority vote of the board of a sponsoring entity and a majority vote of the members of the governing authority of a community school shall be required to adopt a contract and convert the public school to a community school or establish the new start-up school. Up to the statewide limit prescribed in section ~~Beginning on the effective date of this amendment, adoption of the contract shall occur not later than the fifteenth day of March prior to the school year in which the school will open. Subject to sections 3314.013 and 3314.014~~ of the Revised Code, an unlimited number of community schools may be established in any school district provided that a contract is entered into for each community school pursuant to this chapter.

(E) As used in this division, "immediate relatives" are limited to spouses, children, parents, grandparents, siblings, and in-laws.

Each new start-up community school established under this chapter shall be under the direction of a governing authority which shall consist of a board of not less than five individuals who are not owners or employees, or immediate relatives of owners or employees, of any for-profit firm that operates or manages a school for the governing authority.

No person shall serve on the governing authority or operate the community school under contract with the governing authority so long as the person owes the state any money or is in a dispute over whether the person owes the state any money concerning the operation of a community school that has closed.

(F) Nothing in this chapter shall be construed to permit the establishment of a community school in more than one school district under the same contract.

(G)(1) A new start-up school that is established prior to ~~the effective date of this amendment~~ August 15, 2003, in an urban school district that is not also a big-eight school district may continue to operate after ~~the effective that date of this amendment~~ and the contract between the school's governing authority and the school's sponsor may be renewed, as provided under this chapter, after ~~the effective that date of this amendment~~, but no additional new start-up schools may be established in such a district unless the district is a challenged school district as defined in this section as it exists on and after ~~the effective that date of this amendment~~.

(2) A community school that was established prior to June 29, 1999, and is located in a county contiguous to the pilot project area and in a school district that is not a challenged school district may continue to operate after that date, provided the school complies with all provisions of this chapter. The contract between the school's governing authority and the school's sponsor may be renewed, but no additional start-up community school may be established in that district unless the district is a challenged school district.

Sec. 3314.021. (A) This section applies to any entity that is exempt from taxation under section 501(c)(3) of the Internal Revenue Code and that satisfies the conditions specified in divisions (C)(1)(f)(ii) and (iii) of section 3314.02 of the Revised Code but does not satisfy the condition specified in division (C)(1)(f)(i) of that section.

(B) Notwithstanding division (C)(1)(f)(i) of section 3314.02 of the Revised Code, an entity described in division (A) of this section may do both of the following without obtaining the department of education's approval of its sponsorship under division (B)(1) of section 3314.015 of the Revised Code:

(1) Succeed the board of trustees of a state university located in the pilot project area or that board's designee as the sponsor of a community school established under this chapter;

(2) Continue to sponsor that school in conformance with the terms of the contract between the board of trustees or its designee and the governing

authority of the community school and renew that contract as provided in division (E) of section 3314.03 of the Revised Code.

(C) The entity that succeeds the board of trustees or the board's designee as sponsor of a community school under division (B) of this section also may enter into contracts to sponsor other community schools located in any challenged school district, without obtaining the department's approval of its sponsorship under division (B)(1) of section 3314.015 of the Revised Code, and not subject to the restriction of ~~the paragraph following division (C)(1)(f)(iii)~~ division (A)(7) of section 3314.02 3314.013 of the Revised Code, as long as the contracts conform with and the entity complies with all other requirements of this chapter.

Sec. 3314.03. A copy of every contract entered into under this section shall be filed with the superintendent of public instruction.

(A) Each contract entered into between a sponsor and the governing authority of a community school shall specify the following:

(1) That the school shall be established as either of the following:

(a) A nonprofit corporation established under Chapter 1702. of the Revised Code, if established prior to April 8, 2003;

(b) A public benefit corporation established under Chapter 1702. of the Revised Code, if established after April 8, 2003;

(2) The education program of the school, including the school's mission, the characteristics of the students the school is expected to attract, the ages and grades of students, and the focus of the curriculum;

(3) The academic goals to be achieved and the method of measurement that will be used to determine progress toward those goals, which shall include the statewide achievement tests;

(4) Performance standards by which the success of the school will be evaluated by the sponsor; If the sponsor will evaluate the school in accordance with division (D) of section 3314.36 of the Revised Code, the contract shall specify the number of school years that the school will be evaluated under that division.

(5) The admission standards of section 3314.06 of the Revised Code and, if applicable, section 3314.061 of the Revised Code;

(6)(a) Dismissal procedures;

(b) A requirement that the governing authority adopt an attendance policy that includes a procedure for automatically withdrawing a student from the school if the student without a legitimate excuse fails to participate in one hundred five consecutive hours of the learning opportunities offered to the student. ~~Such a policy shall provide for withdrawing the student by the end of the thirtieth day after the student has failed to participate as~~



~~required under this division.~~

(7) The ways by which the school will achieve racial and ethnic balance reflective of the community it serves;

(8) Requirements for financial audits by the auditor of state. The contract shall require financial records of the school to be maintained in the same manner as are financial records of school districts, pursuant to rules of the auditor of state, and the audits shall be conducted in accordance with section 117.10 of the Revised Code.

(9) The facilities to be used and their locations;

(10) Qualifications of teachers, including a requirement that the school's classroom teachers be licensed in accordance with sections 3319.22 to 3319.31 of the Revised Code, except that a community school may engage noncertificated persons to teach up to twelve hours per week pursuant to section 3319.301 of the Revised Code;

(11) That the school will comply with the following requirements:

(a) The school will provide learning opportunities to a minimum of twenty-five students for a minimum of nine hundred twenty hours per school year;

(b) The governing authority will purchase liability insurance, or otherwise provide for the potential liability of the school;

(c) The school will be nonsectarian in its programs, admission policies, employment practices, and all other operations, and will not be operated by a sectarian school or religious institution;

(d) The school will comply with sections 9.90, 9.91, 109.65, 121.22, 149.43, 2151.358, 2151.421, 2313.18, 3301.0710, 3301.0711, 3301.0712, 3301.0715, 3313.50, 3313.608, 3313.6012, 3313.643, 3313.648, 3313.66, 3313.661, 3313.662, 3313.67, 3313.671, 3313.672, 3313.673, 3313.69, 3313.71, 3313.716, 3313.80, 3313.96, 3319.073, 3319.321, 3319.39, 3321.01, 3321.13, 3321.14, 3321.17, 3321.18, 3321.19, 3321.191, 3327.10, 4111.17, 4113.52, and 5705.391 and Chapters 117., 1347., 2744., 3365., 3742., 4112., 4123., 4141., and 4167. of the Revised Code as if it were a school district and will comply with section 3301.0714 of the Revised Code in the manner specified in section 3314.17 of the Revised Code;

(e) The school shall comply with Chapter 102. of the Revised Code except that nothing in that chapter shall prohibit a member of the school's governing board from also being an employee of the school and nothing in that chapter or section 2921.42 of the Revised Code shall prohibit a member of the school's governing board from having an interest in a contract into which the governing board enters that is not a contract with a for-profit firm for the operation or management of a school under the auspices of the

governing authority;

(f) The school will comply with sections 3313.61, 3313.611, and 3313.614 of the Revised Code, except that the requirement in sections 3313.61 and 3313.611 of the Revised Code that a person must successfully complete the curriculum in any high school prior to receiving a high school diploma may be met by completing the curriculum adopted by the governing authority of the community school rather than the curriculum specified in Title XXXIII of the Revised Code or any rules of the state board of education;

(g) The school governing authority will submit within four months after the end of each school year a report of its activities and progress in meeting the goals and standards of divisions (A)(3) and (4) of this section and its financial status to the sponsor, the parents of all students enrolled in the school, and the legislative office of education oversight. The school will collect and provide any data that the legislative office of education oversight requests in furtherance of any study or research that the general assembly requires the office to conduct, including the studies required under Section 50.39 of Am. Sub. H.B. 215 of the 122nd general assembly and Section 50.52.2 of Am. Sub. H.B. 215 of the 122nd general assembly, as amended.

(12) Arrangements for providing health and other benefits to employees;

(13) The length of the contract, which shall begin at the beginning of an academic year. No contract shall exceed five years unless such contract has been renewed pursuant to division (E) of this section.

(14) The governing authority of the school, which shall be responsible for carrying out the provisions of the contract;

(15) A financial plan detailing an estimated school budget for each year of the period of the contract and specifying the total estimated per pupil expenditure amount for each such year. The plan shall specify for each year the base formula amount that will be used for purposes of funding calculations under section 3314.08 of the Revised Code. This base formula amount for any year shall not exceed the formula amount defined under section 3317.02 of the Revised Code. The plan may also specify for any year a percentage figure to be used for reducing the per pupil amount of ~~disadvantaged pupil impact aid~~ the subsidy calculated pursuant to section 3317.029 of the Revised Code the school is to receive that year under section 3314.08 of the Revised Code.

(16) Requirements and procedures regarding the disposition of employees of the school in the event the contract is terminated or not renewed pursuant to section 3314.07 of the Revised Code;

(17) Whether the school is to be created by converting all or part of an

existing public school or is to be a new start-up school, and if it is a converted public school, specification of any duties or responsibilities of an employer that the board of education that operated the school before conversion is delegating to the governing board of the community school with respect to all or any specified group of employees provided the delegation is not prohibited by a collective bargaining agreement applicable to such employees;

(18) Provisions establishing procedures for resolving disputes or differences of opinion between the sponsor and the governing authority of the community school;

(19) A provision requiring the governing authority to adopt a policy regarding the admission of students who reside outside the district in which the school is located. That policy shall comply with the admissions procedures specified in ~~section~~ sections 3314.06 and 3314.061 of the Revised Code and, at the sole discretion of the authority, shall do one of the following:

(a) Prohibit the enrollment of students who reside outside the district in which the school is located;

(b) Permit the enrollment of students who reside in districts adjacent to the district in which the school is located;

(c) Permit the enrollment of students who reside in any other district in the state.

(20) A provision recognizing the authority of the department of education to take over the sponsorship of the school in accordance with the provisions of division (C) of section 3314.015 of the Revised Code;

(21) A provision recognizing the sponsor's authority to assume the operation of a school under the conditions specified in division (B) of section 3314.073 of the Revised Code;

(22) A provision recognizing both of the following:

(a) The authority of public health and safety officials to inspect the facilities of the school and to order the facilities closed if those officials find that the facilities are not in compliance with health and safety laws and regulations;

(b) The authority of the department of education as the community school oversight body to suspend the operation of the school under section 3314.072 of the Revised Code if the department has evidence of conditions or violations of law at the school that pose an imminent danger to the health and safety of the school's students and employees and the sponsor refuses to take such action;

(23) A description of the learning opportunities that will be offered to

students including both classroom-based and non-classroom-based learning opportunities that is in compliance with criteria for student participation established by the department under division (L)(2) of section 3314.08 of the Revised Code;

(24) The school will comply with section 3302.04 of the Revised Code, including division (E) of that section to the extent possible, except that any action required to be taken by a school district pursuant to that section shall be taken by the sponsor of the school. However, the sponsor shall not be required to take any action described in division (F) of that section.

(25) Beginning in the 2006-2007 school year, the school will open for operation not later than the thirtieth day of September each school year, unless the mission of the school as specified under division (A)(2) of this section is solely to serve dropouts. In its initial year of operation, if the school fails to open by the thirtieth day of September, or within one year after the adoption of the contract pursuant to division (D) of section 3314.02 of the Revised Code if the mission of the school is solely to serve dropouts, the contract shall be void.

(B) The community school shall also submit to the sponsor a comprehensive plan for the school. The plan shall specify the following:

(1) The process by which the governing authority of the school will be selected in the future;

(2) The management and administration of the school;

(3) If the community school is a currently existing public school, alternative arrangements for current public school students who choose not to attend the school and teachers who choose not to teach in the school after conversion;

(4) The instructional program and educational philosophy of the school;

(5) Internal financial controls.

(C) A contract entered into under section 3314.02 of the Revised Code between a sponsor and the governing authority of a community school may provide for the community school governing authority to make payments to the sponsor, which is hereby authorized to receive such payments as set forth in the contract between the governing authority and the sponsor. The total amount of such payments for oversight and monitoring of the school shall not exceed three per cent of the total amount of payments for operating expenses that the school receives from the state.

(D) The contract shall specify the duties of the sponsor which shall be in accordance with the written agreement entered into with the department of education under division (B) of section 3314.015 of the Revised Code and shall include the following:

(1) Monitor the community school's compliance with all laws applicable to the school and with the terms of the contract;

(2) Monitor and evaluate the academic and fiscal performance and the organization and operation of the community school on at least an annual basis;

(3) Report on an annual basis the results of the evaluation conducted under division (D)(2) of this section to the department of education and to the parents of students enrolled in the community school;

(4) Provide technical assistance to the community school in complying with laws applicable to the school and terms of the contract;

(5) Take steps to intervene in the school's operation to correct problems in the school's overall performance, declare the school to be on probationary status pursuant to section 3314.073 of the Revised Code, suspend the operation of the school pursuant to section 3314.072 of the Revised Code, or terminate the contract of the school pursuant to section 3314.07 of the Revised Code as determined necessary by the sponsor;

(6) Have in place a plan of action to be undertaken in the event the community school experiences financial difficulties or closes prior to the end of a school year.

(E) Upon the expiration of a contract entered into under this section, the sponsor of a community school may, with the approval of the governing authority of the school, renew that contract for a period of time determined by the sponsor, but not ending earlier than the end of any school year, if the sponsor finds that the school's compliance with applicable laws and terms of the contract and the school's progress in meeting the academic goals prescribed in the contract have been satisfactory. Any contract that is renewed under this division remains subject to the provisions of sections 3314.07, 3314.072, and 3314.073 of the Revised Code.

(F) If a community school fails to open for operation within one year after the contract entered into under this section is adopted pursuant to division (D) of section 3314.02 of the Revised Code or permanently closes prior to the expiration of the contract, the contract shall be void and the school shall not enter into a contract with any other sponsor. A school shall not be considered permanently closed because the operations of the school have been suspended pursuant to section 3314.072 of the Revised Code. Any contract that becomes void under this division shall not count toward any statewide limit on the number of such contracts prescribed by section 3314.013 of the Revised Code.

Sec. 3314.06. The governing authority of each community school established under this chapter shall adopt admission procedures that specify

the following:

(A) That except as otherwise provided in this section, admission to the school shall be open to any individual age five to twenty-two entitled to attend school pursuant to section 3313.64 or 3313.65 of the Revised Code in a school district in the state.

(B)(1) That admission to the school may be limited to students who have attained a specific grade level or are within a specific age group; to students that meet a definition of "at-risk," as defined in the contract; ~~or~~ to residents of a specific geographic area within the district, as defined in the contract; or to separate groups of autistic students and nonhandicapped students, as authorized in section 3314.061 of the Revised Code and as defined in the contract.

(2) For purposes of division (B)(1) of this section, "at-risk" students may include those students identified as gifted students under section 3324.03 of the Revised Code.

(C) Whether enrollment is limited to students who reside in the district in which the school is located or is open to residents of other districts, as provided in the policy adopted pursuant to the contract.

(D)(1) That there will be no discrimination in the admission of students to the school on the basis of race, creed, color, handicapping condition, or sex except that ~~the~~:

(a) The governing authority may establish single-gender schools for the purpose described in division (G) of this section provided comparable facilities and learning opportunities are offered for both boys and girls. Such comparable facilities and opportunities may be offered for each sex at separate locations.

(b) The governing authority may establish a school that simultaneously serves a group of students identified as autistic and a group of students who are not handicapped, as authorized in section 3314.061 of the Revised Code. However, unless the total capacity established for the school has been filled, no student with any handicap shall be denied admission on the basis of that handicap.

(2) That upon admission of any handicapped student, the community school will comply with all federal and state laws regarding the education of handicapped students.

(E) That the school may not limit admission to students on the basis of intellectual ability, measures of achievement or aptitude, or athletic ability, except that a school may limit its enrollment to students as described in division (B)(2) of this section.

(F) That the community school will admit the number of students that

does not exceed the capacity of the school's programs, classes, grade levels, or facilities.

(G) That the purpose of single-gender schools that are established shall be to take advantage of the academic benefits some students realize from single-gender instruction and facilities and to offer students and parents residing in the district the option of a single-gender education.

(H) That, except as otherwise provided under division (B) of this section or section 3314.061 of the Revised Code, if the number of applicants exceeds the capacity restrictions of division (F) of this section, students shall be admitted by lot from all those submitting applications, except preference shall be given to students attending the school the previous year and to students who reside in the district in which the school is located. Preference may be given to siblings of students attending the school the previous year.

Notwithstanding divisions (A) to (H) of this section, in the event the racial composition of the enrollment of the community school is violative of a federal desegregation order, the community school shall take any and all corrective measures to comply with the desegregation order.

Sec. 3314.061. A governing authority may establish a community school under this chapter that is limited to providing simultaneously special education and related services to a specified number of students identified as autistic and regular educational programs to a specified number of students who are not handicapped. The contract between the governing authority and the school's sponsor shall specify the target ratio of number of autistic students to number of nonhandicapped students in the school's population, the total number of autistic students that may be enrolled in the school, and the total number of nonhandicapped students that may be enrolled in the school. A school established in accordance with this section is subject to division (H) of section 3314.06 of the Revised Code, except that because the governing authority establishes a separate capacity for autistic students and nonhandicapped students, if the number of applicants among the group of autistic students or the group of nonhandicapped students exceeds the capacity restrictions for that group, students shall be admitted by lot from all those of that same group submitting applications. However, unless the total capacity established for the school has been filled, no student with any handicap shall be denied admission on the basis of that handicap.

Sec. 3314.074. Divisions (A) and (B) of this section apply only to the extent permitted under Chapter 1702. of the Revised Code.

(A) If any community school established under this chapter permanently closes and ceases its operation as a community school, the assets of that school shall be distributed first to the retirement funds of employees of the

school, employees of the school, and private creditors who are owed compensation and then any remaining funds shall be paid to the state treasury to the credit of the general revenue fund.

(B) If a community school closes and ceases to operate as a community school and the school has received computer hardware or software from the former Ohio SchoolNet commission or the eTech Ohio commission, such hardware or software shall be returned to the eTech Ohio commission, and the eTech Ohio commission shall redistribute the hardware and software, to the extent such redistribution is possible, to school districts in conformance with the provisions of the programs operated and administered by the eTech Ohio commission.

(C) If the assets of the school are insufficient to pay all persons or entities to whom compensation is owed, the prioritization of the distribution of the assets to individual persons or entities within each class of payees may be determined by decree of a court in accordance with this section and Chapter 1702. of the Revised Code.

Sec. 3314.08. (A) As used in this section:

(1) "Base formula amount" means the amount specified as such in a community school's financial plan for a school year pursuant to division (A)(15) of section 3314.03 of the Revised Code.

(2) "Cost-of-doing-business factor" has the same meaning as in section 3317.02 of the Revised Code.

(3) "IEP" means an individualized education program as defined in section 3323.01 of the Revised Code.

(4) "Applicable special education weight" means the multiple specified in section 3317.013 of the Revised Code for a handicap described in that section.

(5) "Applicable vocational education weight" means:

(a) For a student enrolled in vocational education programs or classes described in division (A) of section 3317.014 of the Revised Code, the multiple specified in that division;

(b) For a student enrolled in vocational education programs or classes described in division (B) of section 3317.014 of the Revised Code, the multiple specified in that division.

(6) "Entitled to attend school" means entitled to attend school in a district under section 3313.64 or 3313.65 of the Revised Code.

(7) A community school student is "included in the ~~DPIA~~ poverty student count" of a school district if the student is entitled to attend school in the district and:

~~(a) For school years prior to fiscal year 2004, the student's family~~



receives assistance under the Ohio works first program.

~~(b) For school years in and after fiscal year 2004, the student's family income does not exceed the federal poverty guidelines, as defined in section 5101.46 of the Revised Code, and the student's family receives family assistance, as defined in section 3317.029 of the Revised Code.~~

(8) "DPIA Poverty-based assistance reduction factor" means the percentage figure, if any, for reducing the per pupil amount of ~~disadvantaged pupil impact aid~~ poverty-based assistance a community school is entitled to receive pursuant to divisions (D)(5) and (6) of this section in any year, as specified in the school's financial plan for the year pursuant to division (A)(15) of section 3314.03 of the Revised Code.

(9) "All-day kindergarten" has the same meaning as in section 3317.029 of the Revised Code.

(10) "SF-3 payment" means the sum of the payments to a school district in a fiscal year under divisions (A), (C)(1), (C)(4), (D), (E), and (F) of section 3317.022, divisions (J), (P), and (R) of section 3317.024, and sections 3317.029, ~~3317.0212, 3317.0213,~~ 3317.0216, 3317.0217, 3317.04, 3317.05, 3317.052, and 3317.053 of the Revised Code after making the adjustments required by sections 3313.981 and 3313.979, divisions (B), (C), (D), (E), (K), (L), ~~and (M), (N), and (O)~~ of section 3317.023, and division (C) of section 3317.20 of the Revised Code.

(B) The state board of education shall adopt rules requiring both of the following:

(1) The board of education of each city, exempted village, and local school district to annually report the number of students entitled to attend school in the district who are enrolled in grades one through twelve in a community school established under this chapter, the number of students entitled to attend school in the district who are enrolled in kindergarten in a community school, the number of those kindergartners who are enrolled in all-day kindergarten in their community school, and for each child, the community school in which the child is enrolled.

(2) The governing authority of each community school established under this chapter to annually report all of the following:

(a) The number of students enrolled in grades one through twelve and the number of students enrolled in kindergarten in the school who are not receiving special education and related services pursuant to an IEP;

(b) The number of enrolled students in grades one through twelve and the number of enrolled students in kindergarten, who are receiving special education and related services pursuant to an IEP;

(c) The number of students reported under division (B)(2)(b) of this

section receiving special education and related services pursuant to an IEP for a handicap described in each of divisions (A) to (F) of section 3317.013 of the Revised Code;

(d) The full-time equivalent number of students reported under divisions (B)(2)(a) and (b) of this section who are enrolled in vocational education programs or classes described in each of divisions (A) and (B) of section 3317.014 of the Revised Code that are provided by the community school;

(e) Twenty per cent of the number of students reported under divisions (B)(2)(a) and (b) of this section who are not reported under division (B)(2)(d) of this section but who are enrolled in vocational education programs or classes described in each of divisions (A) and (B) of section 3317.014 of the Revised Code at a joint vocational school district under a contract between the community school and the joint vocational school district and are entitled to attend school in a city, local, or exempted village school district whose territory is part of the territory of the joint vocational district;

(f) The number of enrolled preschool handicapped students receiving special education services in a state-funded unit;

(g) The community school's base formula amount;

(h) For each student, the city, exempted village, or local school district in which the student is entitled to attend school;

(i) Any ~~DPIA~~ poverty-based assistance reduction factor that applies to a school year.

(C) From the SF-3 payment made to a city, exempted village, or local school district and, if necessary, from the payment made to the district under sections 321.24 and 323.156 of the Revised Code, the department of education shall annually subtract the sum of the amounts described in divisions (C)(1) to ~~(6)(9)~~ of this section. However, when deducting payments on behalf of students enrolled in internet- or computer-based community schools, the department shall deduct only those amounts described in divisions (C)(1) and (2) of this section. Furthermore, the aggregate amount deducted under this division shall not exceed the sum of the district's SF-3 payment and its payment under sections 321.24 and 323.156 of the Revised Code.

(1) An amount equal to the sum of the amounts obtained when, for each community school where the district's students are enrolled, the number of the district's students reported under divisions (B)(2)(a), (b), and (e) of this section who are enrolled in grades one through twelve, and one-half the number of students reported under those divisions who are enrolled in kindergarten, in that community school is multiplied by the greater of the

following:

(a) The fiscal year 2005 base formula amount of that community school as adjusted by the school district's fiscal year 2005 cost-of-doing-business factor;

(b) The sum of (the current base formula amount of that community school times the school district's current cost-of-doing-business factor) plus the per pupil amount of the base funding supplements specified in divisions (C)(1) to (4) of section 3317.012 of the Revised Code.

(2) The sum of the amounts calculated under divisions (C)(2)(a) and (b) of this section:

(a) For each of the district's students reported under division (B)(2)(c) of this section as enrolled in a community school in grades one through twelve and receiving special education and related services pursuant to an IEP for a handicap described in section 3317.013 of the Revised Code, the product of the applicable special education weight times the community school's base formula amount;

(b) For each of the district's students reported under division (B)(2)(c) of this section as enrolled in kindergarten in a community school and receiving special education and related services pursuant to an IEP for a handicap described in section 3317.013 of the Revised Code, one-half of the amount calculated as prescribed in division (C)(2)(a) of this section.

(3) For each of the district's students reported under division (B)(2)(d) of this section for whom payment is made under division (D)(4) of this section, the amount of that payment;

(4) An amount equal to the sum of the amounts obtained when, for each community school where the district's students are enrolled, the number of the district's students enrolled in that community school who are included in the district's ~~DPIA poverty~~ student count is multiplied by the per pupil amount of ~~disadvantaged pupil impact aid~~ poverty-based assistance the school district receives that year pursuant to division (B) or (C) of section 3317.029 of the Revised Code, as adjusted by any ~~DPIA poverty-based assistance~~ reduction factor of that community school. If the district receives ~~disadvantaged pupil impact aid~~ poverty-based assistance under division (B) of that section, the per pupil amount of that aid is the quotient of the amount the district received under that division divided by the district's ~~DPIA poverty~~ student count, as defined in that section. If the district receives ~~disadvantaged pupil impact aid~~ poverty-based assistance under division (C) of section 3317.029 of the Revised Code, the per pupil amount of that aid is ~~the per pupil dollar amount prescribed for the district in division (C)(1) or (2) of that section~~ shall be calculated by the department.

(5) An amount equal to the sum of the amounts obtained when, for each community school where the district's students are enrolled, the district's per pupil amount of aid received under division (E) of section 3317.029 of the Revised Code, as adjusted by any ~~DPIA~~ poverty-based assistance reduction factor of the community school, is multiplied by the sum of the following:

(a) The number of the district's students reported under division (B)(2)(a) of this section who are enrolled in grades one to three in that community school and who are not receiving special education and related services pursuant to an IEP;

(b) One-half of the district's students who are enrolled in all-day or any other kindergarten class in that community school and who are not receiving special education and related services pursuant to an IEP;

(c) One-half of the district's students who are enrolled in all-day kindergarten in that community school and who are not receiving special education and related services pursuant to an IEP.

The district's per pupil amount of aid under division (E) of section 3317.029 of the Revised Code is the quotient of the amount the district received under that division divided by the district's kindergarten through third grade ADM, as defined in that section.

(6) An amount equal to the sum of the amounts obtained when, for each community school where the district's students are enrolled, the district's per pupil amount received under division (F) of section 3317.029 of the Revised Code, as adjusted by any poverty-based assistance reduction factor of that community school, is multiplied by the number of the district's students enrolled in the community school who are identified as limited-English proficient.

The district's per pupil amount under division (F) of section 3317.029 of the Revised Code is the amount calculated under division (F)(1) or (2) of that section, times a multiple of 0.40 in fiscal year 2006 and 0.70 in fiscal year 2007.

(7) An amount equal to the sum of the amounts obtained when, for each community school where the district's students are enrolled, the district's per pupil amount received under division (G) of section 3317.029 of the Revised Code, as adjusted by any poverty-based assistance reduction factor of that community school, is multiplied by the sum of the following:

(a) The number of the district's students enrolled in grades one through twelve in that community school;

(b) One-half of the number of the district's students enrolled in kindergarten in that community school.

The district's per pupil amount under division (G) of section 3317.029

of the Revised Code is the district's amount per teacher calculated under division (G)(1) or (2) of that section divided by 17, times a multiple of 0.40 in fiscal year 2006 and 0.70 in fiscal year 2007.

(8) An amount equal to the sum of the amounts obtained when, for each community school where the district's students are enrolled, the district's per pupil amount received under divisions (H) and (I) of section 3317.029 of the Revised Code, as adjusted by any poverty-based assistance reduction factor of that community school, is multiplied by the sum of the following:

(a) The number of the district's students enrolled in grades one through twelve in that community school;

(b) One-half of the number of the district's students enrolled in kindergarten in that community school.

The district's per pupil amount under divisions (H) and (I) of section 3317.029 of the Revised Code is the amount calculated under each division divided by the district's formula ADM, as defined in section 3317.02 of the Revised Code.

(9) An amount equal to the per pupil state parity aid funding calculated for the school district under either division (C) or (D) of section 3317.0217 of the Revised Code multiplied by the sum of the number of students in grades one through twelve, and one-half of the number of students in kindergarten, who are entitled to attend school in the district and are enrolled in a community school as reported under division (B)(1) of this section.

(D) The department shall annually pay to a community school established under this chapter the sum of the amounts described in divisions (D)(1) to ~~(7)~~(10) of this section. However, the department shall calculate and pay to each internet- or computer-based community school only the amounts described in divisions (D)(1) to (3) of this section. Furthermore, the sum of the payments to all community schools under divisions (D)(1), (2), and (4), ~~(5), (6), and (7) to (10)~~ of this section for the students entitled to attend school in any particular school district shall not exceed the sum of that district's SF-3 payment and its payment under sections 321.24 and 323.156 of the Revised Code. If the sum of the payments calculated under those divisions for the students entitled to attend school in a particular school district exceeds the sum of that district's SF-3 payment and its payment under sections 321.24 and 323.156 of the Revised Code, the department shall calculate and apply a proration factor to the payments to all community schools under those divisions for the students entitled to attend school in that district.

(1) ~~An~~ Subject to section 3314.085 of the Revised Code, an amount

equal to the sum of the amounts obtained when the number of students enrolled in grades one through twelve, plus one-half of the kindergarten students in the school, reported under divisions (B)(2)(a), (b), and (e) of this section who are not receiving special education and related services pursuant to an IEP for a handicap described in section 3317.013 of the Revised Code is multiplied by the greater of the following:

(a) The community school's fiscal year 2005 base formula amount, as adjusted by the fiscal year 2005 cost-of-doing-business factor of the school district in which the student is entitled to attend school;

(b) The sum of (the community school's current base formula amount times the current cost-of-doing-business factor of the school district in which the student is entitled to attend school) plus the per pupil amount of the base funding supplements specified in divisions (C)(1) to (4) of section 3317.012 of the Revised Code.

(2) The Prior to fiscal year 2007, the greater of the following amount calculated under division (D)(2)(a) or (b) of this section, and in fiscal year 2007 and thereafter, the amount calculated under division (D)(2)(b) of this section:

(a) The aggregate amount that the department paid to the community school in fiscal year 1999 for students receiving special education and related services pursuant to IEPs, excluding federal funds and state disadvantaged pupil impact aid funds;

(b) The sum of the amounts calculated under divisions (D)(2)(b)(i) and (ii) of this section:

(i) For each student reported under division (B)(2)(c) of this section as enrolled in the school in grades one through twelve and receiving special education and related services pursuant to an IEP for a handicap described in section 3317.013 of the Revised Code, the following amount:

the greater of (the community school's fiscal year 2005 base formula amount

X the fiscal year 2005 cost-of-doing-business factor  
of the district where the student

is entitled to attend school) or [(the school's current base formula amount times the current cost-of-doing-business factor of the school district where the student is entitled to attend school) plus the per pupil amount of the base funding supplements specified in divisions (C)(1) to (4) of section 3317.012 of the Revised Code] +

(the applicable special education weight X  
the community school's base formula amount);

(ii) For each student reported under division (B)(2)(c) of this section as enrolled in kindergarten and receiving special education and related services

pursuant to an IEP for a handicap described in section 3317.013 of the Revised Code, one-half of the amount calculated under the formula prescribed in division (D)(2)(b)(i) of this section.

(3) An amount received from federal funds to provide special education and related services to students in the community school, as determined by the superintendent of public instruction.

(4) For each student reported under division (B)(2)(d) of this section as enrolled in vocational education programs or classes that are described in section 3317.014 of the Revised Code, are provided by the community school, and are comparable as determined by the superintendent of public instruction to school district vocational education programs and classes eligible for state weighted funding under section 3317.014 of the Revised Code, an amount equal to the applicable vocational education weight times the community school's base formula amount times the percentage of time the student spends in the vocational education programs or classes.

(5) An amount equal to the sum of the amounts obtained when, for each school district where the community school's students are entitled to attend school, the number of that district's students enrolled in the community school who are included in the district's ~~DPIA~~ poverty student count is multiplied by the per pupil amount of ~~disadvantaged pupil impact aid~~ poverty-based assistance that school district receives that year pursuant to division (B) or (C) of section 3317.029 of the Revised Code, as adjusted by any ~~DPIA~~ poverty-based assistance reduction factor of the community school. The per pupil amount of aid shall be determined as described in division (C)(4) of this section.

(6) An amount equal to the sum of the amounts obtained when, for each school district where the community school's students are entitled to attend school, the district's per pupil amount of aid received under division (E) of section 3317.029 of the Revised Code, as adjusted by any ~~DPIA~~ poverty-based assistance reduction factor of the community school, is multiplied by the sum of the following:

(a) The number of the district's students reported under division (B)(2)(a) of this section who are enrolled in grades one to three in that community school and who are not receiving special education and related services pursuant to an IEP;

(b) One-half of the district's students who are enrolled in all-day or any other kindergarten class in that community school and who are not receiving special education and related services pursuant to an IEP;

(c) One-half of the district's students who are enrolled in all-day kindergarten in that community school and who are not receiving special

education and related services pursuant to an IEP.

The district's per pupil amount of aid under division (E) of section 3317.029 of the Revised Code shall be determined as described in division (C)(5) of this section.

(7) An amount equal to the sum of the amounts obtained when, for each school district where the community school's students are entitled to attend school, the number of that district's students enrolled in the community school who are identified as limited-English proficient is multiplied by the district's per pupil amount received under division (F) of section 3317.029 of the Revised Code, as adjusted by any poverty-based assistance reduction factor of the community school.

The district's per pupil amount under division (F) of section 3317.029 of the Revised Code shall be determined as described in division (C)(6) of this section.

(8) An amount equal to the sum of the amounts obtained when, for each school district where the community school's students are entitled to attend school, the district's per pupil amount received under division (G) of section 3317.029 of the Revised Code, as adjusted by any poverty-based assistance reduction factor of the community school, is multiplied by the sum of the following:

(a) The number of the district's students enrolled in grades one through twelve in that community school;

(b) One-half of the number of the district's students enrolled in kindergarten in that community school.

The district's per pupil amount under division (G) of section 3317.029 of the Revised Code shall be determined as described in division (C)(7) of this section.

(9) An amount equal to the sum of the amounts obtained when, for each school district where the community school's students are entitled to attend school, the district's per pupil amount received under divisions (H) and (I) of section 3317.029 of the Revised Code, as adjusted by any poverty-based assistance reduction factor of the community school, is multiplied by the sum of the following:

(a) The number of the district's students enrolled in grades one through twelve in that community school;

(b) One-half of the number of the district's students enrolled in kindergarten in that community school.

The district's per pupil amount under divisions (H) and (I) of section 3317.029 of the Revised Code shall be determined as described in division (C)(8) of this section.



(10) An amount equal to the sum of the amounts obtained when, for each school district where the community school's students are entitled to attend school, the district's per pupil amount of state parity aid funding calculated under either division (C) or (D) of section 3317.0217 of the Revised Code is multiplied by the sum of the number of that district's students enrolled in grades one through twelve, and one-half of the number of that district's students enrolled in kindergarten, in the community school as reported under division (B)(2)(a) and (b) of this section.

(E)(1) If a community school's costs for a fiscal year for a student receiving special education and related services pursuant to an IEP for a handicap described in divisions (B) to (F) of section 3317.013 of the Revised Code exceed the threshold catastrophic cost for serving the student as specified in division (C)(3)(b) of section 3317.022 of the Revised Code, the school may submit to the superintendent of public instruction documentation, as prescribed by the superintendent, of all its costs for that student. Upon submission of documentation for a student of the type and in the manner prescribed, the department shall pay to the community school an amount equal to the school's costs for the student in excess of the threshold catastrophic costs.

(2) The community school shall only report under division (E)(1) of this section, and the department shall only pay for, the costs of educational expenses and the related services provided to the student in accordance with the student's individualized education program. Any legal fees, court costs, or other costs associated with any cause of action relating to the student may not be included in the amount.

(F) A community school may apply to the department of education for preschool handicapped or gifted unit funding the school would receive if it were a school district. Upon request of its governing authority, a community school that received unit funding as a school district-operated school before it became a community school shall retain any units awarded to it as a school district-operated school provided the school continues to meet eligibility standards for the unit.

A community school shall be considered a school district and its governing authority shall be considered a board of education for the purpose of applying to any state or federal agency for grants that a school district may receive under federal or state law or any appropriations act of the general assembly. The governing authority of a community school may apply to any private entity for additional funds.

(G) A board of education sponsoring a community school may utilize local funds to make enhancement grants to the school or may agree, either

as part of the contract or separately, to provide any specific services to the community school at no cost to the school.

(H) A community school may not levy taxes or issue bonds secured by tax revenues.

(I) No community school shall charge tuition for the enrollment of any student.

(J)(1)(a) A community school may borrow money to pay any necessary and actual expenses of the school in anticipation of the receipt of any portion of the payments to be received by the school pursuant to division (D) of this section. The school may issue notes to evidence such borrowing. The proceeds of the notes shall be used only for the purposes for which the anticipated receipts may be lawfully expended by the school.

(b) A school may also borrow money for a term not to exceed fifteen years for the purpose of acquiring facilities.

(2) Except for any amount guaranteed under section 3318.50 of the Revised Code, the state is not liable for debt incurred by the governing authority of a community school.

(K) For purposes of determining the number of students for which divisions (D)(5) and (6) of this section applies in any school year, a community school may submit to the department of job and family services, no later than the first day of March, a list of the students enrolled in the school. For each student on the list, the community school shall indicate the student's name, address, and date of birth and the school district where the student is entitled to attend school. Upon receipt of a list under this division, the department of job and family services shall determine, for each school district where one or more students on the list is entitled to attend school, the number of students residing in that school district who were included in the department's report under section 3317.10 of the Revised Code. The department shall make this determination on the basis of information readily available to it. Upon making this determination and no later than ninety days after submission of the list by the community school, the department shall report to the state department of education the number of students on the list who reside in each school district who were included in the department's report under section 3317.10 of the Revised Code. In complying with this division, the department of job and family services shall not report to the state department of education any personally identifiable information on any student.

(L) The department of education shall adjust the amounts subtracted and paid under divisions (C) and (D) of this section to reflect any enrollment of students in community schools for less than the equivalent of a full school

year. The state board of education within ninety days after April 8, 2003, shall adopt in accordance with Chapter 119. of the Revised Code rules governing the payments to community schools under this section including initial payments in a school year and adjustments and reductions made in subsequent periodic payments to community schools and corresponding deductions from school district accounts as provided under divisions (C) and (D) of this section. For purposes of this section:

(1) A student shall be considered enrolled in the community school for any portion of the school year the student is participating at a college under Chapter 3365. of the Revised Code.

(2) A student shall be considered to be enrolled in a community school during a school year for the period of time ~~between~~ beginning on the later of the date on which the school both has received documentation of the student's enrollment from a parent and the student has commenced participation in learning opportunities as defined in the contract with the sponsor, or thirty days prior to the date on which the student is entered into the education management information system established under section 3301.0714 of the Revised Code. For purposes of applying this division to a community school student, "learning opportunities" shall be defined in the contract, which shall describe both classroom-based and non-classroom-based learning opportunities and shall be in compliance with criteria and documentation requirements for student participation which shall be established by the department. Any student's instruction time in non-classroom-based learning opportunities shall be certified by an employee of the community school. A student's enrollment shall be considered to cease on the date on which any of the following occur:

(a) The community school receives documentation from a parent terminating enrollment of the student.

(b) The community school is provided documentation of a student's enrollment in another public or private school.

(c) The community school ceases to offer learning opportunities to the student pursuant to the terms of the contract with the sponsor or the operation of any provision of this chapter.

(3) A student's percentage of full-time equivalency shall be considered to be the percentage the hours of learning opportunity offered to that student is of nine hundred and twenty hours. However, no internet- or computer-based community school shall be credited for any time a student spends participating in learning opportunities beyond ten hours within any period of twenty-four consecutive hours.

(M) The department of education shall reduce the amounts paid under

division (D) of this section to reflect payments made to colleges under division (B) of section 3365.07 of the Revised Code.

(N)(1) No student shall be considered enrolled in any internet- or computer-based community school or, if applicable to the student, in any community school that is required to provide the student with a computer pursuant to division (C) of section 3314.22 of the Revised Code, unless both of the following conditions are satisfied:

(a) The student possesses or has been provided with all required hardware and software materials and all such materials are operational so that the student is capable of fully participating in the learning opportunities specified in the contract between the school and the school's sponsor as required by division (A)(23) of section 3314.03 of the Revised Code;

(b) The school is in compliance with division (A)(1) or (2) of section ~~3314.032~~ 3314.22 of the Revised Code, relative to such student.

(2) In accordance with policies adopted jointly by the superintendent of public instruction and the auditor of state, the department shall reduce the amounts otherwise payable under division (D) of this section to any ~~internet- or computer-based~~ community school that includes in its program the provision of computer hardware and software materials to ~~each~~ any student, if such hardware and software materials have not been delivered, installed, and activated for ~~all students~~ each such student in a timely manner or other educational materials or services have not been provided according to the contract between the individual community school and its sponsor.

The superintendent of public instruction and the auditor of state shall jointly establish a method for auditing any community school to which this division pertains to ensure compliance with this section.

The superintendent, auditor of state, and the governor shall jointly make recommendations to the general assembly for legislative changes that may be required to assure fiscal and academic accountability for such ~~internet- or computer-based~~ schools.

(O)(1) If the department determines that a review of a community school's enrollment is necessary, such review shall be completed and written notice of the findings shall be provided to the governing authority of the community school and its sponsor within ninety days of the end of the community school's fiscal year, unless extended for a period not to exceed thirty additional days for one of the following reasons:

(a) The department and the community school mutually agree to the extension.

(b) Delays in data submission caused by either a community school or its sponsor.

(2) If the review results in a finding that additional funding is owed to the school, such payment shall be made within thirty days of the written notice. If the review results in a finding that the community school owes moneys to the state, the following procedure shall apply:

(a) Within ten business days of the receipt of the notice of findings, the community school may appeal the department's determination to the state board of education or its designee.

(b) The board or its designee shall conduct an informal hearing on the matter within thirty days of receipt of such an appeal and shall issue a decision within fifteen days of the conclusion of the hearing.

(c) If the board has enlisted a designee to conduct the hearing, the designee shall certify its decision to the board. The board may accept the decision of the designee or may reject the decision of the designee and issue its own decision on the matter.

(d) Any decision made by the board under this division is final.

(3) If it is decided that the community school owes moneys to the state, the department shall deduct such amount from the school's future payments in accordance with guidelines issued by the superintendent of public instruction.

Sec. 3314.084. (A) As used in this section:

(1) "Formula ADM" has the same meaning as in section 3317.03 of the Revised Code.

(2) "Home" has the same meaning as in section 3313.64 of the Revised Code.

(3) "School district of residence" has the same meaning as in section 3323.01 of the Revised Code; however, a community school established under this chapter is not a "school district of residence" for purposes of this section.

(B) Notwithstanding anything to the contrary in section 3314.08 or 3317.03 of the Revised Code, all of the following apply in the case of a child who is enrolled in a community school and is also living in a home:

(1) For purposes of the report required under division (B)(1) of section 3314.08 of the Revised Code, the child's school district of residence, and not the school district in which the home that the child is living in is located, shall be considered to be the school district in which the child is entitled to attend school. That school district of residence, therefore, shall make the report required under division (B)(1) of section 3314.08 of the Revised Code with respect to the child.

(2) For purposes of the report required under division (B)(2) of section 3314.08 of the Revised Code, the community school shall report the name

of the child's school district of residence.

(3) The child's school district of residence shall count the child in that district's formula ADM.

(4) The school district in which the home that the child is living in is located shall not count the child in that district's formula ADM.

(5) The Department of Education shall deduct the applicable amounts prescribed under division (C) of section 3314.08 and division (D) of section 3314.13 of the Revised Code from the child's school district of residence and shall not deduct those amounts from the school district in which the home that the child is living in is located.

(6) The Department shall make the payments prescribed in divisions (D) and (E) of section 3314.08 and section 3314.13 of the Revised Code, as applicable, to the community school.

Sec. 3314.085. (A) In each fiscal year beginning in fiscal year 2007, each internet- or computer-based community school shall spend for pupil instruction at least the amount per pupil designated in division (B)(1) of section 3317.012 of the Revised Code as the amount for base classroom teachers. For this purpose, expenditures for pupil instruction include expenditures for teachers, curriculum, academic materials other than computers, and any other instructional purposes designated in the rules adopted under this section. Expenditures to provide the computer hardware and filtering software required by sections 3314.21 and 3314.22 of the Revised Code do not qualify as pupil instruction for purposes of this section.

(B) Beginning in fiscal year 2007, each internet- or computer-based community school annually shall report data to the department of education concerning its expenditures for pupil instruction. Each school shall report the data in the form and manner required by the department.

(C) If the department determines, after offering the school an opportunity for a hearing in accordance with Chapter 119. of the Revised Code, that an internet- or computer-based community school has failed in any fiscal year to comply with division (A) or (B) of this section, the department shall assess a fine against the school equivalent to the greater of the following:

(1) Five per cent of the total state payments to the school under this chapter for the fiscal year in which the failure occurred;

(2) The difference between the amount the department determines the school was required to have spent for pupil instruction and the amount the department determines the school actually spent for pupil instruction.

The department's methods of collecting the fine may include withholding state payments under this chapter in the current or subsequent

fiscal year.

The department may cancel a fine it has imposed under this section if the school submits a plan for coming into compliance with the requirements of this section that the department approves, and the school demonstrates to the department's satisfaction that it is implementing the plan.

(D) The superintendent of public instruction shall adopt rules in accordance with Chapter 119. of the Revised Code specifying expenditures that qualify as expenditures for pupil instruction for purposes of this section.

Sec. 3314.12. On or before the first day of November each year, the sponsor of each community school established under this chapter shall submit to the department of education, in accordance with guidelines adopted by the department for purposes of this section, a report that describes the special education and related services provided by that school to enrolled students during the previous fiscal year and the school's expenditures for those services.

Sec. 3314.13. (A) As used in this section:

(1) "All-day kindergarten" has the same meaning as in section 3317.029 of the Revised Code.

(2) "Formula amount" has the same meaning as in section 3317.02 of the Revised Code.

(B) The Except as provided in division (C) of this section, the department of education annually shall pay each community school established under this chapter one-half of the formula amount for each student to whom both of the following apply:

(1) The student is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code in a school district that is eligible to receive a payment under division (D) of section 3317.029 of the Revised Code if it provides all-day kindergarten;

(2) The student is reported by the community school as enrolled in all-day kindergarten at the community school.

(C) The department shall make no payments under this section to any internet- or computer-based community school.

(D) If a student for whom payment is made under division (B) of this section is entitled to attend school in a district that receives any payment for all-day kindergarten under division (D) of section 3317.029 of the Revised Code, the department shall deduct the payment to the community school under this section from the amount paid that school district under that division. If that school district does not receive payment for all-day kindergarten under that division because it does not provide all-day kindergarten, the department shall pay the community school from state

funds appropriated generally for ~~disadvantaged pupil impact aid~~ poverty-based assistance to school districts.

~~(D)~~(E) The department shall adjust the amounts deducted from school districts and paid to community schools under this section to reflect any enrollments of students in all-day kindergarten in community schools for less than the equivalent of a full school year.

Sec. ~~3314.031~~ 3314.21. (A) As used in this section:

(1) "Harmful to juveniles" has the same meaning as in section 2907.01 of the Revised Code.

(2) "Obscene" has the same meaning as in division (F) of section 2907.01 of the Revised Code as that division has been construed by the supreme court of this state.

(3) "Teacher of record" means a teacher who is responsible for the overall academic development and achievement of a student and not merely the student's instruction in any single subject.

~~(B)~~(1) It is the intent of the general assembly that teachers employed by internet- or computer-based community schools conduct visits with their students in person throughout the school year .

(2) Each internet- or computer-based community school shall retain an affiliation with at least one full-time teacher of record licensed in accordance with division (A)(10) of section 3314.03 of the Revised Code.

(3) Each student enrolled in an internet- or computer-based community school shall be assigned to at least one teacher of record. No teacher of record shall be primarily responsible for the academic development and achievement of more than one hundred twenty-five students enrolled in the internet- or computer-based community school that has retained that teacher.

(C) For any internet- or computer-based community school, the contract between the sponsor and the governing authority of the school described in section 3314.03 of the Revised Code shall specify each of the following:

(1) A requirement that the school use a filtering device or install filtering software that protects against internet access to materials that are obscene or harmful to juveniles on each computer provided to students for instructional use. The school shall provide such device or software at no cost to any student who works primarily from the student's residence on a computer obtained from a source other than the school.

(2) A plan for fulfilling the intent of the general assembly specified in division ~~(B)~~(1) of this section. The plan shall indicate the number of times teachers will visit each student throughout the school year and the manner in which those visits will be conducted.

(3) That the school will set up a central base of operation and the



sponsor will maintain a representative within fifty miles of that base of operation to provide monitoring and assistance.

Sec. ~~3314.032~~ 3314.22. (A)(1) Each child enrolled in an internet- or computer-based community school is entitled to a computer supplied by the school. In no case shall an internet- or computer-based community school provide a stipend or other substitute to an enrolled child or the child's parent in lieu of supplying a computer to the child. The prohibition contained in the preceding sentence is intended to clarify the meaning of this division as it existed prior to the effective date of this amendment and is not intended to change that meaning in any way.

(2) Notwithstanding division (A)(1) of this section, if more than one child living in a single ~~household~~ residence is enrolled in an internet- or computer-based community school, at the option of the parent of those children, the school may supply less than one computer per child, as long as at least one computer is supplied to the ~~household~~ residence. The parent may amend the decision to accept less than one computer per child anytime during the school year, and, in such case, within thirty days after the parent notifies the school of such amendment, the school shall provide any additional computers requested by the parent up to the number necessary to comply with division (A)(1) of this section.

(B) Each internet- or computer-based community school shall provide to each parent who is considering enrolling the parent's child in the school and to the parent of each child already enrolled in the school a written notice of the provisions prescribed in divisions (A)(1) and (2) of this section.

(C) If a community school that is not an internet- or computer-based community school provides any of its enrolled students with nonclassroom-based learning opportunities provided via an internet- or other computer-based instructional method and requires such students to participate in any of those learning opportunities from their residences, the school shall be subject to this section and division (C)(1) of section 3314.21 of the Revised Code relative to each such student in the same manner as an internet- or computer-based community school, unless both of the following conditions apply to the student:

(1) The nonclassroom-based learning opportunities in which the student is required to participate from the student's residence are supplemental in nature or do not constitute a significant portion of the total classroom-based and nonclassroom-based learning opportunities provided to the student by the school;

(2) The student's residence is equipped with a computer available for the student's use.

Sec. ~~3314.034~~ 3314.24. (A) On or after July 1, 2004, no internet- or computer-based community school shall enter into a contract with a nonpublic school to use or rent any facility space at the nonpublic school for the provision of instructional services to students enrolled in the internet- or computer-based community school.

(B) If, on or after July 1, 2004, an internet- or computer-based community school has a contract with a nonpublic school as described in division (A) of this section, the department of education shall not make any payments under section 3314.08 of the Revised Code to the internet- or computer-based community school for any student who is enrolled in the internet- or computer-based community school and receives any instructional services from the internet- or computer-based community school at the nonpublic school.

Sec. 3314.25. Each internet- or computer-based community school shall provide its students a location within a fifty-mile radius of the student's residence at which to complete the statewide achievement tests and diagnostic assessments prescribed under sections 3301.079 and 3301.0710 of the Revised Code.

Sec. 3314.26. (A) Each internet- or computer-based community school shall withdraw from the school any student who, for two consecutive school years, has failed to participate in the spring administration of any test prescribed under section 3301.0710 or 3301.0712 of the Revised Code for the student's grade level and was not excused from the test pursuant to division (C)(1) or (3) of section 3301.0711 of the Revised Code. The school shall report any such student's data verification code, as assigned pursuant to section 3301.0714 of the Revised Code, to the department of education. The department shall maintain a list of all data verification codes reported under this division and section 3313.6410 of the Revised Code and provide that list to each internet- or computer-based community school and to each school to which section 3313.6410 of the Revised Code applies.

(B) No internet- or computer-based community school shall receive any state funds under this chapter for any enrolled student whose data verification code appears on the list maintained by the department under division (A) of this section.

Notwithstanding any provision of the Revised Code to the contrary, the parent of any such student shall pay tuition to the internet- or computer-based community school in an amount equal to the state funds the school otherwise would receive for that student, as determined by the department. An internet- or computer-based community school may withdraw any student for whom the parent does not pay tuition as required

by this division.

Sec. 3314.27. No student enrolled in an internet- or computer-based community school may participate in more than ten hours of learning opportunities in any period of twenty-four consecutive hours. Any time such a student participates in learning opportunities beyond the limit prescribed in this section shall not count toward the annual minimum number of hours required to be provided to that student as prescribed in division (A)(11)(a) of section 3314.03 of the Revised Code. If any internet- or computer-based community school requires its students to participate in learning opportunities on the basis of days rather than hours, one day shall consist of a minimum of five hours of such participation.

Sec. 3314.28. (A) Each internet- or computer-based community school established under this chapter shall submit to the school's sponsor a plan for providing special education and related services to disabled students enrolled in the school in accordance with division (A)(1) or (2) of this section.

(1) If the school was established prior to the effective date of this section, the plan shall be submitted to the sponsor on or before September 1, 2005, and on or before the first day of September in each year thereafter that the school is in operation.

(2) If the school is established after the effective date of this section, the plan shall be submitted to the sponsor prior to the school's receipt of its first payment under this chapter and on or before the first day of September in each year thereafter that the school is in operation.

(B) Within thirty days after receiving the plan prescribed in division (A) of this section, the sponsor of each internet- or computer-based community school shall certify all of the following to the department of education:

(1) A statement of whether the plan received is satisfactory to the sponsor;

(2) If the plan received is not satisfactory to the sponsor, the sponsor's assurance that it will promptly assist the school in developing a plan that is satisfactory to the sponsor;

(3) The sponsor's assurance that it will monitor the implementation of the plan;

(4) The sponsor's assurance that it will take any necessary corrective action to ensure that the school's plan is properly and fully implemented.

(C) The department shall develop guidelines for the content and format of the plan required under this section.

Sec. 3314.35. (A) This section applies to any community school established under this chapter that meets one or more of the following

criteria:

(1) The school is declared to be in need of continuous improvement, under an academic watch, or in a state of academic emergency pursuant to section 3302.03 of the Revised Code.

(2) The school has not been in operation for at least two full school years.

(3) The school does not offer any grade level for which an achievement test is prescribed under section 3301.0710 of the Revised Code or the number of students enrolled in each grade level offered by the school for which an achievement test is prescribed is too small to yield statistically reliable data about student performance, as determined by the department of education.

(B) Beginning in the 2006-2007 school year, each community school to which this section applies shall administer a reading and mathematics assessment approved by the department in the fall and spring of the school year to each student who is enrolled in any of grades one through twelve to measure the academic progress made by students during the school year. For each grade level, the community school shall administer the same assessment in the spring that the school administers in the fall.

(C) Each community school that administers the assessments required by division (B) of this section shall be responsible for all costs associated with the administration and scoring of the assessments. Each community school shall report the scores of all students taking the assessments to the department in a manner prescribed by the department.

(D) The department shall establish a list of nationally normed assessments in reading and mathematics that it approves for use by community schools under this section. The department may approve assessments in other subject areas, but no community school shall be required to administer an assessment in a subject area other than reading or mathematics under this section.

(E) The sponsor of any community school to which this section does not apply may elect to have the school administer reading and mathematics assessments in accordance with this section.

Sec. 3314.36. (A) Not later than July 1, 2006, the state board of education shall adopt rules establishing reasonable standards for expected gains in student achievement between the fall and spring administrations of the reading and mathematics assessments administered under section 3314.35 of the Revised Code and for expected gains in the graduation rate.

(B) Any community school that is declared to be under an academic watch or in a state of academic emergency pursuant to section 3302.03 of

the Revised Code after July 1, 2006, or to which division (A)(3) of section 3314.35 of the Revised Code applies shall be subject to division (C) of this section beginning the next school year if either of the following apply to the school:

(1) The percentage of the school's total student population showing the expected gains in student achievement established under division (A) of this section on the reading or mathematics assessments administered most recently under section 3314.35 of the Revised Code is less than fifty-five per cent.

(2) The school offers a high school diploma but is not showing the expected gains in the graduation rate established under division (A) of this section.

A community school that has been in operation for one school year shall not be subject to division (C) of this section.

(C)(1) In the first school year that a community school is subject to division (C) of this section, if the school is an internet- or computer-based community school, the school shall not enroll any students in excess of the number of students the school enrolled at the conclusion of the preceding school year.

(2) In the second consecutive school year that a community school is subject to division (C) of this section, if the school is an internet- or computer-based community school, the school shall do both of the following:

(a) Continue to comply with division (C)(1) of this section;

(b) Withdraw from the school at the conclusion of the school year any student for whom any of the following conditions apply, unless the student's parent agrees to pay tuition to the school in an amount equal to the state funds the school otherwise would receive for that student as determined by the department of education:

(i) For two consecutive school years, the student has taken the reading and mathematics assessments administered under section 3314.35 of the Revised Code but has failed to show the expected gains in student achievement established under division (A) of this section for both reading and mathematics.

(ii) For two consecutive school years, the student has not taken one or more of the reading and mathematics assessments described in division (C)(2)(b)(i) of this section.

(iii) For one of two consecutive school years, the student took the reading and mathematics assessments described in division (C)(2)(b)(i) of this section but failed to show the expected gains in student achievement

also described in that division for both reading and mathematics, and, for the other school year, the student did not take one or more of those assessments.

After the conclusion of the school year, the school shall not receive state funds for any student who is required to be withdrawn or for whom tuition is owed under division (C)(2)(b) of this section.

(3) In the third consecutive school year that any community school is subject to division (C) of this section, the following shall apply:

(a) If the school is an internet- or computer-based community school, the school shall continue to comply with division (C)(1)(a) of this section.

(b) The school shall be permanently closed at the conclusion of the school year.

(D) The sponsor of any community school that is declared to be in need of continuous improvement, effective, or excellent pursuant to section 3302.03 of the Revised Code and offers one or more grade levels for which an achievement test is prescribed under section 3301.0710 of the Revised Code may elect to evaluate the performance of the school in accordance with division (B) of this section, provided the school administers reading and mathematics assessments under section 3314.35 of the Revised Code. If the sponsor so elects, the evaluation method shall be used for a minimum of three school years and shall be specified in the contract required by section 3314.03 of the Revised Code. Nothing in this division requires the sponsor of a community school that elects to evaluate the school in accordance with division (B) of this section to take any action specified in division (C) of this section, unless the contract requires such action.

(E) In calculating the gains in student achievement demonstrated by a community school for the purposes of division (B) of this section, the department shall include the scores of all students who participated in the fall and spring administrations of the assessments administered under section 3314.35 of the Revised Code. If the school's participation rate for any grade level is less than ninety per cent, the department shall calculate the gains in academic achievement demonstrated by the students in that grade level as if the participation rate was ninety per cent by assuming a score of zero for each student that it is necessary to add to the participation rate to make that rate equal ninety per cent.

Sec. 3315.17. (A) The board of education of each city, exempted village, local, and joint vocational school district shall establish a textbook and instructional materials fund. Each board annually shall deposit into that fund an amount derived from revenues received by the district for operating expenses that is equal to three per cent of the formula amount for the preceding fiscal year, as defined in section 3317.02 of the Revised Code, or

another percentage if established by the auditor of state under division (C) of this section, multiplied by the district's student population for the preceding fiscal year. Money in the fund shall be used solely for textbooks, instructional software, and instructional materials, supplies, and equipment. Any money in the fund that is not used in any fiscal year shall carry forward to the next fiscal year.

(B)(1) Notwithstanding division (A) of this section, if in a fiscal year a district board deposits in the textbook and instructional materials fund an amount of money greater than the amount required to be deposited by this section or the rules adopted under division (C) of this section, the board may deduct the excess amount of money from the amount of money required to be deposited in succeeding fiscal years.

(2) Notwithstanding division (A) of this section, in any year a district is in fiscal emergency status as declared pursuant to section 3316.03 of the Revised Code, the district may deposit an amount less than required by division (A) of this section, or make no deposit, into the district textbook and instructional materials fund for that year.

(3) Notwithstanding division (A) of this section, in any fiscal year that a school district is either in fiscal watch status, as declared pursuant to section 3316.03 of the Revised Code, or in fiscal caution status, as declared pursuant to section 3316.031 of the Revised Code, the district may apply to the superintendent of public instruction for a waiver from the requirements of division (A) of this section, under which the district may be permitted to deposit an amount less than required by that division or permitted to make no deposit into the district textbook and instructional materials fund for that year. The superintendent may grant a waiver under division (B)(3) of this section if the district demonstrates to the satisfaction of the superintendent that compliance with division (A) of this section that year will create an undue financial hardship on the district.

(4) Notwithstanding division (A) of this section, not more often than one fiscal year in every three consecutive fiscal years, any school district that does not satisfy the conditions for the exemption described in division (B)(2) of this section or the conditions to apply for the waiver described in division (B)(3) of this section may apply to the superintendent of public instruction for a waiver from the requirements of division (A) of this section, under which the district may be permitted to deposit an amount less than required by that division or permitted to make no deposit into the district textbook and instructional materials fund for that year. The superintendent may grant a waiver under division (B)(4) of this section if the district demonstrates to the satisfaction of the superintendent that

compliance with division (A) of this section that year will necessitate the reduction or elimination of a program currently offered by the district that is critical to the academic success of students of the district and that no reasonable alternatives exist for spending reductions in other areas of operation within the district that negate the necessity of the reduction or elimination of that program.

(C) The state superintendent of public instruction and the auditor of state jointly shall adopt rules in accordance with Chapter 119. of the Revised Code defining what constitutes textbooks, instructional software, and instructional materials, supplies, and equipment for which money in a school district's textbook and instructional materials fund may be used. The auditor of state also may designate a percentage, other than three per cent, of the formula amount multiplied by the district's student population that must be deposited into the fund.

(D) Notwithstanding division (A) of this section, a district board of education in any fiscal year may appropriate money in the district textbook and instructional materials fund for purposes other than those permitted by that division if both of the following occur during that fiscal year:

(1) All of the following certify to the district board in writing that the district has sufficient textbooks, instructional software, and instructional materials, supplies, and equipment to ensure a thorough and efficient education within the district:

(a) The district superintendent;

(b) In districts required to have a business advisory council, a person designated by vote of the business advisory council;

(c) If the district teachers are represented by an exclusive bargaining representative for purposes of Chapter 4117. of the Revised Code, the president of that organization or the president's designee.

(2) The district board adopts, by unanimous vote of all members of the board, a resolution stating that the district has sufficient textbooks, instructional software, and instructional materials, supplies, and equipment to ensure a thorough and efficient education within the district.

(E) Notwithstanding any provision to the contrary in Chapter 4117. of the Revised Code, the requirements of this section prevail over any conflicting provisions of agreements between employee organizations and public employers entered into on or after November 21, 1997.

(F) As used in this section and in section 3315.18 of the Revised Code, "student population" means the average, daily, full-time-equivalent number of students in kindergarten through twelfth grade receiving any educational services from the school district during the first full school week in October,



excluding students enrolled in adult education classes, but including all of the following:

(1) Adjacent or other district students enrolled in the district under an open enrollment policy pursuant to section 3313.98 of the Revised Code;

(2) Students receiving services in the district pursuant to a compact, cooperative education agreement, or a contract, but who are entitled to attend school in another district pursuant to section 3313.64 or 3313.65 of the Revised Code;

(3) Students for whom tuition is payable pursuant to sections 3317.081 and 3323.141 of the Revised Code.

The department of education shall determine a district's student population using data reported to it under section 3317.03 of the Revised Code for the applicable fiscal year.

Sec. 3315.18. (A) The board of education of each city, exempted village, local, and joint vocational school district shall establish a capital and maintenance fund. Each board annually shall deposit into that fund an amount derived from revenues received by the district that would otherwise have been deposited in the general fund that is equal to three per cent of the formula amount for the preceding fiscal year, as defined in section 3317.02 of the Revised Code, or another percentage if established by the auditor of state under division (B) of this section, multiplied by the district's student population for the preceding fiscal year, except that money received from a permanent improvement levy authorized by section 5705.21 of the Revised Code may replace general revenue moneys in meeting the requirements of this section. Money in the fund shall be used solely for acquisition, replacement, enhancement, maintenance, or repair of permanent improvements, as that term is defined in section 5705.01 of the Revised Code. Any money in the fund that is not used in any fiscal year shall carry forward to the next fiscal year.

(B) The state superintendent of public instruction and the auditor of state jointly shall adopt rules in accordance with Chapter 119. of the Revised Code defining what constitutes expenditures permitted by division (A) of this section. The auditor of state may designate a percentage, other than three per cent, of the formula amount multiplied by the district's student population that must be deposited into the fund.

(C) Within its capital and maintenance fund, a school district board of education may establish a separate account solely for the purpose of depositing funds transferred from the district's reserve balance account established under former division (H) of section 5705.29 of the Revised Code. After ~~the effective date of this amendment~~ April 10, 2001, a board

may deposit all or part of the funds formerly included in such reserve balance account in the separate account established under this section. Funds deposited in this separate account and interest on such funds shall be utilized solely for the purpose of providing the district's portion of the basic project costs of any project undertaken in accordance with Chapter 3318. of the Revised Code.

(D) (1) Notwithstanding division (A) of this section, in any year a district is in fiscal emergency status as declared pursuant to section 3316.03 of the Revised Code, the district may deposit an amount less than required by division (A) of this section, or make no deposit, into the district capital and maintenance fund for that year.

(2) Notwithstanding division (A) of this section, in any fiscal year that a school district is either in fiscal watch status, as declared pursuant to section 3316.03 of the Revised Code, or in fiscal caution status, as declared pursuant to section 3316.031 of the Revised Code, the district may apply to the superintendent of public instruction for a waiver from the requirements of division (A) of this section, under which the district may be permitted to deposit an amount less than required by that division or permitted to make no deposit into the district capital and maintenance fund for that year. The superintendent may grant a waiver under division (D)(2) of this section if the district demonstrates to the satisfaction of the superintendent that compliance with division (A) of this section that year will create an undue financial hardship on the district.

(3) Notwithstanding division (A) of this section, not more often than one fiscal year in every three consecutive fiscal years, any school district that does not satisfy the conditions for the exemption described in division (D)(1) of this section or the conditions to apply for the waiver described in division (D)(2) of this section may apply to the superintendent of public instruction for a waiver from the requirements of division (A) of this section, under which the district may be permitted to deposit an amount less than required by that division or permitted to make no deposit into the district capital and maintenance fund for that year. The superintendent may grant a waiver under division (D)(3) of this section if the district demonstrates to the satisfaction of the superintendent that compliance with division (A) of this section that year will necessitate the reduction or elimination of a program currently offered by the district that is critical to the academic success of students of the district and that no reasonable alternatives exist for spending reductions in other areas of operation within the district that negate the necessity of the reduction or elimination of that program.

(E) Notwithstanding any provision to the contrary in Chapter 4117. of the Revised Code, the requirements of this section prevail over any conflicting provisions of agreements between employee organizations and public employers entered into after November 21, 1997.

Sec. 3315.37. The board of education of a school district may establish a teacher education loan program and may expend school funds for the program. The program shall be for the purpose of making loans to students who are residents of the school district or graduates of schools in the school district, who are enrolled in teacher preparation programs at institutions approved by the state board pursuant to section 3319.23 of the Revised Code, and who indicate an intent to teach in the school district providing the loan. The district board may forgive the obligation to repay any or all of the principal and interest on the loan if the borrower teaches in that school district.

The district board shall adopt rules establishing eligibility criteria, application procedures, procedures for review of applications, loan amounts, interest, repayment schedules, conditions under which principal and interest obligations incurred under the program will be forgiven, and any other matter incidental to the operation of the program.

The board may contract with a private, nonprofit foundation, one or more institutions of higher education, or other educational agencies to administer the program.

The receipt of a loan under this section does not affect a student's eligibility for assistance, or the amount of such assistance, granted under section 3315.33, 3333.12, 3333.122, 3333.22, 3333.26, 3333.27, 5910.04, or 5919.34 of the Revised Code, but the board's rules may provide for taking such assistance into consideration when determining a student's eligibility for a loan under this section.

Sec. 3316.043. Upon the approval by the superintendent of public instruction of an initial financial plan under section 3316.04 of the Revised Code or a financial recovery plan under section 3316.06 of the Revised Code, the board of education of the school district for which the plan was approved shall revise the district's five-year projection of revenues and expenditures in accordance with rules adopted under section 5705.391 of the Revised Code so that the five-year projection is consistent with the financial plan or financial recovery plan. In the case of a school district declared to be in a state of fiscal emergency, the five-year projection shall be revised by the financial planning and supervision commission for that district.

Sec. 3316.06. (A) Within one hundred twenty days after the first meeting of a school district financial planning and supervision commission,

the commission shall adopt a financial recovery plan regarding the school district for which the commission was created. During the formulation of the plan, the commission shall seek appropriate input from the school district board and from the community. This plan shall contain the following:

(1) Actions to be taken to:

(a) Eliminate all fiscal emergency conditions declared to exist pursuant to division (B) of section 3316.03 of the Revised Code;

(b) Satisfy any judgments, past-due accounts payable, and all past-due and payable payroll and fringe benefits;

(c) Eliminate the deficits in all deficit funds, except that any prior year deficits in the textbook and instructional materials fund established pursuant to section 3315.17 of the Revised Code and the capital and maintenance fund established pursuant to section 3315.18 of the Revised Code shall be forgiven;

(d) Restore to special funds any moneys from such funds that were used for purposes not within the purposes of such funds, or borrowed from such funds by the purchase of debt obligations of the school district with the moneys of such funds, or missing from the special funds and not accounted for, if any;

(e) Balance the budget, avoid future deficits in any funds, and maintain on a current basis payments of payroll, fringe benefits, and all accounts;

(f) Avoid any fiscal emergency condition in the future;

(g) Restore the ability of the school district to market long-term general obligation bonds under provisions of law applicable to school districts generally.

(2) The management structure that will enable the school district to take the actions enumerated in division (A)(1) of this section. The plan shall specify the level of fiscal and management control that the commission will exercise within the school district during the period of fiscal emergency, and shall enumerate respectively, the powers and duties of the commission and the powers and duties of the school board during that period. The commission may elect to assume any of the powers and duties of the school board it considers necessary, including all powers related to personnel, curriculum, and legal issues in order to successfully implement the actions described in division (A)(1) of this section.

(3) The target dates for the commencement, progress upon, and completion of the actions enumerated in division (A)(1) of this section and a reasonable period of time expected to be required to implement the plan. The commission shall prepare a reasonable time schedule for progress toward and achievement of the requirements for the plan, and the plan shall

be consistent with that time schedule.

(4) The amount and purpose of any issue of debt obligations that will be issued, together with assurances that any such debt obligations that will be issued will not exceed debt limits supported by appropriate certifications by the fiscal officer of the school district and the county auditor. Debt obligations issued pursuant to section 133.301 of the Revised Code shall include assurances that such debt shall be in an amount not to exceed the amount certified under division (B) of such section. If the commission considers it necessary in order to maintain or improve educational opportunities of pupils in the school district, the plan may include a proposal to restructure or refinance outstanding debt obligations incurred by the board under section 3313.483 of the Revised Code contingent upon the approval, during the period of the fiscal emergency, by district voters of a tax levied under section 718.09, 718.10, 5705.194, 5705.21, 5748.02, or 5748.08 of the Revised Code, that is not a renewal or replacement levy and that will provide new operating revenue. Notwithstanding any provision of Chapter 133. or sections 3313.483 to 3313.4811 of the Revised Code, following the required approval of the district voters and with the approval of the commission, the school district may issue securities to evidence the restructuring or refinancing. Those securities may extend the original period for repayment, not to exceed ten years, and may alter the frequency and amount of repayments, interest or other financing charges, and other terms of agreements under which the debt originally was contracted, at the discretion of the commission, provided that any loans received pursuant to section 3313.483 of the Revised Code shall be paid from funds the district would otherwise receive under sections 3317.022 to 3317.025 of the Revised Code, as required under division (E)(3) of section 3313.483 of the Revised Code. The securities issued for the purpose of restructuring or refinancing the debt shall be repaid in equal payments and at equal intervals over the term of the debt and are not eligible to be included in any subsequent proposal for the purpose of restructuring or refinancing debt under this section.

(B) Any financial recovery plan may be amended subsequent to its adoption. Each financial recovery plan shall be updated annually.

(C) Each school district financial planning and supervision commission shall submit the financial recovery plan it adopts or updates under this section to the state superintendent of public instruction for approval immediately following its adoption or updating. The state superintendent shall evaluate the plan and either approve or disapprove it within thirty calendar days from the date of its submission. If the plan is disapproved, the

state superintendent shall recommend modifications that will render it acceptable. No financial planning and supervision commission shall implement a financial recovery plan that is adopted or updated on or after ~~the effective date of this amendment~~ April 10, 2001, unless the state superintendent has approved it.

Sec. 3316.16. (A) A school district financial planning and supervision commission, with respect to its functions under this chapter, shall continue in existence until such time as a determination is made under division (B) of this section that all of the following have occurred:

(1) An effective financial accounting and reporting system in accordance with section 3316.10 of the Revised Code is in the process of being implemented, and it is reasonably expected that this implementation will be completed within two years.

(2) All of the fiscal emergency conditions determined pursuant to division (B) of section 3316.03 of the Revised Code have been corrected or eliminated, and no new fiscal emergency conditions have occurred.

(3) The objectives of the financial recovery plan described in section 3316.06 of the Revised Code are being met.

(4) The school district board has prepared a financial forecast for a five-year period in accordance with the standards issued by the auditor of state and an opinion has been rendered by the auditor of state that the financial forecast is considered to be nonadverse. The forecast shall display the district's projected compliance with sections 3315.17 and 3315.18 of the Revised Code beginning in the year the commission is proposed for termination.

(B) The determination that all conditions listed in division (A) of this section for the termination of the existence of the commission and its functions exist may be made either by the auditor of state or by the commission and shall be certified to the commission, the auditor of state, the governor, the director of budget and management, and the budget commission, whereupon such commission and its functions under this chapter shall terminate. This determination shall be made by the auditor of state upon the filing with the auditor of state of a written request for such a determination by the school district board, the governor, or the commission, or may be made by the auditor of state upon the auditor of state's own initiative.

(C) The commission shall prepare and submit at the time of such certification a final report of its activities, in such form as is appropriate for the purpose of providing a record of its activities and assisting other commissions created under this chapter in the conduct of their functions. All

of the books and records of the commission shall be delivered to the auditor of state for retention and safekeeping.

(D) Upon receipt of the certification provided for in division (B) of this section, the director of budget and management shall follow the procedures set forth in section 126.29 of the Revised Code.

(E) If, at the time of termination of the commission, an effective financial accounting and reporting system has not been fully implemented, the auditor of state shall monitor the progress of implementation and shall exercise authority under this section and Chapter 117. of the Revised Code to secure full implementation at the earliest time feasible but within two years after such termination.

Sec. 3317.01. As used in this section and section 3317.011 of the Revised Code, "school district," unless otherwise specified, means any city, local, exempted village, joint vocational, or cooperative education school district and any educational service center.

This chapter shall be administered by the state board of education. The superintendent of public instruction shall calculate the amounts payable to each school district and shall certify the amounts payable to each eligible district to the treasurer of the district as provided by this chapter. As soon as possible after such amounts are calculated, the superintendent shall certify to the treasurer of each school district the district's adjusted charge-off amount, as defined in section 5705.211 of the Revised Code, for the fiscal year for which those amounts are computed and for the fiscal year preceding that fiscal year. A separate certification of the adjusted charge-off amounts is not required if the certification of other amounts computed under this chapter indicates those adjusted charge-off amounts. No moneys shall be distributed pursuant to this chapter without the approval of the controlling board.

The state board of education shall, in accordance with appropriations made by the general assembly, meet the financial obligations of this chapter.

Annually, the department of education shall calculate and report to each school district the district's total state and local funds for providing an adequate basic education to the district's nonhandicapped students, utilizing the determination in section 3317.012 of the Revised Code. In addition, the department shall calculate and report separately for each school district the district's total state and local funds for providing an adequate education for its handicapped students, utilizing the determinations in both sections 3317.012 and 3317.013 of the Revised Code.

Not later than the thirty-first day of August of each fiscal year, the department of education shall provide to each school district and county MR/DD board a preliminary estimate of the amount of funding that the

department calculates the district will receive under each of divisions (C)(1) and (4) of section 3317.022 of the Revised Code. No later than the first day of December of each fiscal year, the department shall update that preliminary estimate.

Moneys distributed pursuant to this chapter shall be calculated and paid on a fiscal year basis, beginning with the first day of July and extending through the thirtieth day of June. The moneys appropriated for each fiscal year shall be distributed at least monthly to each school district unless otherwise provided for. The state board shall submit a yearly distribution plan to the controlling board at its first meeting in July. The state board shall submit any proposed midyear revision of the plan to the controlling board in January. Any year-end revision of the plan shall be submitted to the controlling board in June. If moneys appropriated for each fiscal year are distributed other than monthly, such distribution shall be on the same basis for each school district.

The total amounts paid each month shall constitute, as nearly as possible, one-twelfth of the total amount payable for the entire year.

#### Payments

Until fiscal year 2006, payments made during the first six months of the fiscal year may be based on an estimate of the amounts payable for the entire year. Payments made in the last six months shall be based on the final calculation of the amounts payable to each school district for that fiscal year. Payments made in the last six months may be adjusted, if necessary, to correct the amounts distributed in the first six months, and to reflect enrollment increases when such are at least three per cent. ~~Except~~

Beginning in fiscal year 2006, payments shall be calculated to reflect the biannual reporting of average daily membership. In fiscal year 2006 and in each fiscal year thereafter, payments for July through December shall be based on student counts certified pursuant to section 3317.03 of the Revised Code for the first full week in October, and payments for January through June shall be based on the average of student counts certified pursuant to that section for the first full week of the previous October and the third full week in February.

Except as otherwise provided, payments under this chapter shall be made only to those school districts in which:

(A) The school district, except for any educational service center and any joint vocational or cooperative education school district, levies for current operating expenses at least twenty mills. Levies for joint vocational or cooperative education school districts or county school financing districts, limited to or to the extent apportioned to current expenses, shall be



included in this qualification requirement. School district income tax levies under Chapter 5748. of the Revised Code, limited to or to the extent apportioned to current operating expenses, shall be included in this qualification requirement to the extent determined by the tax commissioner under division (D) of section 3317.021 of the Revised Code.

(B) The school year next preceding the fiscal year for which such payments are authorized meets the requirement of section 3313.48 or 3313.481 of the Revised Code, with regard to the minimum number of days or hours school must be open for instruction with pupils in attendance, for individualized parent-teacher conference and reporting periods, and for professional meetings of teachers. This requirement shall be waived by the superintendent of public instruction if it had been necessary for a school to be closed because of disease epidemic, hazardous weather conditions, inoperability of school buses or other equipment necessary to the school's operation, damage to a school building, or other temporary circumstances due to utility failure rendering the school building unfit for school use, provided that for those school districts operating pursuant to section 3313.48 of the Revised Code the number of days the school was actually open for instruction with pupils in attendance and for individualized parent-teacher conference and reporting periods is not less than one hundred seventy-five, or for those school districts operating on a trimester plan the number of days the school was actually open for instruction with pupils in attendance not less than seventy-nine days in any trimester, for those school districts operating on a quarterly plan the number of days the school was actually open for instruction with pupils in attendance not less than fifty-nine days in any quarter, or for those school districts operating on a pentameter plan the number of days the school was actually open for instruction with pupils in attendance not less than forty-four days in any pentameter.

A school district shall not be considered to have failed to comply with this division or section 3313.481 of the Revised Code because schools were open for instruction but either twelfth grade students were excused from attendance for up to three days or only a portion of the kindergarten students were in attendance for up to three days in order to allow for the gradual orientation to school of such students.

The superintendent of public instruction shall waive the requirements of this section with reference to the minimum number of days or hours school must be in session with pupils in attendance for the school year succeeding the school year in which a board of education initiates a plan of operation pursuant to section 3313.481 of the Revised Code. The minimum requirements of this section shall again be applicable to such a district

beginning with the school year commencing the second July succeeding the initiation of one such plan, and for each school year thereafter.

A school district shall not be considered to have failed to comply with this division or section 3313.48 or 3313.481 of the Revised Code because schools were open for instruction but the length of the regularly scheduled school day, for any number of days during the school year, was reduced by not more than two hours due to hazardous weather conditions.

(C) The school district has on file, and is paying in accordance with, a teachers' salary schedule which complies with section 3317.13 of the Revised Code.

A board of education or governing board of an educational service center which has not conformed with other law and the rules pursuant thereto, shall not participate in the distribution of funds authorized by sections 3317.022 to 3317.0211, 3317.11, 3317.16, 3317.17, and 3317.19 of the Revised Code, except for good and sufficient reason established to the satisfaction of the state board of education and the state controlling board.

All funds allocated to school districts under this chapter, except those specifically allocated for other purposes, shall be used to pay current operating expenses only.

Sec. 3317.012. (A) The general assembly, having deliberated on the model with which to calculate the base cost of an adequate education per pupil, has made a policy decision to calculate that amount as consisting of the following building blocks:

(1) Base classroom teachers;

(2) Other personnel support, which includes additional teachers, such as music, arts, and physical education teachers funded by state, local, or federal funds or other funds that are above the base cost funding level, and other school personnel including administrators;

(3) Nonpersonnel support.

This model reflects policy decisions made by the general assembly concerning the cost of base classroom teachers, which decisions entail two policy variables: the number of students per base classroom teacher necessary for an adequate education and the average compensation for a base classroom teacher necessary for an adequate education. The model requires the general assembly to decide the amount of other personnel support necessary for an adequate education, and increase that amount from year to year by the same percentage as it increases the average compensation for base classroom teachers. The model finally requires the general assembly to decide the nonpersonnel costs necessary for an adequate education and to inflate the nonpersonnel costs from year to year using the

projected inflationary measure for the gross domestic product deflator (all items) prepared by the bureau of labor statistics of the United States department of labor.

(B)(1) For fiscal year 2006, the general assembly has resolved that a ratio of one base classroom teacher per twenty students is necessary for an adequate education. The general assembly has made a policy decision that the average compensation for base classroom teachers is \$53,680 for fiscal year 2006, which includes an amount for the value of fringe benefits. For fiscal year 2007, the general assembly has resolved that a ratio of one base classroom teacher per twenty students is necessary for an adequate education. The general assembly has made a policy decision that the average compensation for base classroom teachers is \$54,941, which includes an amount for the value of fringe benefits. Based on a ratio of twenty students per base classroom teacher, these amounts equal \$2,684 per pupil in fiscal year 2006 and \$2,747 per pupil in fiscal year 2007.

(2) The general assembly has made a policy decision that the per pupil cost of salary and benefits of other personnel support is \$1,807 in fiscal year 2006. Based on the percentage increase for the average compensation of base classroom teachers from fiscal year 2006 to fiscal year 2007, the per pupil cost of other personnel support is \$1,850 in fiscal year 2007.

(3) The general assembly has made a policy decision that the per pupil cost of nonpersonnel support is \$792 in fiscal year 2006 and \$806 in fiscal year 2007. The amount for fiscal year 2007 reflects the projected inflationary measure for the gross domestic product deflator (all items) of 1.80%.

(4) Based on the determinations specified in divisions (B)(1) to (3) of this section, the per-pupil base cost is \$5,283 in fiscal year 2006 and \$5,403 in fiscal year 2007.

(C) In addition to the per-pupil base cost as determined under divisions (A) and (B) of this section, the general assembly determines that the following base funding supplements shall be paid to each school district:

(1) Base funding for large-group academic intervention for all students, based on 25 hours per group of students per year at an hourly rate of \$20.00 in fiscal year 2006 and \$20.40 in fiscal year 2007, as follows:

large-group intervention units X 25 hours X hourly rate

Where:

(a) "Large-group intervention units" equals the district's formula ADM divided by 20;

(b) "Hourly rate" equals \$20.00 in fiscal year 2006 and \$20.40 in fiscal year 2007.

(2) Base funding for professional development, phased in according to the following formula:

district's teacher factor X 0.045 X  
formula amount X phase-in percentage

Where:

(a) For each school district, the district's "teacher factor" is the district's formula ADM divided by 17;

(b) "Phase-in percentage" equals 0.25 in fiscal year 2006 and 0.75 in fiscal year 2007.

(3) Base funding for data-based decision making, calculated according to the following formula:

0.001 X formula amount X formula ADM

(4) Base funding for professional development regarding data-based decision making, calculated according to the following formula:

(0.20 X the district's teacher factor X 0.08 X formula amount) +  
(the district's principal factor X  
0.08 X formula amount)

Where:

(a) For each school district, the district's "teacher factor" is the district's formula ADM divided by 17;

(b) For each school district, the district's "principal factor" is the district's formula ADM divided by 340.

(D) The general assembly intends that school districts spend the state funds calculated and paid for each component of the building blocks methodology described in divisions (B)(1) to (3) and (C)(1) to (4) of this section according to the purposes described in those divisions.

Sec. 3317.013. This section does not apply to handicapped preschool students.

Analysis of special education cost data has resulted in a finding that the average special education additional cost per pupil, including the costs of related services, can be expressed as a multiple of the base cost per pupil calculated under section 3317.012 of the Revised Code. The multiples for the following categories of special education programs, as these programs are defined for purposes of Chapter 3323. of the Revised Code, and adjusted as provided in this section, are as follows:

(A) A multiple of 0.2892 for students whose primary or only identified handicap is a speech and language handicap, as this term is defined pursuant to Chapter 3323. of the Revised Code;

(B) A multiple of 0.3691 for students identified as specific learning disabled or developmentally handicapped, as these terms are defined

pursuant to Chapter 3323. of the Revised Code, or other health handicapped-minor;

(C) A multiple of 1.7695 for students identified as hearing handicapped, vision impaired, or severe behavior handicapped, as these terms are defined pursuant to Chapter 3323. of the Revised Code;

(D) A multiple of 2.3646 for students identified as orthopedically handicapped, as this term is defined pursuant to Chapter 3323. of the Revised Code or other health handicapped - major;

(E) A multiple of 3.1129 for students identified as multihandicapped, as this term is defined pursuant to Chapter 3323. of the Revised Code;

(F) A multiple of 4.7342 for students identified as autistic, having traumatic brain injuries, or as both visually and hearing disabled, as these terms are defined pursuant to Chapter 3323. of the Revised Code.

In fiscal year 2004, the multiples specified in divisions (A) to (F) of this section shall be adjusted by multiplying them by 0.88. In fiscal ~~year~~ years 2005, 2006, and 2007, the multiples specified in those divisions shall be adjusted by multiplying them by 0.90.

Not later than the thirtieth day of May 30, in 2004, and May 30, 2005, 2006, and 2007, the department shall submit to the office of budget and management a report that specifies for each city, local, exempted village, and joint vocational school district the fiscal year allocation of the state and local shares of special education and related services additional weighted funding and federal special education funds passed through to the district.

Sec. 3317.016. In addition to its form SF-3, or any successor to that form, the department of education shall publish on its web site a spreadsheet for each school district that specifies the constituent components of the district's "building blocks" funds, as follows:

(A) For compensation of base classroom teachers, as described in division (B)(1) of section 3317.012 of the Revised Code, each spreadsheet shall specify the district's aggregate and per pupil amounts of state funds and of combined state and local funds, the average compensation decided by the general assembly for base classroom teachers, as specified in that division, and the number of base classroom teachers attributable to the district based on the student-teacher ratio decided by the general assembly, as specified in that division.

(B) Each spreadsheet shall specify the district's aggregate and per pupil amounts of state funds and of combined state and local funds for each of the following:

(1) Other personnel support, as described in division (B)(2) of section 3317.012 of the Revised Code;

(2) Nonpersonnel support, as described in division (B)(3) of that section;

(3) Academic intervention services, as described in division (C)(1) of that section;

(4) Professional development, as described in division (C)(2) of that section;

(5) Data-based decision making, as described in division (C)(3) of that section;

(6) Professional development for data-based decision making, as described in division (C)(4) of that section.

(C) Each spreadsheet shall separately specify the district's aggregate and per pupil state funds for each of the following components of poverty-based assistance under section 3317.029 of the Revised Code:

(1) Poverty-based assistance guarantee payment under division (B) of that section;

(2) Academic intervention funding under division (C) of that section;

(3) All-day kindergarten under division (D) of that section;

(4) Class-size reduction under division (E) of that section;

(5) Services to limited English proficient students under division (F) of that section;

(6) Professional development, under division (G) of that section;

(7) Dropout prevention under division (H) of that section;

(8) Community outreach under division (I) of that section.

Sec. 3317.017. (A) Not later than July 1, 2006, the superintendent of public instruction shall adopt a rule under which the superintendent may issue an order with respect to the spending, by a school district declared to be under an academic watch or in a state of academic emergency under section 3302.03 of the Revised Code, of the following state building block funds intended to pay instructional-related costs:

(1) State funds for compensation of base classroom teachers, as described in division (B)(1) of section 3317.012 of the Revised Code;

(2) State funds for academic intervention services under division (C)(1) of section 3317.012 and division (C) of section 3317.029 of the Revised Code;

(3) State funds for professional development under divisions (C)(2) and (4) of section 3317.012 and division (G) of section 3317.029 of the Revised Code;

(4) State funds for data based decision making under division (C)(3) of section 3317.012 of the Revised Code;

(5) The poverty-based assistance guarantee payment under division (B)

of section 3317.029 of the Revised Code:

(6) State funds for all-day kindergarten under division (D) of section 3317.029 of the Revised Code;

(7) State funds for class-size reduction under division (E) of section 3317.029 of the Revised Code;

(8) State funds for services to limited English proficient students under division (F) of section 3317.029 of the Revised Code;

(9) State funds for dropout prevention under division (H) of section 3317.029 of the Revised Code;

(10) State funds for community outreach under division (I) of section 3317.029 of the Revised Code.

(B) The rule shall authorize the superintendent of public instruction to issue an order that does one or a combination of the following:

(1) Requires the school district to periodically report to the superintendent of public instruction on its spending of the state funds paid for each building blocks component described in divisions (A)(1) to (10) of this section;

(2) Requires the district to establish a separate account for each of the building blocks components described in divisions (A)(1) to (10) of this section to which the district shall credit the state funds paid for each;

(3) Directs the district's spending of any or all of the state funds paid for the components described in divisions (A)(1) to (10) of this section in accordance with the descriptions and requirements of sections 3317.012 and 3317.029 of the Revised Code.

(C) The rule shall specify situations in which the superintendent may issue an order and the types of orders the superintendent will issue for each of those situations. The rule, however, shall authorize the superintendent to issue orders in situations that are not enumerated or described in the rule.

(D) The board of education of each school district to which the superintendent of public instruction issues an order pursuant to the rule adopted under this section shall comply with that order.

Sec. 3317.02. As used in this chapter:

(A) Unless otherwise specified, "school district" means city, local, and exempted village school districts.

(B) "Formula amount" means the base cost for the fiscal year specified in division (B)(4) of section 3317.012 of the Revised Code.

(C) "FTE basis" means a count of students based on full-time equivalency, in accordance with rules adopted by the department of education pursuant to section 3317.03 of the Revised Code. In adopting its rules under this division, the department shall provide for counting any

student in category one, two, three, four, five, or six special education ADM or in category one or two vocational education ADM in the same proportion the student is counted in formula ADM.

(D)(H) "Formula ADM" means, for a city, local, or exempted village school district, the number reported pursuant to division (A) of section 3317.03 of the Revised Code, and for a joint vocational school district, the number reported pursuant to division (D) of ~~that~~ section 3317.03 of the Revised Code. Beginning in fiscal year 2006, for payments in which formula ADM is a factor, for the months of July through December, formula ADM means the number reported in October of that year, and for the months of January through June, formula ADM means the average of the numbers reported in the previous October and in February.

~~(2)(E) "Three-year average formula ADM" means the average of formula ADMs for the current and preceding two fiscal years. However, as applicable in fiscal years 1999 and 2000, the three-year average for city, local, and exempted village school districts shall be determined utilizing the FY 1997 ADM or FY 1998 ADM in lieu of formula ADM for fiscal year 1997 or 1998. In fiscal years 2000 and 2001, the three-year average for joint vocational school districts shall be determined utilizing the average daily membership reported in fiscal years 1998 and 1999 under division (D) of section 3317.03 of the Revised Code in lieu of formula ADM for fiscal years 1998 and 1999.~~

~~(E) "FY 1997 ADM" or "FY 1998 ADM" means the school district's average daily membership reported for the applicable fiscal year under the version of division (A) of section 3317.03 of the Revised Code in effect during that fiscal year, adjusted as follows:~~

~~(1) Minus the average daily membership of handicapped preschool children;~~

~~(2) Minus one-half of the average daily membership attending kindergarten;~~

~~(3) Minus three-fourths of the average daily membership attending a joint vocational school district;~~

~~(4) Plus the average daily membership entitled under section 3313.64 or 3313.65 of the Revised Code to attend school in the district but receiving educational services in approved units from an educational service center or another school district under a compact or a cooperative education agreement, as determined by the department;~~

~~(5) Minus the average daily membership receiving educational services from the district in approved units but entitled under section 3313.64 or 3313.65 of the Revised Code to attend school in another school district, as~~



~~determined by the department.~~

(F)(1) "Category one special education ADM" means the average daily membership of handicapped children receiving special education services for the handicap specified in division (A) of section 3317.013 of the Revised Code and reported under division (B)(5) or (D)(2)(b) of section 3317.03 of the Revised Code.

(2) "Category two special education ADM" means the average daily membership of handicapped children receiving special education services for those handicaps specified in division (B) of section 3317.013 of the Revised Code and reported under division (B)(6) or (D)(2)(c) of section 3317.03 of the Revised Code.

(3) "Category three special education ADM" means the average daily membership of students receiving special education services for those handicaps specified in division (C) of section 3317.013 of the Revised Code, and reported under division (B)(7) or (D)(2)(d) of section 3317.03 of the Revised Code.

(4) "Category four special education ADM" means the average daily membership of students receiving special education services for those handicaps specified in division (D) of section 3317.013 of the Revised Code and reported under division (B)(8) or (D)(2)(e) of section 3317.03 of the Revised Code.

(5) "Category five special education ADM" means the average daily membership of students receiving special education services for the handicap specified in division (E) of section 3317.013 of the Revised Code and reported under division (B)(9) or (D)(2)(f) of section 3317.03 of the Revised Code.

(6) "Category six special education ADM" means the average daily membership of students receiving special education services for the handicap specified in division (F) of section 3317.013 of the Revised Code and reported under division (B)(10) or (D)(2)(g) of section 3317.03 of the Revised Code.

(7) "Category one vocational education ADM" means the average daily membership of students receiving vocational education services described in division (A) of section 3317.014 of the Revised Code and reported under division (B)(11) or (D)(2)(h) of section 3317.03 of the Revised Code.

(8) "Category two vocational education ADM" means the average daily membership of students receiving vocational education services described in division (B) of section 3317.014 of the Revised Code and reported under division (B)(12) or (D)(2)(i) of section 3317.03 of the Revised Code.

Beginning in fiscal year 2006, for payments in which category one

through six special education ADM or category one or two vocational education ADM is a factor, for the months of July through December, those terms mean the numbers as described in division (F)(1) through (8) of this section, respectively, reported in October of that year, and for the months of January through June, those terms mean the average of the numbers as described in division (F)(1) through (8) of this section, respectively, reported in the previous October and in February.

(G) "Handicapped preschool child" means a handicapped child, as defined in section 3323.01 of the Revised Code, who is at least age three but is not of compulsory school age, as defined in section 3321.01 of the Revised Code, and who is not currently enrolled in kindergarten.

(H) "County MR/DD board" means a county board of mental retardation and developmental disabilities.

(I) "Recognized valuation" means the amount calculated for a school district pursuant to section 3317.015 of the Revised Code.

(J) "Transportation ADM" means the number of children reported under division (B)(13) of section 3317.03 of the Revised Code.

(K) "Average efficient transportation use cost per student" means a statistical representation of transportation costs as calculated under division (D)(2) of section 3317.022 of the Revised Code.

(L) "Taxes charged and payable" means the taxes charged and payable against real and public utility property after making the reduction required by section 319.301 of the Revised Code, plus the taxes levied against tangible personal property.

(M) "Total taxable value" means the sum of the amounts certified for a city, local, exempted village, or joint vocational school district under divisions (A)(1) and (2) of section 3317.021 of the Revised Code.

(N) "Cost-of-doing-business factor" means the amount indicated in ~~this~~ division (N)(1) or (2) of this section for the county in which a city, local, exempted village, or joint vocational school district is located. If a city, local, or exempted village school district is located in more than one county, the factor is the amount indicated for the county to which the district is assigned by the state department of education. If a joint vocational school district is located in more than one county, the factor is the amount indicated for the county in which the joint vocational school with the greatest formula ADM operated by the district is located.

(1) In fiscal year 2006, the cost-of-doing-business factor for each county is:

COUNTY	COST-OF-DOING-BUSINESS FACTOR AMOUNT
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Adams	<del>1.0035</del> <u>1.00233</u>
Allen	<del>1.0206</del> <u>1.01373</u>
Ashland	<del>1.0297</del> <u>1.01980</u>
Ashtabula	<del>1.0397</del> <u>1.02647</u>
Athens	<del>1.0014</del> <u>1.00093</u>
Auglaize	<del>1.0247</del> <u>1.01647</u>
Belmont	<del>1.0064</del> <u>1.00427</u>
Brown	<del>1.0177</del> <u>1.01180</u>
Butler	<del>1.0646</del> <u>1.04307</u>
Carroll	<del>1.0137</del> <u>1.00913</u>
Champaign	<del>1.0446</del> <u>1.02973</u>
Clark	<del>1.0447</del> <u>1.02980</u>
Clermont	<del>1.0541</del> <u>1.03607</u>
Clinton	<del>1.0329</del> <u>1.02193</u>
Columbiana	<del>1.0214</del> <u>1.01427</u>
Coshocton	<del>1.0173</del> <u>1.01153</u>
Crawford	<del>1.0164</del> <u>1.01093</u>
Cuyahoga	<del>1.0626</del> <u>1.04173</u>
Darke	<del>1.0338</del> <u>1.02253</u>
Defiance	<del>1.0146</del> <u>1.00973</u>
Delaware	<del>1.0528</del> <u>1.03520</u>
Erie	<del>1.0388</del> <u>1.02587</u>
Fairfield	<del>1.0366</del> <u>1.02440</u>
Fayette	<del>1.0319</del> <u>1.02127</u>
Franklin	<del>1.0608</del> <u>1.04053</u>
Fulton	<del>1.0330</del> <u>1.0220</u>
Gallia	<del>1.0000</del> <u>1.00000</u>
Geauga	<del>1.0501</del> <u>1.03340</u>
Greene	<del>1.0444</del> <u>1.02960</u>
Guernsey	<del>1.0066</del> <u>1.00440</u>
Hamilton	<del>1.0750</del> <u>1.05000</u>
Hancock	<del>1.0215</del> <u>1.01433</u>
Hardin	<del>1.0356</del> <u>1.02373</u>
Harrison	<del>1.0074</del> <u>1.00493</u>
Henry	<del>1.0318</del> <u>1.02120</u>
Highland	<del>1.0148</del> <u>1.00987</u>
Hocking	<del>1.0188</del> <u>1.01253</u>
Holmes	<del>1.0178</del> <u>1.01187</u>
Huron	<del>1.0293</del> <u>1.01953</u>
Jackson	<del>1.0138</del> <u>1.00920</u>

Jefferson	<del>1.0073</del> <u>1.00487</u>
Knox	<del>1.0279</del> <u>1.01860</u>
Lake	<del>1.0524</del> <u>1.03493</u>
Lawrence	<del>1.0081</del> <u>1.00540</u>
Licking	<del>1.0381</del> <u>1.02540</u>
Logan	<del>1.0385</del> <u>1.02567</u>
Lorain	<del>1.0515</del> <u>1.03433</u>
Lucas	<del>1.0390</del> <u>1.02600</u>
Madison	<del>1.0488</del> <u>1.03253</u>
Mahoning	<del>1.0346</del> <u>1.02307</u>
Marion	<del>1.0306</del> <u>1.02040</u>
Medina	<del>1.0536</del> <u>1.03573</u>
Meigs	<del>1.0026</del> <u>1.00173</u>
Mercer	<del>1.0203</del> <u>1.01353</u>
Miami	<del>1.0411</del> <u>1.02740</u>
Monroe	<del>1.0050</del> <u>1.00333</u>
Montgomery	<del>1.0453</del> <u>1.03020</u>
Morgan	<del>1.0089</del> <u>1.00593</u>
Morrow	<del>1.0301</del> <u>1.02007</u>
Muskingum	<del>1.0127</del> <u>1.00847</u>
Noble	<del>1.0073</del> <u>1.00487</u>
Ottawa	<del>1.0486</del> <u>1.03240</u>
Paulding	<del>1.0115</del> <u>1.00767</u>
Perry	<del>1.0160</del> <u>1.01067</u>
Pickaway	<del>1.0391</del> <u>1.02607</u>
Pike	<del>1.0103</del> <u>1.00687</u>
Portage	<del>1.0472</del> <u>1.03147</u>
Preble	<del>1.0442</del> <u>1.02947</u>
Putnam	<del>1.0216</del> <u>1.01440</u>
Richland	<del>1.0199</del> <u>1.01327</u>
Ross	<del>1.0151</del> <u>1.01007</u>
Sandusky	<del>1.0321</del> <u>1.02140</u>
Scioto	<del>1.0012</del> <u>1.00080</u>
Seneca	<del>1.0223</del> <u>1.01487</u>
Shelby	<del>1.0278</del> <u>1.01853</u>
Stark	<del>1.0255</del> <u>1.01700</u>
Summit	<del>1.0542</del> <u>1.03613</u>
Trumbull	<del>1.0351</del> <u>1.02340</u>
Tuscarawas	<del>1.0089</del> <u>1.00593</u>
Union	<del>1.0500</del> <u>1.03333</u>

Van Wert	<del>1.0133</del> <u>1.00887</u>
Vinton	<del>1.0095</del> <u>1.00633</u>
Warren	<del>1.0658</del> <u>1.04387</u>
Washington	<del>1.0060</del> <u>1.00400</u>
Wayne	<del>1.0348</del> <u>1.02320</u>
Williams	<del>1.0228</del> <u>1.01520</u>
Wood	<del>1.0360</del> <u>1.02400</u>
Wyandot	<del>1.0171</del> <u>1.01140</u>

(2) In fiscal year 2007, the cost-of-doing-business factor for each county

is:

<u>COUNTY</u>	<u>COST-OF-DOING-BUSINESS FACTOR AMOUNT</u>
<u>Adams</u>	<u>1.00117</u>
<u>Allen</u>	<u>1.00687</u>
<u>Ashland</u>	<u>1.00990</u>
<u>Ashtabula</u>	<u>1.01323</u>
<u>Athens</u>	<u>1.00047</u>
<u>Auglaize</u>	<u>1.00823</u>
<u>Belmont</u>	<u>1.00213</u>
<u>Brown</u>	<u>1.00590</u>
<u>Butler</u>	<u>1.02153</u>
<u>Carroll</u>	<u>1.00457</u>
<u>Champaign</u>	<u>1.01487</u>
<u>Clark</u>	<u>1.01490</u>
<u>Clermont</u>	<u>1.01803</u>
<u>Clinton</u>	<u>1.01097</u>
<u>Columbiana</u>	<u>1.00713</u>
<u>Coshocton</u>	<u>1.00577</u>
<u>Crawford</u>	<u>1.00547</u>
<u>Cuyahoga</u>	<u>1.02087</u>
<u>Darke</u>	<u>1.01127</u>
<u>Defiance</u>	<u>1.00487</u>
<u>Delaware</u>	<u>1.01760</u>
<u>Erie</u>	<u>1.01293</u>
<u>Fairfield</u>	<u>1.01220</u>
<u>Fayette</u>	<u>1.01063</u>
<u>Franklin</u>	<u>1.02027</u>
<u>Fulton</u>	<u>1.01100</u>
<u>Gallia</u>	<u>1.00000</u>
<u>Geauga</u>	<u>1.01670</u>

<u>Greene</u>	<u>1.01480</u>
<u>Guernsey</u>	<u>1.00220</u>
<u>Hamilton</u>	<u>1.02500</u>
<u>Hancock</u>	<u>1.00717</u>
<u>Hardin</u>	<u>1.01187</u>
<u>Harrison</u>	<u>1.00247</u>
<u>Henry</u>	<u>1.01060</u>
<u>Highland</u>	<u>1.00493</u>
<u>Hocking</u>	<u>1.00627</u>
<u>Holmes</u>	<u>1.00593</u>
<u>Huron</u>	<u>1.00977</u>
<u>Jackson</u>	<u>1.00460</u>
<u>Jefferson</u>	<u>1.00243</u>
<u>Knox</u>	<u>1.00930</u>
<u>Lake</u>	<u>1.01747</u>
<u>Lawrence</u>	<u>1.00270</u>
<u>Licking</u>	<u>1.01270</u>
<u>Logan</u>	<u>1.01283</u>
<u>Lorain</u>	<u>1.01717</u>
<u>Lucas</u>	<u>1.01300</u>
<u>Madison</u>	<u>1.01627</u>
<u>Mahoning</u>	<u>1.01153</u>
<u>Marion</u>	<u>1.01020</u>
<u>Medina</u>	<u>1.01787</u>
<u>Meigs</u>	<u>1.00087</u>
<u>Mercer</u>	<u>1.00677</u>
<u>Miami</u>	<u>1.01370</u>
<u>Monroe</u>	<u>1.00167</u>
<u>Montgomery</u>	<u>1.01510</u>
<u>Morgan</u>	<u>1.00297</u>
<u>Morrow</u>	<u>1.01003</u>
<u>Muskingum</u>	<u>1.00423</u>
<u>Noble</u>	<u>1.00243</u>
<u>Ottawa</u>	<u>1.01620</u>
<u>Paulding</u>	<u>1.00383</u>
<u>Perry</u>	<u>1.00533</u>
<u>Pickaway</u>	<u>1.01303</u>
<u>Pike</u>	<u>1.00343</u>
<u>Portage</u>	<u>1.01573</u>
<u>Preble</u>	<u>1.01473</u>

<u>Putnam</u>	<u>1.00720</u>
<u>Richland</u>	<u>1.00663</u>
<u>Ross</u>	<u>1.00503</u>
<u>Sandusky</u>	<u>1.01070</u>
<u>Scioto</u>	<u>1.00040</u>
<u>Seneca</u>	<u>1.00743</u>
<u>Shelby</u>	<u>1.00927</u>
<u>Stark</u>	<u>1.00850</u>
<u>Summit</u>	<u>1.01807</u>
<u>Trumbull</u>	<u>1.01170</u>
<u>Tuscarawas</u>	<u>1.00297</u>
<u>Union</u>	<u>1.01667</u>
<u>Van Wert</u>	<u>1.00443</u>
<u>Vinton</u>	<u>1.00317</u>
<u>Warren</u>	<u>1.02193</u>
<u>Washington</u>	<u>1.00200</u>
<u>Wayne</u>	<u>1.01160</u>
<u>Williams</u>	<u>1.00760</u>
<u>Wood</u>	<u>1.01200</u>
<u>Wyandot</u>	<u>1.00570</u>

(O) "Tax exempt value" of a school district means the amount certified for a school district under division (A)(4) of section 3317.021 of the Revised Code.

(P) "Potential value" of a school district means the recognized valuation of a school district plus the tax exempt value of the district.

(Q) "District median income" means the median Ohio adjusted gross income certified for a school district. On or before the first day of July of each year, the tax commissioner shall certify to the department of education for each city, exempted village, and local school district the median Ohio adjusted gross income of the residents of the school district determined on the basis of tax returns filed for the second preceding tax year by the residents of the district.

(R) "Statewide median income" means the median district median income of all city, exempted village, and local school districts in the state.

(S) "Income factor" for a city, exempted village, or local school district means the quotient obtained by dividing that district's median income by the statewide median income.

(T) "Medically fragile child" means a child to whom all of the following apply:

(1) The child requires the services of a doctor of medicine or

osteopathic medicine at least once a week due to the instability of the child's medical condition.

(2) The child requires the services of a registered nurse on a daily basis.

(3) The child is at risk of institutionalization in a hospital, skilled nursing facility, or intermediate care facility for the mentally retarded.

(U) A child may be identified as "other health handicapped-major" if the child's condition meets the definition of "other health impaired" established in rules adopted by the state board of education prior to July 1, 2001, and if either of the following apply:

(1) The child is identified as having a medical condition that is among those listed by the superintendent of public instruction as conditions where a substantial majority of cases fall within the definition of "medically fragile child." The superintendent of public instruction shall issue an initial list no later than September 1, 2001.

(2) The child is determined by the superintendent of public instruction to be a medically fragile child. A school district superintendent may petition the superintendent of public instruction for a determination that a child is a medically fragile child.

(V) A child may be identified as "other health handicapped-minor" if the child's condition meets the definition of "other health impaired" established in rules adopted by the state board of education prior to July 1, 2001, but the child's condition does not meet either of the conditions specified in division (U)(1) or (2) of this section.

(W) "SF-3 payment" means the sum of the payments to a school district in a fiscal year under divisions (A), (C)(1), (C)(4), (D), (E), and (F) of section 3317.022, divisions (J), (P), and (R) of section 3317.024, and sections 3317.029, 3317.0216, 3317.0217, 3317.04, 3317.05, 3317.052, and 3317.053 of the Revised Code after making the adjustments required by sections 3313.981 and 3313.979 of the Revised Code, divisions (B), (C), (D), (E), (K), (L), (M), (N), and (O) of section 3317.023, and division (C) of section 3317.20 of the Revised Code.

(X) "Property exemption value" means zero in fiscal year 2006, and in fiscal year 2007 and each fiscal year thereafter, the amount certified for a school district under divisions (A)(6) and (7) of section 3317.021 of the Revised Code.

Sec. 3317.021. (A) On or before the first day of June of each year, the tax commissioner shall certify to the department of education the following information for each city, exempted village, and local school district, and the information required by divisions (A)(1) and (2) of this section for each joint vocational school district, and it shall be used, along with the



information certified under division (B) of this section, in making the computations for the district under sections 3317.022 and 3317.0217 or section 3317.16 of the Revised Code:

(1) The taxable value of real and public utility real property in the school district subject to taxation in the preceding tax year, by class and by county of location;

(2) The taxable value of tangible personal property, including public utility personal property, subject to taxation by the district for the preceding tax year;

(3)(a) The total property tax rate and total taxes charged and payable for the current expenses for the preceding tax year and the total property tax rate and the total taxes charged and payable to a joint vocational district for the preceding tax year that are limited to or to the extent apportioned to current expenses;

(b) The portion of the amount of taxes charged and payable reported for each city, local, and exempted village school district under division (A)(3)(a) of this section attributable to a joint vocational school district.

(4) The value of all real and public utility real property in the school district exempted from taxation minus both of the following:

(a) The value of real and public utility real property in the district owned by the United States government and used exclusively for a public purpose;

(b) The value of real and public utility real property in the district exempted from taxation under Chapter 725. or 1728. or section 3735.67, 5709.40, 5709.41, 5709.62, 5709.63, 5709.632, 5709.73, or 5709.78 of the Revised Code.

(5) The total federal adjusted gross income of the residents of the school district, based on tax returns filed by the residents of the district, for the most recent year for which this information is available;

(6) The aggregate value of real property in the school district exempted from taxation pursuant to an ordinance adopted by the legislative authority of a municipal corporation under division (C) of section 5709.40 of the Revised Code or pursuant to a resolution adopted by a board of township trustees or board of county commissioners under division (C) of section 5709.73 or division (B) of section 5709.78 of the Revised Code, respectively, but not including payments in lieu of taxes provided under division (D)(1) of section 5709.40, division (D)(1) of section 5709.73, or division (C)(1) of section 5709.78 of the Revised Code, respectively, as indicated on the list of exempted property for the preceding tax year under section 5713.08 of the Revised Code and as if such property had been assessed for taxation that year, minus the following amounts:

(a) The aggregate value of the improvements to parcels of real property in the school district exempted from taxation pursuant to such ordinance or resolution, if the ordinance or resolution is adopted prior to January 1, 2006, and the legislative authority or board of township trustees or county commissioners, prior to January 1, 2006, executes a contract or agreement with a developer, whether for-profit or not-for-profit, with respect to the development of a project undertaken or to be undertaken and identified in the ordinance or resolution, and upon which parcels such project is being, or will be, undertaken;

(b) The product determined by multiplying (i) the aggregate value of the improvements to parcels of real property in the school district exempted from taxation pursuant to any such ordinance or resolution, minus the aggregate value of any improvement excluded pursuant to division (A)(6)(a) of this section, by (ii) a fraction, the numerator of which is the difference between (I) the amount of anticipated revenue such school district would have received in the preceding fiscal year if the real property exempted from taxation pursuant to such ordinance or resolution had not been exempted from taxation and (II) the aggregate amount of payments and other compensation received in the preceding fiscal year by the school district pursuant to all agreements between the school district and a legislative authority or board of township trustees or county commissioners that were entered into in relation to such ordinance or resolution, and the denominator of which is the amount of anticipated revenue such school district would have received in the preceding fiscal year if the real property exempted from taxation pursuant to such ordinance or resolution had not been exempted from taxation;

(c) The aggregate value of the improvements to parcels of real property in the school district exempted from taxation pursuant to such ordinance or resolution, if and to the extent that, on or before April 1, 2006, the fiscal officer of the municipal corporation that adopted the ordinance, or of the township or county that adopted the resolution, certifies and provides appropriate supporting documentation to the tax commissioner and the director of development that, based on hold-harmless provisions in any agreement between the school district and the legislative authority of the municipal corporation, board of township trustees, or board of county commissioners that was entered into on or before June 1, 2005, the ability or obligation of the municipal corporation, township, or county to repay bonds, notes, or other financial obligations issued or entered into prior to January 1, 2006, will be impaired, including obligations to or of any other body corporate and politic with whom the legislative authority of the municipal

corporation or board of township trustees or county commissioners has entered into an agreement pertaining to the use of service payments derived from the improvements exempted;

(d) The aggregate value of the improvements to parcels of real property in the school district exempted from taxation pursuant to such ordinance or resolution, if the ordinance or resolution is adopted prior to January 1, 2006, in a municipal corporation with a population that exceeds one hundred thousand, as shown by the most recent federal decennial census, that includes a major employment center and that is adjacent to historically distressed neighborhoods, if the legislative authority of the municipal corporation, the board of township trustees, or the board of county commissioners that exempted the property prepares an economic analysis that demonstrates that all taxes generated within the incentive district accruing to the state by reason of improvements constructed within the district during its existence exceed the amount the state pays the school district under section 3317.022 of the Revised Code attributable to such property exemption from the school district's recognized valuation. The analysis shall be submitted to and approved by the department of development prior to January 1, 2006, and the department shall not unreasonably withhold approval. Approval shall permit use of the aggregate value for the life of the incentive district as designated in the ordinance or resolution creating it.

(e) The aggregate value of the improvements to parcels of real property in the school district exempted from taxation under such ordinance or resolution, if the ordinance or resolution is adopted prior to January 1, 2006, and if service payments have been pledged to be used for mixed-use riverfront entertainment development in any county with a population that exceeds six hundred thousand, as shown by the most recent federal decennial census;

(f) The aggregate value of the improvements to parcels of real property in the school district exempted from taxation under such ordinance or resolution, if, prior to January 1, 2006, the legislative authority of a municipal corporation, board of township trustees, or board of county commissioners has pledged service payments for a designated transportation capacity project approved by the transportation review advisory council under Chapter 5512. of the Revised Code;

(g) The aggregate value of the improvements to parcels of real property in the school district exempted from taxation under such ordinance or resolution if the legislative authority of a municipal corporation, board of township trustees, or board of county commissioners have, by January 1,

2006, pledged proceeds for designated transportation improvement projects that involve federal funds for which the proceeds are used to meet a local share match requirement for such funding.

As used in division (A)(6) of this section, "project" has the same meaning as in section 5709.40 of the Revised Code.

(7) The aggregate value of real property in the school district for which an exemption from taxation is granted on or after January 1, 2006, under Chapter 725. or 1728., sections 3735.65 to 3735.70, or section 5709.62, 5709.63, 5709.632, 5709.84, or 5709.88 of the Revised Code, as indicated on the list of exempted property for the preceding tax year under section 5713.08 of the Revised Code and as if such property had been assessed for taxation that year, but not including compensation for tax revenue foregone pursuant to an agreement entered into on or after January 1, 2006, under section 5709.82 of the Revised Code, and minus the product determined by multiplying (a) the aggregate value of the real property in the school district exempted from taxation under any of the chapters or sections specified in this division, by (b) a fraction, the numerator of which is the difference between (i) the amount of anticipated revenue such school district would have received in the preceding fiscal year if the real property exempted from taxation had not been exempted from taxation and (ii) the aggregate amount of payments and other compensation received in the preceding fiscal year by the school district pursuant to any agreements between the school district and the legislative authority of a political subdivision that acted under the authority of a chapter or statute specified in this division, that were entered into in relation to such exemption, and the denominator of which is the amount of anticipated revenue such school district would have received in the preceding fiscal year if the real property exempted from taxation had not been exempted.

(B) On or before the first day of May each year, the tax commissioner shall certify to the department of education the total taxable real property value of railroads and, separately, the total taxable tangible personal property value of all public utilities for the preceding tax year, by school district and by county of location.

(C) If a public utility has properly and timely filed a petition for reassessment under section 5727.47 of the Revised Code with respect to an assessment issued under section 5727.23 of the Revised Code affecting taxable property apportioned by the tax commissioner to a school district, the taxable value of public utility tangible personal property included in the certification under divisions (A)(2) and (B) of this section for the school district shall include only the amount of taxable value on the basis of which

the public utility paid tax for the preceding year as provided in division (B)(1) or (2) of section 5727.47 of the Revised Code.

(D) If on the basis of the information certified under division (A) of this section, the department determines that any district fails in any year to meet the qualification requirement specified in division (A) of section 3317.01 of the Revised Code, the department shall immediately request the tax commissioner to determine the extent to which any school district income tax levied by the district under Chapter 5748. of the Revised Code shall be included in meeting that requirement. Within five days of receiving such a request from the department, the tax commissioner shall make the determination required by this division and report the quotient obtained under division (D)(3) of this section to the department. This quotient represents the number of mills that the department shall include in determining whether the district meets the qualification requirement of division (A) of section 3317.01 of the Revised Code.

The tax commissioner shall make the determination required by this division as follows:

(1) Multiply one mill times the total taxable value of the district as determined in divisions (A)(1) and (2) of this section;

(2) Estimate the total amount of tax liability for the current tax year under taxes levied by Chapter 5748. of the Revised Code that are apportioned to current operating expenses of the district;

(3) Divide the amount estimated under division (D)(2) of this section by the product obtained under division (D)(1) of this section.

(E) On or before June 1, 2006, and the first day of June of each year thereafter, the director of development shall certify to the department of education the total amount of payments received by each city, local, exempted village, or joint vocational school district during the preceding tax year pursuant to an agreement entered into under division (B) of section 5709.82 of the Revised Code in relation to exemptions from taxation granted pursuant to an ordinance adopted by the legislative authority of a municipal corporation under division (C)(1) of section 5709.40 of the Revised Code, or a resolution adopted by a board of township trustees or board of county commissioners under division (C)(1) of section 5709.73 or division (B)(1) of section 5709.78 of the Revised Code, respectively. On or before April 1, 2006, and the first day of April of each year thereafter, the treasurer of each city, local, exempted village, or joint vocational school district that has entered into such an agreement shall report to the director of development the total amount of such payments the district received during the preceding tax year pursuant to each such agreement. The state board of

education, in accordance with sections 3319.31 and 3319.311 of the Revised Code, may suspend or revoke the license of a treasurer found to have willfully reported erroneous, inaccurate, or incomplete data under this division.

Sec. 3317.022. (A)~~(4)~~ The department of education shall compute and distribute state base cost funding to each school district for the fiscal year ~~in accordance with the following formula, making any adjustment required by division (A)(2) of this section and~~ using the information obtained under section 3317.021 of the Revised Code in the calendar year in which the fiscal year begins.

(1) Compute the following for each eligible district:

[(cost-of-doing-business factor X  
the formula amount X

formula ADM) + the sum of the base funding supplements prescribed in  
divisions (C)(1) to (4) of section 3317.012 of the Revised Code] -  
~~(.023 X recognized valuation)~~ .023 x (the sum of recognized valuation and  
property exemption (value))]

If the difference obtained is a negative number, the district's computation shall be zero.

(2) Compute both of the following for each school district:

(a) The difference of (i) the district's fiscal year 2005 base cost payment under the version of division (A)(1) of this section in effect in fiscal year 2005, minus (ii) the amount computed for the district for the current fiscal year under current division (A)(1) of this section:

(b) The following amount:

[(fiscal year 2005 base cost payment/fiscal year 2005 formula  
ADM) X current year formula ADM] minus the amount computed for the  
district under current division (A)(1) of this section

If one of the amounts computed under division (A)(2)(a) or (b) of this section is a positive amount, the department shall pay the district that amount in addition to the amount calculated under division (A)(1) of this section. If both amounts are positive amounts, the department shall pay the district the lesser of the two amounts in addition to the amount calculated under division (A)(1) of this section.

(3)(a) For each school district for which the tax exempt value of the district equals or exceeds twenty-five per cent of the potential value of the district, the department of education shall calculate the difference between the district's tax exempt value and twenty-five per cent of the district's potential value.

(b) For each school district to which division (A)~~(2)~~(3)(a) of this section

applies, the department shall adjust the recognized valuation used in the calculation under division (A)(1) of this section by subtracting from it the amount calculated under division (A)~~(2)~~(3)(a) of this section.

(B) As used in this section:

(1) The "total special education weight" for a district means the sum of the following amounts:

(a) The district's category one special education ADM multiplied by the multiple specified in division (A) of section 3317.013 of the Revised Code;

(b) The district's category two special education ADM multiplied by the multiple specified in division (B) of section 3317.013 of the Revised Code;

(c) The district's category three special education ADM multiplied by the multiple specified in division (C) of section 3317.013 of the Revised Code;

(d) The district's category four special education ADM multiplied by the multiple specified in division (D) of section 3317.013 of the Revised Code;

(e) The district's category five special education ADM multiplied by the multiple specified in division (E) of section 3317.013 of the Revised Code;

(f) The district's category six special education ADM multiplied by the multiple specified in division (F) of section 3317.013 of the Revised Code.

(2) "State share percentage" means the percentage calculated for a district as follows:

(a) Calculate the state base cost funding amount for the district for the fiscal year under division (A) of this section. If the district would not receive any state base cost funding for that year under that division, the district's state share percentage is zero.

(b) If the district would receive state base cost funding under that division, divide that amount by an amount equal to the following:

~~(Cost-of-doing-business factor X~~

the formula amount X

formula ADM) + the sum of the base funding supplements prescribed in divisions (C)(1) to (4) of section 3317.012 of the Revised Code

The resultant number is the district's state share percentage.

(3) "Related services" includes:

(a) Child study, special education supervisors and coordinators, speech and hearing services, adaptive physical development services, occupational or physical therapy, teacher assistants for handicapped children whose handicaps are described in division (B) of section 3317.013 or division (F)(3) of section 3317.02 of the Revised Code, behavioral intervention, interpreter services, work study, nursing services, and specialized integrative services as those terms are defined by the department;

(b) Speech and language services provided to any student with a handicap, including any student whose primary or only handicap is a speech and language handicap;

(c) Any related service not specifically covered by other state funds but specified in federal law, including but not limited to, audiology and school psychological services;

(d) Any service included in units funded under former division (O)(1) of section 3317.023 of the Revised Code;

(e) Any other related service needed by handicapped children in accordance with their individualized education plans.

(4) The "total vocational education weight" for a district means the sum of the following amounts:

(a) The district's category one vocational education ADM multiplied by the multiple specified in division (A) of section 3317.014 of the Revised Code;

(b) The district's category two vocational education ADM multiplied by the multiple specified in division (B) of section 3317.014 of the Revised Code.

(C)(1) The department shall compute and distribute state special education and related services additional weighted costs funds to each school district in accordance with the following formula:

The district's state share percentage

X the formula amount for the year

for which the aid is calculated

X the district's total special education weight

(2) The attributed local share of special education and related services additional weighted costs equals:

(1 - the district's state share percentage) X

the district's total special education weight X

the formula amount

(3)(a) The department shall compute and pay in accordance with this division additional state aid to school districts for students in categories two through six special education ADM. If a district's costs for the fiscal year for a student in its categories two through six special education ADM exceed the threshold catastrophic cost for serving the student, the district may submit to the superintendent of public instruction documentation, as prescribed by the superintendent, of all its costs for that student. Upon submission of documentation for a student of the type and in the manner prescribed, the department shall pay to the district an amount equal to the sum of the following:



(i) One-half of the district's costs for the student in excess of the threshold catastrophic cost;

(ii) The product of one-half of the district's costs for the student in excess of the threshold catastrophic cost multiplied by the district's state share percentage.

(b) For purposes of division (C)(3)(a) of this section, the threshold catastrophic cost for serving a student equals:

(i) For a student in the school district's category two, three, four, or five special education ADM, twenty-five thousand dollars in fiscal year 2002 ~~and~~, twenty-five thousand seven hundred dollars in fiscal years 2003, 2004, and 2005, and twenty-six thousand five hundred dollars in fiscal years 2006 and 2007;

(ii) For a student in the district's category six special education ADM, thirty thousand dollars in fiscal year 2002 ~~and~~, thirty thousand eight hundred forty dollars in fiscal years 2003, 2004, and 2005, and thirty-one thousand eight hundred dollars in fiscal years 2006 and 2007.

(c) The district shall only report under division (C)(3)(a) of this section, and the department shall only pay for, the costs of educational expenses and the related services provided to the student in accordance with the student's individualized education program. Any legal fees, court costs, or other costs associated with any cause of action relating to the student may not be included in the amount.

(4)(a) As used in this division, the "personnel allowance" means thirty thousand dollars in fiscal years 2002, 2003, 2004, ~~and~~, 2005, 2006, and 2007.

(b) For the provision of speech language pathology services to students, including students who do not have individualized education programs prepared for them under Chapter 3323. of the Revised Code, and for no other purpose, the department of education shall pay each school district an amount calculated under the following formula:

(formula ADM divided by 2000) X

the personnel allowance X the state share percentage

(5) In any fiscal year, a school district shall spend for purposes that the department designates as approved for special education and related services expenses at least the amount calculated as follows:

(cost-of-doing-business factor X

formula amount X the sum of categories

one through six special education ADM) +

(total special education weight X formula amount)

The purposes approved by the department for special education

expenses shall include, but shall not be limited to, identification of handicapped children, compliance with state rules governing the education of handicapped children and prescribing the continuum of program options for handicapped children, provision of speech language pathology services, and the portion of the school district's overall administrative and overhead costs that are attributable to the district's special education student population.

The department shall require school districts to report data annually to allow for monitoring compliance with division (C)(5) of this section. The department shall annually report to the governor and the general assembly the amount of money spent by each school district for special education and related services.

(6) In any fiscal year, a school district shall spend for the provision of speech language pathology services not less than the sum of the amount calculated under division (C)(1) of this section for the students in the district's category one special education ADM and the amount calculated under division (C)(4) of this section.

(D)(1) As used in this division:

(a) "Daily bus miles per student" equals the number of bus miles traveled per day, divided by transportation base.

(b) "Transportation base" equals total student count as defined in section 3301.011 of the Revised Code, minus the number of students enrolled in preschool handicapped units, plus the number of nonpublic school students included in transportation ADM.

(c) "Transported student percentage" equals transportation ADM divided by transportation base.

(d) "Transportation cost per student" equals total operating costs for board-owned or contractor-operated school buses divided by transportation base.

(2) Analysis of student transportation cost data has resulted in a finding that an average efficient transportation use cost per student can be calculated by means of a regression formula that has as its two independent variables the number of daily bus miles per student and the transported student percentage. For fiscal year 1998 transportation cost data, the average efficient transportation use cost per student is expressed as follows:

$$51.79027 + (139.62626 \times \text{daily bus miles per student}) + \\ (116.25573 \times \text{transported student percentage})$$

The department of education shall annually determine the average efficient transportation use cost per student in accordance with the principles stated in division (D)(2) of this section, updating the intercept and

regression coefficients of the regression formula modeled in this division, based on an annual statewide analysis of each school district's daily bus miles per student, transported student percentage, and transportation cost per student data. The department shall conduct the annual update using data, including daily bus miles per student, transported student percentage, and transportation cost per student data, from the prior fiscal year. The department shall notify the office of budget and management of such update by the fifteenth day of February of each year.

(3) In addition to funds paid under divisions (A), (C), and (E) of this section, each district with a transported student percentage greater than zero shall receive a payment equal to a percentage of the product of the district's transportation base from the prior fiscal year times the annually updated average efficient transportation use cost per student, times an inflation factor of two and eight tenths per cent to account for the one-year difference between the data used in updating the formula and calculating the payment and the year in which the payment is made. The percentage shall be the following percentage of that product specified for the corresponding fiscal year:

FISCAL YEAR	PERCENTAGE
2000	52.5%
2001	55%
2002	57.5%
2003 and thereafter	The greater of 60% or the district's state share percentage

The payments made under division (D)(3) of this section each year shall be calculated based on all of the same prior year's data used to update the formula.

(4) In addition to funds paid under divisions (D)(2) and (3) of this section, a school district shall receive a rough road subsidy if both of the following apply:

(a) Its county rough road percentage is higher than the statewide rough road percentage, as those terms are defined in division (D)(5) of this section;

(b) Its district student density is lower than the statewide student density, as those terms are defined in that division.

(5) The rough road subsidy paid to each district meeting the qualifications of division (D)(4) of this section shall be calculated in accordance with the following formula:

$$(\text{per rough mile subsidy} \times \text{total rough road miles}) \times \text{density multiplier}$$

where:

(a) "Per rough mile subsidy" equals the amount calculated in accordance with the following formula:

$$0.75 - \{0.75 \times [( \text{maximum rough road percentage} - \text{county rough road percentage} ) / ( \text{maximum rough road percentage} - \text{statewide rough road percentage} )]\}$$

(i) "Maximum rough road percentage" means the highest county rough road percentage in the state.

(ii) "County rough road percentage" equals the percentage of the mileage of state, municipal, county, and township roads that is rated by the department of transportation as type A, B, C, E2, or F in the county in which the school district is located or, if the district is located in more than one county, the county to which it is assigned for purposes of determining its cost-of-doing-business factor.

(iii) "Statewide rough road percentage" means the percentage of the statewide total mileage of state, municipal, county, and township roads that is rated as type A, B, C, E2, or F by the department of transportation.

(b) "Total rough road miles" means a school district's total bus miles traveled in one year times its county rough road percentage.

(c) "Density multiplier" means a figure calculated in accordance with the following formula:

$$1 - [(\text{minimum student density} - \text{district student density}) / (\text{minimum student density} - \text{statewide student density})]$$

(i) "Minimum student density" means the lowest district student density in the state.

(ii) "District student density" means a school district's transportation base divided by the number of square miles in the district.

(iii) "Statewide student density" means the sum of the transportation bases for all school districts divided by the sum of the square miles in all school districts.

(6) In addition to funds paid under divisions (D)(2) to (5) of this section, each district shall receive in accordance with rules adopted by the state board of education a payment for students transported by means other than board-owned or contractor-operated buses and whose transportation is not funded under division (J) of section 3317.024 of the Revised Code. The rules shall include provisions for school district reporting of such students.

(E)(1) The department shall compute and distribute state vocational education additional weighted costs funds to each school district in accordance with the following formula:

$$\text{state share percentage} \times$$

the formula amount X  
total vocational education weight

In any fiscal year, a school district receiving funds under division (E)(1) of this section shall spend those funds only for the purposes that the department designates as approved for vocational education expenses. Vocational educational expenses approved by the department shall include only expenses connected to the delivery of career-technical programming to career-technical students. The department shall require the school district to report data annually so that the department may monitor the district's compliance with the requirements regarding the manner in which funding received under division (E)(1) of this section may be spent.

(2) The department shall compute for each school district state funds for vocational education associated services in accordance with the following formula:

state share percentage X .05 X  
the formula amount X the sum of categories one and two  
vocational education ADM

In any fiscal year, a school district receiving funds under division (E)(2) of this section, or through a transfer of funds pursuant to division (L) of section 3317.023 of the Revised Code, shall spend those funds only for the purposes that the department designates as approved for vocational education associated services expenses, which may include such purposes as apprenticeship coordinators, coordinators for other vocational education services, vocational evaluation, and other purposes designated by the department. The department may deny payment under division (E)(2) of this section to any district that the department determines is not operating those services or is using funds paid under division (E)(2) of this section, or through a transfer of funds pursuant to division (L) of section 3317.023 of the Revised Code, for other purposes.

(F) The actual local share in any fiscal year for the combination of special education and related services additional weighted costs funding calculated under division (C)(1) of this section, transportation funding calculated under divisions (D)(2) and (3) of this section, and vocational education and associated services additional weighted costs funding calculated under divisions (E)(1) and (2) of this section shall not exceed for any school district the product of three and three-tenths mills times the district's recognized valuation. The department annually shall pay each school district as an excess cost supplement any amount by which the sum of the district's attributed local shares for that funding exceeds that product. For purposes of calculating the excess cost supplement:

(1) The attributed local share for special education and related services additional weighted costs funding is the amount specified in division (C)(2) of this section.

(2) The attributed local share of transportation funding equals the difference of the total amount calculated for the district using the formula developed under division (D)(2) of this section minus the actual amount paid to the district after applying the percentage specified in division (D)(3) of this section.

(3) The attributed local share of vocational education and associated services additional weighted costs funding is the amount determined as follows:

$$(1 - \text{state share percentage}) \times \\ [(\text{total vocational education weight} \times \text{the formula amount}) + \\ \text{the payment under division (E)(2) of this section}]$$

Sec. 3317.023. (A) Notwithstanding section 3317.022 of the Revised Code, the amounts required to be paid to a district under this chapter shall be adjusted by the amount of the computations made under divisions (B) to ~~(M)~~(O) of this section.

As used in this section:

(1) "Classroom teacher" means a licensed employee who provides direct instruction to pupils, excluding teachers funded from money paid to the district from federal sources; educational service personnel; and vocational and special education teachers.

(2) "Educational service personnel" shall not include such specialists funded from money paid to the district from federal sources or assigned full-time to vocational or special education students and classes and may only include those persons employed in the eight specialist areas in a pattern approved by the department of education under guidelines established by the state board of education.

(3) "Annual salary" means the annual base salary stated in the state minimum salary schedule for the performance of the teacher's regular teaching duties that the teacher earns for services rendered for the first full week of October of the fiscal year for which the adjustment is made under division (C) of this section. It shall not include any salary payments for supplemental teachers contracts.

(4) "Regular student population" means the formula ADM plus the number of students reported as enrolled in the district pursuant to division (A)(1) of section 3313.981 of the Revised Code; minus the number of students reported under division (A)(2) of section 3317.03 of the Revised Code; minus the FTE of students reported under division (B)(6), (7), (8),

(9), (10), (11), or (12) of that section who are enrolled in a vocational education class or receiving special education; and minus twenty per cent of the students enrolled concurrently in a joint vocational school district.

(5) "State share percentage" has the same meaning as in section 3317.022 of the Revised Code.

(6) "VEPD" means a school district or group of school districts designated by the department of education as being responsible for the planning for and provision of vocational education services to students within the district or group.

(7) "Lead district" means a school district, including a joint vocational school district, designated by the department as a VEPD, or designated to provide primary vocational education leadership within a VEPD composed of a group of districts.

(B) If the district employs less than one full-time equivalent classroom teacher for each twenty-five pupils in the regular student population in any school district, deduct the sum of the amounts obtained from the following computations:

(1) Divide the number of the district's full-time equivalent classroom teachers employed by one twenty-fifth;

(2) Subtract the quotient in (1) from the district's regular student population;

(3) Multiply the difference in (2) by seven hundred fifty-two dollars.

(C) If a positive amount, add one-half of the amount obtained by multiplying the number of full-time equivalent classroom teachers by:

(1) The mean annual salary of all full-time equivalent classroom teachers employed by the district at their respective training and experience levels minus;

(2) The mean annual salary of all such teachers at their respective levels in all school districts receiving payments under this section.

The number of full-time equivalent classroom teachers used in this computation shall not exceed one twenty-fifth of the district's regular student population. In calculating the district's mean salary under this division, those full-time equivalent classroom teachers with the highest training level shall be counted first, those with the next highest training level second, and so on, in descending order. Within the respective training levels, teachers with the highest years of service shall be counted first, the next highest years of service second, and so on, in descending order.

(D) This division does not apply to a school district that has entered into an agreement under division (A) of section 3313.42 of the Revised Code. Deduct the amount obtained from the following computations if the district

employs fewer than five full-time equivalent educational service personnel, including elementary school art, music, and physical education teachers, counselors, librarians, visiting teachers, school social workers, and school nurses for each one thousand pupils in the regular student population:

(1) Divide the number of full-time equivalent educational service personnel employed by the district by five one-thousandths;

(2) Subtract the quotient in (1) from the district's regular student population;

(3) Multiply the difference in (2) by ninety-four dollars.

(E) If a local school district, or a city or exempted village school district to which a governing board of an educational service center provides services pursuant to section 3313.843 of the Revised Code, deduct the amount of the payment required for the reimbursement of the governing board under section 3317.11 of the Revised Code.

(F)(1) If the district is required to pay to or entitled to receive tuition from another school district under division (C)(2) or (3) of section 3313.64 or section 3313.65 of the Revised Code, or if the superintendent of public instruction is required to determine the correct amount of tuition and make a deduction or credit under section 3317.08 of the Revised Code, deduct and credit such amounts as provided in division (J) of section 3313.64 or section 3317.08 of the Revised Code.

(2) For each child for whom the district is responsible for tuition or payment under division (A)(1) of section 3317.082 or section 3323.091 of the Revised Code, deduct the amount of tuition or payment for which the district is responsible.

(G) If the district has been certified by the superintendent of public instruction under section 3313.90 of the Revised Code as not in compliance with the requirements of that section, deduct an amount equal to ten per cent of the amount computed for the district under section 3317.022 of the Revised Code.

(H) If the district has received a loan from a commercial lending institution for which payments are made by the superintendent of public instruction pursuant to division (E)(3) of section 3313.483 of the Revised Code, deduct an amount equal to such payments.

(I)(1) If the district is a party to an agreement entered into under division (D), (E), or (F) of section 3311.06 or division (B) of section 3311.24 of the Revised Code and is obligated to make payments to another district under such an agreement, deduct an amount equal to such payments if the district school board notifies the department in writing that it wishes to have such payments deducted.



(2) If the district is entitled to receive payments from another district that has notified the department to deduct such payments under division (I)(1) of this section, add the amount of such payments.

(J) If the district is required to pay an amount of funds to a cooperative education district pursuant to a provision described by division (B)(4) of section 3311.52 or division (B)(8) of section 3311.521 of the Revised Code, deduct such amounts as provided under that provision and credit those amounts to the cooperative education district for payment to the district under division (B)(1) of section 3317.19 of the Revised Code.

(K)(1) If a district is educating a student entitled to attend school in another district pursuant to a shared education contract, compact, or cooperative education agreement other than an agreement entered into pursuant to section 3313.842 of the Revised Code, credit to that educating district on an FTE basis both of the following:

(a) An amount equal to the greater of the following:

(i) The fiscal year 2005 formula amount times the fiscal year 2005 cost of doing business factor of the school district where the student is entitled to attend school pursuant to section 3313.64 or 3313.65 of the Revised Code;

(ii) The sum of (the current formula amount times the current cost-of-doing-business factor of the school district when the student is entitled to attend school pursuant to section 3313.64 or 3313.65 of the Revised Code) plus the per pupil amount of the base funding supplements specified in divisions (C)(1) to (4) of section 3317.012 of the Revised Code.

(b) An amount equal to the current formula amount times the state share percentage times any multiple applicable to the student pursuant to section 3317.013 or 3317.014 of the Revised Code.

(2) Deduct any amount credited pursuant to division (K)(1) of this section from amounts paid to the school district in which the student is entitled to attend school pursuant to section 3313.64 or 3313.65 of the Revised Code.

(3) If the district is required by a shared education contract, compact, or cooperative education agreement to make payments to an educational service center, deduct the amounts from payments to the district and add them to the amounts paid to the service center pursuant to section 3317.11 of the Revised Code.

(L)(1) If a district, including a joint vocational school district, is a lead district of a VEPD, credit to that district the amounts calculated for all the school districts within that VEPD pursuant to division (E)(2) of section 3317.022 of the Revised Code.

(2) Deduct from each appropriate district that is not a lead district, the

amount attributable to that district that is credited to a lead district under division (L)(1) of this section.

(M) If the department pays a joint vocational school district under division (G)(4) of section 3317.16 of the Revised Code for excess costs of providing special education and related services to a handicapped student, as calculated under division (G)(2) of that section, the department shall deduct the amount of that payment from the city, local, or exempted village school district that is responsible as specified in that section for the excess costs.

(N)(1) If the district reports an amount of excess cost for special education services for a child under division (C) of section 3323.14 of the Revised Code, the department shall pay that amount to the district.

(2) If the district reports an amount of excess cost for special education services for a child under division (C) of section 3323.14 of the Revised Code, the department shall deduct that amount from the district of residence of that child.

(O) If the department of job and family services presents to the department of education a payment request through an intrastate transfer voucher for the nonfederal share of reimbursements made to a school district for medicaid services provided by the district, the department of education shall pay the amount of that request to the department of job and family services and shall deduct the amount of that payment from the district.

Sec. 3317.024. In addition to the moneys paid to eligible school districts pursuant to section 3317.022 of the Revised Code, moneys appropriated for the education programs in divisions (A) to (H), (J) to (L), (O), (P), and (R) of this section shall be distributed to school districts meeting the requirements of section 3317.01 of the Revised Code; in the case of divisions (J) and (P) of this section, to educational service centers as provided in section 3317.11 of the Revised Code; in the case of divisions (E), (M), and (N) of this section, to county MR/DD boards; in the case of division (R) of this section, to joint vocational school districts; in the case of division (K) of this section, to cooperative education school districts; and in the case of division (Q) of this section, to the institutions defined under section 3317.082 of the Revised Code providing elementary or secondary education programs to children other than children receiving special education under section 3323.091 of the Revised Code. The following shall be distributed monthly, quarterly, or annually as may be determined by the state board of education:

(A) A per pupil amount to each school district that establishes a summer school remediation program that complies with rules of the state board of education.

(B) An amount for each island school district and each joint state school district for the operation of each high school and each elementary school maintained within such district and for capital improvements for such schools. Such amounts shall be determined on the basis of standards adopted by the state board of education.

(C) An amount for each school district operating classes for children of migrant workers who are unable to be in attendance in an Ohio school during the entire regular school year. The amounts shall be determined on the basis of standards adopted by the state board of education, except that payment shall be made only for subjects regularly offered by the school district providing the classes.

(D) An amount for each school district with guidance, testing, and counseling programs approved by the state board of education. The amount shall be determined on the basis of standards adopted by the state board of education.

(E) An amount for the emergency purchase of school buses as provided for in section 3317.07 of the Revised Code;

(F) An amount for each school district required to pay tuition for a child in an institution maintained by the department of youth services pursuant to section 3317.082 of the Revised Code, provided the child was not included in the calculation of the district's average daily membership for the preceding school year.

(G) In fiscal year 2000 only, an amount to each school district for supplemental salary allowances for each licensed employee except those licensees serving as superintendents, assistant superintendents, principals, or assistant principals, whose term of service in any year is extended beyond the term of service of regular classroom teachers, as described in section 3301.0725 of the Revised Code;

(H) An amount for adult basic literacy education for each district participating in programs approved by the state board of education. The amount shall be determined on the basis of standards adopted by the state board of education.

(I) Notwithstanding section 3317.01 of the Revised Code, but only until June 30, 1999, to each city, local, and exempted village school district, an amount for conducting driver education courses at high schools for which the state board of education prescribes minimum standards and to joint vocational and cooperative education school districts and educational service centers, an amount for conducting driver education courses to pupils enrolled in a high school for which the state board prescribes minimum standards. No payments shall be made under this division after June 30,

1999.

(J) An amount for the approved cost of transporting ~~developmentally handicapped~~ eligible pupils with disabilities attending a special education program approved by the department of education whom it is impossible or impractical to transport by regular school bus in the course of regular route transportation provided by the district or service center. No district or service center is eligible to receive a payment under this division for the cost of transporting any pupil whom it transports by regular school bus and who is included in the district's transportation ADM. The state board of education shall establish standards and guidelines for use by the department of education in determining the approved cost of such transportation for each district or service center.

(K) An amount to each school district, including each cooperative education school district, pursuant to section 3313.81 of the Revised Code to assist in providing free lunches to needy children and an amount to assist needy school districts in purchasing necessary equipment for food preparation. The amounts shall be determined on the basis of rules adopted by the state board of education.

(L) An amount to each school district, for each pupil attending a chartered nonpublic elementary or high school within the district. The amount shall equal the amount appropriated for the implementation of section 3317.06 of the Revised Code divided by the average daily membership in grades kindergarten through twelve in nonpublic elementary and high schools within the state as determined during the first full week in October of each school year.

(M) An amount for each county MR/DD board, distributed on the basis of standards adopted by the state board of education, for the approved cost of transportation required for children attending special education programs operated by the county MR/DD board under section 3323.09 of the Revised Code;

(N) An amount for each county MR/DD board, distributed on the basis of standards adopted by the state board of education, for supportive home services for preschool children;

(O) An amount for each school district that establishes a mentor teacher program that complies with rules of the state board of education. No school district shall be required to establish or maintain such a program in any year unless sufficient funds are appropriated to cover the district's total costs for the program.

(P) An amount to each school district or educational service center for the total number of gifted units approved pursuant to section 3317.05 of the

Revised Code. The amount for each such unit shall be the sum of the minimum salary for the teacher of the unit, calculated on the basis of the teacher's training level and years of experience pursuant to the salary schedule prescribed in the version of section 3317.13 of the Revised Code in effect prior to July 1, 2001, plus fifteen per cent of that minimum salary amount, plus two thousand six hundred seventy-eight dollars.

(Q) An amount to each institution defined under section 3317.082 of the Revised Code providing elementary or secondary education to children other than children receiving special education under section 3323.091 of the Revised Code. This amount for any institution in any fiscal year shall equal the total of all tuition amounts required to be paid to the institution under division (A)(1) of section 3317.082 of the Revised Code.

(R) A grant to each school district and joint vocational school district that operates a "graduation, reality, and dual-role skills" (GRADS) program for pregnant and parenting students that is approved by the department. The amount of the payment shall be the district's state share percentage, as defined in section 3317.022 or 3317.16 of the Revised Code, times the GRADS personnel allowance times the full-time-equivalent number of GRADS teachers approved by the department. The GRADS personnel allowance is \$47,555 in fiscal years 2004 ~~and~~, 2005, 2006, and 2007.

The state board of education or any other board of education or governing board may provide for any resident of a district or educational service center territory any educational service for which funds are made available to the board by the United States under the authority of public law, whether such funds come directly or indirectly from the United States or any agency or department thereof or through the state or any agency, department, or political subdivision thereof.

Sec. 3317.026. (A) As used in this section, "refunded taxes" means taxes charged and payable from real and tangible personal property, including public utility property, that have been found to have been overpaid as the result of reductions in the taxable value of such property and that have been refunded, including any interest or penalty refunded with those taxes. If taxes are refunded over a period of time pursuant to division (B)(2), (3), or (4) of section 319.36 or division (C) of section 5727.471 of the Revised Code, the total amount of taxes required to be refunded, excluding any interest accruing after the day the undertaking is entered into, shall be considered to have been refunded on the day the first portion of the overpayment is paid or credited.

(B) Not later than the last day of February each year, each county auditor shall certify to the tax commissioner, for each school district in the

county, the amount of refunded taxes refunded in the preceding calendar year and the reductions in taxable value that resulted in those refunds, except for reductions in taxable value that previously have been reported to the tax commissioner on an abstract. If the tax commissioner determines that the amount of refunded taxes certified for a school district exceeds three per cent of the total taxes charged and payable for current expenses of the school district for the calendar year in which those taxes were refunded, the tax commissioner shall certify the reductions in taxable value that resulted in those refunds on or before the first day of June to the department of education. Upon receiving the certification by the tax commissioner, the department of education shall reduce the total taxable value of the school district, as defined in section 3317.02 of the Revised Code, by the total amount of the reductions in taxable value that resulted in those refunds for the purpose of computing the ~~state aid~~ SF-3 payment for the school district for the current fiscal year ~~under section 3317.022 of the Revised Code~~. The increase in the amount of such aid resulting from the adjustment required by this section shall be paid to the school district on or before the ~~thirtieth~~ thirty-first day of ~~June~~ July of the ~~current~~ following fiscal year.

If an adjustment is made under this division in the amount of state aid paid to a school district, the tax value reductions from which that adjustment results shall not be used in recomputing aid to a school district under section 3317.027 of the Revised Code.

~~(D)~~(C) If a school district received a grant from the catastrophic expenditures account pursuant to division (C) of section 3316.20 of the Revised Code on the basis of the same circumstances for which an adjustment is made under this section, the amount of the adjustment shall be reduced and transferred in accordance with division (C) of section 3316.20 of the Revised Code.

(D) Not later than the first day of June each year, the tax commissioner shall certify to the department of education for each school district the total of the increases in taxable value above the amount of taxable value on which tax was paid, as provided in division (B)(1) or (2) of section 5727.47 of the Revised Code, as determined by the commissioner, and for which a notification was sent pursuant to section 5727.471 of the Revised Code, in the preceding calendar year. Upon receiving the certification, the department shall increase the total taxable value, as defined in section 3317.02 of the Revised Code, of the school district by the total amount of the increase in taxable value certified by the commissioner for the school district for the purpose of computing the school district's ~~state aid~~ SF-3 payment for the following fiscal year ~~under sections 3317.022 and 3317.0212 of the Revised~~

Code.

Sec. 3317.027. On or before the fifteenth day of May of each year, the tax commissioner shall certify to the department of education:

(A) The amount by which applications filed under section 5713.38 of the Revised Code or complaints filed under section 5715.19 of the Revised Code resulted in a reduction in the second preceding year's taxable value in each school district in which such a reduction occurred, and the amount by which such reduction reduced the district's taxes charged and payable for such year; and

(B) The taxes charged and payable for the second preceding tax year that were remitted under section 5713.081 of the Revised Code and the taxable value against which such taxes were imposed.

Upon receipt of such certifications, the department shall recompute the ~~state aid for such year under section 3317.022 of the Revised Code~~ district's SF-3 payment and determine the amount of aid that the SF-3 payment would have been paid had the taxable value not been used in the computation made under division (A)(1) of section 3317.021 of the Revised Code and had the taxes charged and payable not been included in the certification made under division (A)(3) of such section. The department shall ~~adjust~~ calculate the amount that the remainder of the fiscal year's payments ~~so the district's total payments should have been~~ for the fiscal year ~~equal~~ including the amount of the ~~recomputation~~ SF-3 payment as recomputed. The increase or decrease in the amount of aid resulting from the adjustment required under this section shall be paid to the school district on or before the thirty-first day of July of the following fiscal year.

If a school district received a grant from the catastrophic expenditures account pursuant to division (C) of section 3316.20 of the Revised Code on the basis of the same circumstances for which a recomputation is made under this section, the amount of the recomputation shall be reduced and transferred in accordance with division (C) of section 3316.20 of the Revised Code.

Sec. 3317.028. (A) On or before the fifteenth day of May in each calendar year prior to calendar year 2007, the tax commissioner shall determine for each school district whether the taxable value of all tangible personal property, including utility tangible personal property, subject to taxation by the district in the preceding tax year was less or greater than the taxable value of such property during the second preceding tax year. If any such decrease exceeds five per cent of the district's tangible personal property taxable value included in the total taxable value used in computing the district's ~~state aid computation~~ SF-3 payment for the fiscal year that ends

in the current calendar year, or if any such increase exceeds five per cent of the district's total taxable value used in computing the district's ~~state aid computation~~ SF-3 payment for the fiscal year that ends in the current calendar year, the tax commissioner shall certify both of the following to the department of education:

(1) The taxable value of the tangible personal property increase or decrease, including utility tangible personal property increase or decrease, which shall be considered a change in valuation;

(2) The decrease or increase in taxes charged and payable on such change in taxable value calculated in the same manner as in division (A)(3) of section 3317.021 of the Revised Code.

~~(B) Notwithstanding division (A) of this section, when determining under that division in calendar year 2002 whether the taxable value of tangible personal property subject to taxation by each school district in the preceding tax year was less or greater than the taxable value of such property during the second preceding tax year, the tax commissioner shall exclude from the taxable value for both years the tax value loss, as defined in section 5727.84 of the Revised Code. On or before May 15, 2007, and the fifteenth day of May in each calendar year thereafter, the tax commissioner shall determine for each school district whether the taxable value of all utility tangible personal property subject to taxation by the district in the preceding tax year was less or greater than the taxable value of such property during the second preceding tax year. If any decrease exceeds five per cent of the district's tangible personal property taxable value included in the total taxable value used in the district's state aid computation for the fiscal year that ends in the current calendar year, or if any increase exceeds five per cent of the district's total taxable value used in the district's state aid computation for the fiscal year that ends in the current calendar year, the tax commissioner shall certify both of the following to the department of education:~~

~~(1) The taxable value of the utility tangible personal property increase or decrease, which shall be considered a change in valuation;~~

~~(2) The decrease or increase in taxes charged and payable on such change in taxable value calculated in the same manner as in division (A)(3) of section 3317.021 of the Revised Code.~~

(C) Upon receipt of ~~such~~ a certification specified in this section, the department of education shall reduce or increase by the respective amounts certified; and the taxable value and the taxes charged and payable that were used in computing the district's ~~state aid computation under section 3317.022 of the Revised Code~~ SF-3 payment for the fiscal year that ends in



the current calendar year and shall recompute the ~~state-aid~~ SF-3 payment for such fiscal year. ~~During the last six months of the fiscal year, the~~ The department shall pay the district a sum equal to one-half of the recomputed payments in lieu of the payments otherwise required under ~~such sections that section on or before the thirty-first day of July of the following fiscal year.~~

(D) If a school district received a grant from the catastrophic expenditures account pursuant to division (C) of section 3316.20 of the Revised Code on the basis of the same circumstances for which a recomputation is made under this section, the amount of the recomputation shall be reduced and transferred in accordance with division (C) of section 3316.20 of the Revised Code.

Sec. 3317.029. (A) As used in this section:

(1) "~~DP~~PIA Poverty percentage" means:

~~(a) In fiscal years prior to fiscal year 2004, the quotient obtained by dividing the five-year average number of children ages five to seventeen residing in the school district and living in a family receiving assistance under the Ohio works first program or an antecedent program known as TANF or ADC, as certified or adjusted under section 3317.10 of the Revised Code, by the district's three-year average formula ADM.~~

~~(b) Beginning in fiscal year 2004, the unduplicated number of children ages five to seventeen residing in the school district and living in a family that has family income not exceeding the federal poverty guidelines and that receives family assistance, as certified or adjusted under section 3317.10 of the Revised Code, divided by the district's three year average formula ADM.~~

(2) "~~Family assistance~~" means ~~assistance received under one of the following:~~

~~(a) The Ohio works first program;~~

~~(b) The food stamp program;~~

~~(c) The medical assistance program, including the healthy start program, established under Chapter 5111. of the Revised Code;~~

~~(d) The children's health insurance program part I established under section 5101.50 of the Revised Code or, prior to fiscal year 2000, an executive order issued under section 107.17 of the Revised Code;~~

~~(e) The disability financial assistance program established under Chapter 5115. of the Revised Code;~~

~~(f) The disability medical assistance program established under Chapter 5115. of the Revised Code.~~

(3) "Statewide ~~DP~~PIA poverty percentage" means:

~~(a) In fiscal years prior to fiscal year 2004, the five-year average of the total number of children ages five to seventeen years residing in the state and receiving assistance under the Ohio works first program or an antecedent program known as TANF or ADC, divided by the sum of the three-year average formula ADMs for all school districts in the state.~~

~~(b) Beginning in fiscal year 2004, the total unduplicated number of children ages five to seventeen residing in the state and living in a family that has family income not exceeding the federal poverty guidelines and that receives family assistance, divided by the sum of the three-year average formula ADMs for all school districts in the state.~~

~~(4)(3) "DPIA Poverty index" means the quotient obtained by dividing the school district's DPIA poverty percentage by the statewide DPIA poverty percentage.~~

~~(5) "Federal poverty guidelines" has the same meaning as in section 5101.46 of the Revised Code.~~

~~(6)(4) "DPIA Poverty student count" means:~~

~~(a) In fiscal years prior to fiscal year 2004, the five-year average number of children ages five to seventeen residing in the school district and living in a family receiving assistance under the Ohio works first program or an antecedent program known as TANF or ADC, as certified under section 3317.10 of the Revised Code;~~

~~(b) Beginning in fiscal year 2004, the unduplicated number of children ages five to seventeen residing in the school district and living in a family that has family income not exceeding the federal poverty guidelines and that receives family assistance, as certified or adjusted under section 3317.10 of the Revised Code.~~

~~(7)(5) "Kindergarten ADM" means the number of students reported under section 3317.03 of the Revised Code as enrolled in kindergarten, excluding any kindergarten students reported under division (B)(3)(e) or (f) of section 3317.03 of the Revised Code.~~

~~(8)(6) "Kindergarten through third grade ADM" means the amount calculated as follows:~~

~~(a) Multiply the kindergarten ADM by the sum of one plus the all-day kindergarten percentage;~~

~~(b) Add the number of students in grades one through three;~~

~~(c) Subtract from the sum calculated under division (A)(6)(b) of this section the number of special education students in grades kindergarten through three.~~

~~(9) "Statewide average teacher salary" means forty-two thousand four hundred sixty-nine dollars in fiscal year 2002, and forty-three thousand six~~

~~hundred fifty-eight dollars in fiscal year 2003, which includes an amount for the value of fringe benefits.~~

~~(10) "Kindergarten through third grade ADM" shall not include any students reported under division (B)(3)(e) or (f) of section 3317.03 of the Revised Code.~~

~~(7) "All-day kindergarten" means a kindergarten class that is in session five days per week for not less than the same number of clock hours each day as for pupils in grades one through six.~~

~~(11)(8) "All-day kindergarten percentage" means the percentage of a district's actual total number of students enrolled in kindergarten who are enrolled in all-day kindergarten.~~

~~(12)(9) "Buildings with the highest concentration of need" means:~~

~~(a) In fiscal years prior to fiscal year 2004, the school buildings in a district with percentages of students in grades kindergarten through three receiving assistance under Ohio works first at least as high as the district-wide percentage of students receiving such assistance.~~

~~(b) Beginning in fiscal year 2004, the school buildings in a district with percentages of students in grades kindergarten through three receiving family assistance at least as high as the district-wide percentage of students receiving family assistance.~~

~~(c) If, in any fiscal year, the information provided by the department of job and family services under section 3317.10 of the Revised Code is insufficient to determine the Ohio works first or family assistance percentage in each building, "buildings with the highest concentration of need" has the meaning given in rules that the department of education shall adopt. The rules shall base the definition of "buildings with the highest concentration of need" on family income of students in grades kindergarten through three in a manner that, to the extent possible with available data, approximates the intent of this division and division (G)(K) of this section to designate buildings where the Ohio works first or family assistance percentage in those grades equals or exceeds the district-wide Ohio works first or family assistance percentage.~~

~~(B) In addition to the amounts required to be paid to a school district under section 3317.022 of the Revised Code, a the department of education shall compute and distribute to each school district shall receive for poverty-based assistance the greater of the following:~~

~~(1) The amount the district received in fiscal year 1998 2005 for disadvantaged pupil impact aid pursuant to division (B) of section 3317.023 of the Revised Code as it existed at that time or the Section 41.10 of Am. Sub. H.B. 95 of the 125th General Assembly, as amended, minus the~~

amount deducted from the district under Section 16 of Am. Sub. S.B. 2 of the 125th General Assembly that year for payments to internet- and computer-based community schools;

(2) The sum of the computations made under divisions (C) to (E)(I) of this section.

(C) A supplemental payment that may be utilized for measures related to safety and security and for remediation or similar academic intervention programs, if the district's poverty index is greater than or equal to 0.25, calculated as follows:

(1) If the DPIA index of the school district is greater than or equal to thirty five hundredths, but less than one, an amount obtained by multiplying the district's DPIA student count by two hundred thirty dollars;

(2) If the DPIA index of the school district is greater than or equal to one, an amount obtained by multiplying the DPIA index by two hundred thirty dollars and multiplying that product by the district's DPIA student count.

Except as otherwise provided in division (F) of this section, beginning with the school year that starts July 1, 2002, each school district annually shall use at least twenty per cent of the funds calculated for the district under this division for intervention services required by section 3313.608 of the Revised Code.

(1) If the district's poverty index is greater than or equal to 0.25, calculate the district's level one amount for large-group academic intervention for all students as follows:

(a) If the district's poverty index is greater than or equal to 0.25 but less than 0.75:

$$\frac{\text{large-group intervention units} \times \text{hourly rate} \times \text{level one hours} \times [(\text{poverty index} - 0.25)/0.5]}{\text{X phase-in percentage}}$$

Where:

(i) "Large-group intervention units" equals the district's formula ADM divided by 20;

(ii) "Hourly rate" equals \$20.00 in fiscal year 2006 and \$20.40 in fiscal year 2007;

(iii) "Level one hours" equals 25 hours;

(iv) "Phase-in percentage" equals 0.60 in fiscal year 2006 and 1.00 in fiscal year 2007.

(b) If the district's poverty index is greater than or equal to 0.75:

$$\frac{\text{large-group intervention units} \times \text{hourly rate} \times \text{level one hours}}{\text{X phase-in percentage}}$$

Where "large-group intervention units," "hourly rate," "level one hours," and "phase-in percentage" have the same meanings as in division (C)(1)(a) of this section.

(2) If the district's poverty index is greater than or equal to 0.75, calculate the district's level two amount for medium-group academic intervention for all students as follows:

(a) If the district's poverty index is greater than or equal to 0.75 but less than 1.50:

$$\frac{\text{medium-group intervention units} \times \text{hourly rate} \times \{\text{level one hours} + [25 \text{ hours} \times ((\text{poverty index} - 0.75)/0.75)]\}}{\text{X phase-in percentage}}$$

Where:

(i) "Medium group intervention units" equals the district's formula ADM divided by 15;

(ii) "Hourly rate," "level one hours," and "phase-in percentage" have the same meanings as in division (C)(1)(a) of this section.

(b) If the district's poverty index is greater than or equal to 1.50:

$$\frac{\text{medium-group intervention units} \times \text{hourly rate} \times \text{level two hours}}{\text{X phase-in percentage}}$$

Where:

(i) "Medium group intervention units" has the same meaning as in division (C)(2)(a)(i) of this section;

(ii) "Hourly rate" and "phase-in percentage" have the same meanings as in division (C)(1)(a) of this section;

(iii) "Level two hours" equals 50 hours.

(3) If the district's poverty index is greater than or equal to 1.50, calculate the district's level three amount for small-group academic intervention for impoverished students as follows:

(a) If the district's poverty index is greater than or equal to 1.50 but less than 2.50:

$$\frac{\text{small group intervention units} \times \text{hourly rate} \times \{\text{level one hours} + [\text{level three hours} \times (\text{poverty index} - 1.50)]\}}{\text{X phase-in percentage}}$$

Where:

(i) "Small group intervention units" equals the quotient of (the district's poverty student count times 3) divided by 10;

(ii) "Hourly rate," "level one hours," and "phase-in percentage" have the same meanings as in division (C)(1)(a) of this section;

(iii) "Level three hours" equals 135 hours.

(b) If the district's poverty index is greater than or equal to 2.50:

small group intervention units X hourly rate X level three hours  
X phase-in percentage

Where:

(i) "Small group intervention units" has the same meaning as in division (C)(3)(a)(i) of this section;

(ii) "Hourly rate" and "phase-in percentage" have the same meanings as in division (C)(1)(a) of this section;

(iii) "Level three hours" equals 160 hours.

Any district that receives funds under division (C)(2) or (3) of this section annually shall submit to the department of education by a date established by the department a plan describing how the district will deploy those funds. The deployment measures described in that plan shall comply with any applicable spending requirements prescribed in division (J)(6) of this section or with any order issued by the superintendent of public instruction under section 3317.017 of the Revised Code.

(D) A payment for all-day kindergarten if the ~~DPIA~~ poverty index of the school district is greater than or equal to ~~one~~ 1.0 or if the district's three-year average formula ADM exceeded seventeen thousand five hundred; ~~calculated~~. In addition, the department shall make a payment under this division to any school district that, in a prior fiscal year, qualified for this payment and provided all-day kindergarten, regardless of changes to the district's poverty index. The department shall calculate the payment under this division by multiplying the all-day kindergarten percentage by the kindergarten ADM and multiplying that product by the formula amount.

(E) A class-size reduction payment based on calculating the number of new teachers necessary to achieve a lower student-teacher ratio, as follows:

(1) Determine or calculate a formula number of teachers per one thousand students based on the ~~DPIA~~ poverty index of the school district as follows:

(a) If the ~~DPIA~~ poverty index of the school district is less than ~~six-tenths~~ 1.0, the formula number of teachers is ~~43.478~~ 50.0, which is the number of teachers per one thousand students at a student-teacher ratio of ~~twenty-three~~ twenty to one;

(b) If the ~~DPIA~~ poverty index of the school district is greater than or equal to ~~six-tenths~~ 1.0, but less than ~~two-and-one-half~~ 1.5, the formula number of teachers is calculated as follows:

$$\begin{aligned} & \text{43.478} + \{[(\text{DPIA index} - 0.6) / 1.9] \times 23.188\} \\ & 50.0 + \{[(\text{poverty index} - 1.0) / 0.5] \times 16.667\} \end{aligned}$$

Where ~~43.478~~ 50.0 is the number of teachers per one thousand students at a student-teacher ratio of ~~twenty-three~~ twenty to one; ~~1.9~~ 0.5 is the

interval from a ~~DPIA poverty~~ index of ~~six-tenths~~ 1.0 to a ~~DPIA poverty~~ index of ~~two-and-one-half~~ 1.5; and ~~23.188~~ 16.667 is the difference in the number of teachers per one thousand students at a student-teacher ratio of fifteen to one and the number of teachers per one thousand students at a student-teacher ratio of ~~twenty-three~~ twenty to one.

(c) If the ~~DPIA poverty~~ index of the school district is greater than or equal to ~~two-and-one-half~~ 1.5, the formula number of teachers is 66.667, which is the number of teachers per one thousand students at a student-teacher ratio of fifteen to one.

(2) Multiply the formula number of teachers determined or calculated in division (E)(1) of this section by the kindergarten through third grade ADM for the district and divide that product by one thousand;

(3) Calculate the number of new teachers as follows:

(a) Multiply the kindergarten through third grade ADM by ~~43.478~~ 50.0, which is the number of teachers per one thousand students at a student-teacher ratio of ~~twenty-three~~ twenty to one, and divide that product by one thousand;

(b) Subtract the quotient obtained in division (E)(3)(a) of this section from the product in division (E)(2) of this section.

(4) Multiply the greater of the difference obtained under division (E)(3) of this section or zero by the statewide average teachers ~~salary compensation~~. For this purpose, the "statewide average teacher compensation" is \$53,680 in fiscal year 2006 and \$54,941 in fiscal year 2007, which includes an amount for the value of fringe benefits.

(F) A payment for services to limited English proficient students, if the district's poverty index is greater than or equal to 1.0 and the proportion of its students who are limited English proficient, as reported in 2003 on its school district report issued under section 3302.03 of the Revised Code for the 2002-2003 school year, is greater than or equal to 2.0%, calculated as follows:

(1) If the district's poverty index is greater than or equal to 1.0, but less than 1.75, determine the amount per limited English proficient student as follows:

{0.125 + [0.125 X ((poverty index - 1.0)/0.75)]} X formula amount

(2) If the district's poverty index is greater than or equal to 1.75, the amount per limited English proficient student equals:

0.25 X formula amount

(3) Multiply the per student amount determined for the district under division (F)(1) or (2) of this section by the number of the district's limited English proficient students, times a phase-in percentage of 0.40 in fiscal

year 2006 and 0.70 in fiscal year 2007. For purposes of this calculation, the number of limited English proficient students for each district shall be the number determined by the department when it calculated the district's percentage of limited English students for its school district report card issued in 2003 for the 2002-2003 school year.

Not later than December 31, 2006, the department of education shall recommend to the general assembly and the director of budget and management a method of identifying the number of limited English proficient students for purposes of calculating payments under this division after fiscal year 2007.

(G) A payment for professional development of teachers, if the district's poverty index is greater than or equal to 1.0, calculated as follows:

(1) If the district's poverty index is greater than or equal to 1.0, but less than 1.75, determine the amount per teacher as follows:

$[(\text{poverty index} - 1.0) / 0.75] \times 0.045 \times \text{formula amount}$

(2) If the district's poverty index is greater than or equal to 1.75, the amount per teacher equals:

$0.045 \times \text{formula amount}$

(3) Determine the number of teachers, as follows:

$(\text{formula ADM}/17)$

(4) Multiply the per teacher amount determined for the district under division (G)(1) or (2) of this section by the number of teachers determined under division (G)(3) of this section, times a phase-in percentage of 0.40 in fiscal year 2006 and 0.70 in fiscal year 2007.

(H) A payment for dropout prevention, if the district is a big eight school district as defined in section 3314.02 of the Revised Code, calculated as follows:

$0.005 \times \text{formula amount} \times \text{poverty index}$   
 $\times \text{formula ADM} \times \text{phase-in percentage}$

Where "phase-in percentage" equals 0.40 in fiscal year 2006 and 0.70 in fiscal year 2007.

(I) An amount for community outreach, if the district is an urban school district as defined in section 3314.02 of the Revised Code, calculated as follows:

$0.005 \times \text{formula amount} \times \text{poverty index} \times$   
 $\text{formula ADM} \times \text{phase-in percentage}$

Where "phase-in percentage" equals 0.40 in fiscal year 2006 and 0.70 in fiscal year 2007.

(J) This division applies only to school districts whose ~~DPIA~~ poverty index is ~~one~~ 1.0 or greater.



(1) Each school district subject to this division shall first utilize funds received under this section so that, when combined with other funds of the district, sufficient funds exist to provide all-day kindergarten to at least the number of children in the district's all-day kindergarten percentage.

~~(2) Up to an amount equal to the district's DPIA index multiplied by its DPIA student count multiplied by two hundred thirty dollars of the money distributed under this section may be utilized~~ Each school district shall use its payment under division (F) of this section for one or more of the following purposes:

(a) To hire teachers for limited English proficient students or other personnel to provide intervention services for those students;

(b) To contract for intervention services for those students;

(c) To provide other services to assist those students in passing the third-grade reading achievement test, and to provide for those students the intervention services required by section 3313.608 of the Revised Code.

(3) Each school district shall use its payment under division (G) of this section for professional development of teachers or other licensed personnel providing educational services to students only in one or more of the following areas:

(a) Data-based decision making;

(b) Standards-based curriculum models;

(c) Job-embedded professional development activities that are research-based, as defined in federal law.

In addition, each district shall use the payment only to implement programs identified on a list of eligible professional development programs provided by the department of education. The department annually shall provide the list to each district receiving a payment under division (G) of this section. However, a district may apply to the department for a waiver to implement an alternative professional development program in one or more of the areas specified in divisions (J)(3)(a) to (c) of this section. If the department grants the waiver, the district may use its payment under division (G) of this section to implement the alternative program.

(4) Each big eight school district shall use its payment under division (H) of this section either for preventing at-risk students from dropping out of school, for safety and security measures described in division (J)(5)(b) of this section, for academic intervention services described in division (J)(6) of this section, or for a combination of those purposes. Not later than September 1, 2005, the department of education shall provide each big eight school district with a list of dropout prevention programs that it has determined are successful. The department subsequently may update the list.

Each district that elects to use its payment under division (H) of this section for dropout prevention shall use the payment only to implement a dropout prevention program specified on the department's list. However, a district may apply to the department for a waiver to implement an alternative dropout prevention program. If the department grants the waiver, the district may use its payment under division (H) of this section to implement the alternative program.

(5) Each urban school district that has a poverty index greater than or equal to 1.0 shall use its payment under division (I) of this section for one or a combination of the following purposes:

(a) To hire or contract for community liaison officers, attendance or truant officers, or safety and security personnel;

(b) To implement programs designed to ensure that schools are free of drugs and violence and have a disciplined environment conducive to learning;

(c) To implement academic intervention services described in division (J)(6) of this section.

(6) Each school district with a poverty index greater than or equal to 1.0 shall use the amount of its payment under division (C) of this section, and may use any amount of its payment under division (H) or (I) of this section, for one or both of the following:

~~(a) Programs designed to ensure that schools are free of drugs and violence and have a disciplined environment conducive to learning;~~

~~(b) Remediation academic intervention services for students who have failed or are in danger of failing any of the tests administered pursuant to section 3301.0710 of the Revised Code;~~

~~Beginning with the school year that starts on July 1, 2002, each school district shall use at least twenty per cent of the funds set aside for the purposes of divisions (F)(2)(a) and (b) of this section to provide, including intervention services required by section 3313.608 of the Revised Code. No district shall spend any portion of its payment under division (C) of this section for any other purpose. Notwithstanding any provision to the contrary in Chapter 4117. of the Revised Code, no collective bargaining agreement entered into after the effective date of this amendment shall require use of the payment for any other purpose.~~

~~(3)(7) Except as otherwise required by division (G)(K) or permitted under division (K)(O) of this section, all other remaining funds distributed under this section to districts subject to this division with a poverty index greater than or equal to 1.0 shall be utilized for the purpose of the third grade guarantee. The third grade guarantee consists of increasing the amount~~

of instructional attention received per pupil in kindergarten through third grade, either by reducing the ratio of students to instructional personnel or by increasing the amount of instruction and curriculum-related activities by extending the length of the school day or the school year.

School districts may implement a reduction of the ratio of students to instructional personnel through any or all of the following methods:

(a) Reducing the number of students in a classroom taught by a single teacher;

(b) Employing full-time educational aides or educational paraprofessionals issued a permit or license under section 3319.088 of the Revised Code;

(c) Instituting a team-teaching method that will result in a lower student-teacher ratio in a classroom.

Districts may extend the school day either by increasing the amount of time allocated for each class, increasing the number of classes provided per day, offering optional academic-related after-school programs, providing curriculum-related extra curricular activities, or establishing tutoring or remedial services for students who have demonstrated an educational need. In accordance with section 3319.089 of the Revised Code, a district extending the school day pursuant to this division may utilize a participant of the work experience program who has a child enrolled in a public school in that district and who is fulfilling the work requirements of that program by volunteering or working in that public school. If the work experience program participant is compensated, the school district may use the funds distributed under this section for all or part of the compensation.

Districts may extend the school year either through adding regular days of instruction to the school calendar or by providing summer programs.

~~(G)(K)~~ Each district ~~subject to division (F) of this section~~ shall not expend any funds received under division (E) of this section in any school buildings that are not buildings with the highest concentration of need, unless there is a ratio of instructional personnel to students of no more than fifteen to one in each kindergarten and first grade class in all buildings with the highest concentration of need. This division does not require that the funds used in buildings with the highest concentration of need be spent solely to reduce the ratio of instructional personnel to students in kindergarten and first grade. A school district may spend the funds in those buildings in any manner permitted by division ~~(F)(3)(J)(7)~~ of this section, but may not spend the money in other buildings unless the fifteen-to-one ratio required by this division is attained.

~~(H)(L)~~(1) By the first day of August of each fiscal year, each school

district wishing to receive any funds under division (D) of this section shall submit to the department of education an estimate of its all-day kindergarten percentage. Each district shall update its estimate throughout the fiscal year in the form and manner required by the department, and the department shall adjust payments under this section to reflect the updates.

(2) Annually by the end of December, the department of education, utilizing data from the information system established under section 3301.0714 of the Revised Code and after consultation with the legislative office of education oversight, shall determine for each school district subject to division ~~(F)~~(J) of this section whether in the preceding fiscal year the district's ratio of instructional personnel to students and its number of kindergarten students receiving all-day kindergarten appear reasonable, given the amounts of money the district received for that fiscal year pursuant to divisions (D) and (E) of this section. If the department is unable to verify from the data available that students are receiving reasonable amounts of instructional attention and all-day kindergarten, given the funds the district has received under this section and that class-size reduction funds are being used in school buildings with the highest concentration of need as required by division ~~(G)~~(K) of this section, the department shall conduct a more intensive investigation to ensure that funds have been expended as required by this section. The department shall file an annual report of its findings under this division with the chairpersons of the committees in each house of the general assembly dealing with finance and education.

~~(F) Any~~ (M)(1) Each school district with a ~~DPIA~~ poverty index less than ~~one~~ 1.0 and a three-year average formula ADM exceeding seventeen thousand five hundred shall first utilize funds received under this section so that, when combined with other funds of the district, sufficient funds exist to provide all-day kindergarten to at least the number of children in the district's all-day kindergarten percentage. ~~Such a district~~

(2) Each school district with a poverty index less than 1.0 that receives a payment under division (C) of this section shall use its payment under that division in accordance with all requirements of division (J)(6) of this section.

(3) Each school district with a poverty index less than 1.0 that receives a payment under division (I) of this section shall use its payment under that division for one or a combination of the following purposes:

(a) To hire or contract for community liaison officers, attendance or truant officers, or safety and security personnel;

(b) To implement programs designed to ensure that schools are free of

drugs and violence and have a disciplined environment conducive to learning;

(c) To implement academic intervention services described in division (J)(6) of this section.

(4) Each school district to which division (M)(1), (2), or (3) of this section applies shall expend at least seventy per cent of the remaining funds received under this section, and any other district with a DPIA poverty index less than one 1.0 shall expend at least seventy per cent of all funds received under this section, for any of the following purposes:

(1)(a) The purchase of technology for instructional purposes for remediation;

(2)(b) All-day kindergarten;

(3)(c) Reduction of class sizes in grades kindergarten through three, as described in division (J)(7) of this section;

(4)(d) Summer school remediation;

(5)(e) Dropout prevention programs approved by the department of education under division (J)(4) of this section;

(6)(f) Guaranteeing that all third graders are ready to progress to more advanced work;

(7)(g) Summer education and work programs;

(8)(h) Adolescent pregnancy programs;

(9)(i) Head start or, preschool, early childhood education, or early learning programs;

(10)(j) Reading improvement and remediation programs described by the department of education;

(11)(k) Programs designed to ensure that schools are free of drugs and violence and have a disciplined environment conducive to learning;

(12)(l) Furnishing, free of charge, materials used in courses of instruction, except for the necessary textbooks or electronic textbooks required to be furnished without charge pursuant to section 3329.06 of the Revised Code, to pupils living in families participating in Ohio works first in accordance with section 3313.642 of the Revised Code;

(13)(m) School breakfasts provided pursuant to section 3313.813 of the Revised Code.

~~Each district shall submit to the department, in such format and at such time as the department shall specify, a report on the programs for which it expended funds under this division.~~

(J)(N) If at any time the superintendent of public instruction determines that a school district receiving funds under division (D) of this section has enrolled less than the all-day kindergarten percentage reported for that fiscal

year, the superintendent shall withhold from the funds otherwise due the district under this section a proportional amount as determined by the difference in the certified all-day kindergarten percentage and the percentage actually enrolled in all-day kindergarten.

The superintendent shall also withhold an appropriate amount of funds otherwise due a district for any other misuse of funds not in accordance with this section.

~~(K)(O)~~(1) A district may use a portion of the funds calculated for it under division (D) of this section to modify or purchase classroom space to provide all-day kindergarten, if both of the following conditions are met:

(a) The district certifies to the department, in a manner acceptable to the department, that it has a shortage of space for providing all-day kindergarten.

(b) The district provides all-day kindergarten to the number of children in the all-day kindergarten percentage it certified under this section.

(2) A district may use a portion of the funds described in division ~~(F)(3)(J)(7)~~ of this section to modify or purchase classroom space to enable it to further reduce class size in grades kindergarten through two with a goal of attaining class sizes of fifteen students per licensed teacher. To do so, the district must certify its need for additional space to the department, in a manner satisfactory to the department.

Sec. 3317.0216. (A) As used in this section:

(1) "Total taxes charged and payable for current expenses" means the sum of the taxes charged and payable as certified under division (A)(3)(a) of section 3317.021 of the Revised Code less any amounts reported under division (A)(3)(b) of that section, and the tax distribution for the preceding year under any school district income tax levied by the district pursuant to Chapter 5748. of the Revised Code to the extent the revenue from the income tax is allocated or apportioned to current expenses.

(2) "Charge-off amount" means ~~the product obtained by multiplying two and three-tenths per cent multiplied by~~ (the sum of recognized valuation and property exemption value).

(3) Until fiscal year 2003, the "actual local share of special education, transportation, and vocational education funding" for any school district means the sum of the district's attributed local shares described in divisions (F)(1) to (3) of section 3317.022 of the Revised Code. Beginning in fiscal year 2003, the "actual local share of special education, transportation, and vocational education funding" means that sum minus the amount of any excess cost supplement payment calculated for the district under division (F) of section 3317.022 of the Revised Code.

(4) "Current expense revenues from the tangible property tax replacement fund" means payments received from the school district tangible property tax replacement fund or the general revenue fund under section 5751.21 of the Revised Code for fixed-rate levies for current expenses and for fixed-sum levies for current expenses, including school district emergency levies under sections 5705.194 to 5705.197 of the Revised Code.

(B) Upon receiving the certifications under section 3317.021 of the Revised Code, the department of education shall determine for each city, local, and exempted village school district whether the district's charge-off amount is greater than the sum of the district's total taxes charged and payable for current expenses and current expense revenues from the tangible property tax replacement fund, and if ~~it~~ the charge-off amount is greater, shall pay the district the amount of the difference. A payment shall not be made to any school district for which the computation under division (A) of section 3317.022 of the Revised Code equals zero.

(C)(1) If a district's charge-off amount is equal to or greater than the sum of its total taxes charged and payable for current expenses and current expense revenues from the tangible property tax replacement fund, the department shall, in addition to the payment required under division (B) of this section, pay the district the amount of its actual local share of special education, transportation, and vocational education funding.

(2) If a district's charge-off amount is less than the sum of its total taxes charged and payable for current expenses and current expense revenues from the tangible property tax replacement fund, the department shall pay the district any amount by which its actual local share of special education, transportation, and vocational education funding exceeds the sum of its total taxes charged and payable for current expenses and current expense revenues from the tangible property tax replacement fund minus its charge-off amount.

(D) If a school district that received a payment under division (B) or (C) of this section in the prior fiscal year is ineligible for payment under those divisions in the current fiscal year, the department shall determine if the ineligibility is the result of a property tax or income tax levy approved by the district's voters to take effect in tax year 2005 or thereafter. If the department determines that is the case, and calculates that the levy causing the ineligibility exceeded by at least one mill the equivalent millage of the prior year's payment under divisions (B) and (C) of this section, the department shall make a payment to the district for the first three years that the district loses eligibility for payment under divisions (B) and (C) of this

section, as follows:

(1) In the first year of ineligibility, the department shall pay the district seventy-five per cent of the amount it last paid the district under divisions (B) and (C) of this section.

(2) In the second year of ineligibility, the department shall pay the district fifty per cent of the amount it last paid the district under those divisions.

(3) In the third year of ineligibility, the department shall pay the district twenty-five per cent of the amount it last paid the district under those divisions.

(E) A district that receives payment under division (D) of this section and subsequently qualifies for payment under division (B) or (C) of this section is ineligible for future payments under division (D) of this section.

Sec. 3317.0217. The department of education shall annually compute and pay state parity aid to school districts, as follows:

(A) Calculate the local wealth per pupil of each school district, which equals the following sum:

(1) Two-thirds times the quotient of (a) the district's recognized valuation divided by (b) its formula ADM; plus

(2) One-third times the quotient of (a) the average of the total federal adjusted gross income of the school district's residents for the three years most recently reported under section 3317.021 of the Revised Code divided by (b) its formula ADM.

(B) Rank all school districts in order of local wealth per pupil, from the district with the lowest local wealth per pupil to the district with the highest local wealth per pupil.

(C) Compute the per pupil state parity aid funding for each school district in accordance with the following formula:

$$\text{Payment percentage} \times (\text{threshold local wealth per pupil} - \text{the district's local wealth per pupil}) \times 0.0095 \quad \underline{0.0075}$$

Where:

~~(1) "Payment percentage," for purposes of division (C) of this section, equals 20% in fiscal year 2002, 40% in fiscal year 2003, 58% in fiscal year 2004, 76% in fiscal year 2005, and 100% after fiscal year 2005.~~

~~(2) Nine and one-half mills (0.0095) is the general assembly's determination of the average number of effective operating mills that districts in the seventieth to ninetieth percentiles of valuations per pupil collected in fiscal year 2001 above the revenues required to finance their attributed local shares of the calculated cost of an adequate education. This~~



~~was determined by (a) adding the district revenues from operating property tax levies and income tax levies, (b) subtracting from that total the sum of (i) twenty three mills times adjusted recognized valuation plus (ii) the attributed local shares of special education, transportation, and vocational education funding as described in divisions (F)(1) to (3) of section 3317.022 of the Revised Code, and (c) converting the result to an effective operating property tax rate~~ Seven and one-half mills (0.0075) is an adjustment to the original parity aid standard of nine and one-half mills, to account for the general assembly's policy decision to phase-out use of the cost-of-doing-business factor in the base cost formula.

~~(3)(2)~~ The "threshold local wealth per pupil" is the local wealth per pupil of the school district with the four-hundred-ninetieth lowest local wealth per pupil.

If the result of the calculation for a school district under division (C) of this section is less than zero, the district's per pupil parity aid shall be zero.

(D) Compute the per pupil alternative parity aid for each school district that has a combination of an income factor of 1.0 or less, a ~~DPIA~~ poverty index of 1.0 or greater, and a fiscal year 2005 cost-of-doing-business factor of 1.0375 or greater, in accordance with the following formula:

$$\text{Payment percentage} \times \$60,000 \times \\ (1 - \text{income factor}) \times 4/15 \times 0.023$$

Where:

(1) "~~DPIA~~ Poverty index" has the same meaning as in section 3317.029 of the Revised Code.

(2) "Payment percentage," for purposes of division (D) of this section, equals 50% in fiscal year 2002 and 100% after fiscal year 2002.

(E) Pay each district that has a combination of an income factor of 1.0 or less, a ~~DPIA~~ poverty index of 1.0 or greater, and a fiscal year 2005 cost-of-doing-business factor of 1.0375 or greater, the greater of the following:

(1) The product of the district's per pupil parity aid calculated under division (C) of this section times its net formula ADM;

(2) The product of its per pupil alternative parity aid calculated under division (D) of this section times its net formula ADM.

(F) Pay every other district the product of its per pupil parity aid calculated under division (C) of this section times its net formula ADM.

(G) As used in divisions (E) and (F) of this section, "net formula ADM" means formula ADM minus the number of internet- and computer-based community school students and scholarship students reported under divisions (B)(3)(e) and (f) of section 3317.03 of the Revised Code.

Sec. 3317.03. Notwithstanding divisions (A)(1), (B)(1), and (C) of this section, any student enrolled in kindergarten more than half time shall be reported as one-half student under this section.

(A) The superintendent of each city and exempted village school district and of each educational service center shall, for the schools under the superintendent's supervision, certify to the state board of education on or before the fifteenth day of October in each year for the first full school week in October the formula ADM, ~~which~~. Beginning in fiscal year 2006, each superintendent also shall certify to the state board, for the schools under the superintendent's supervision, the formula ADM for the third full week in February. If a school under the superintendent's supervision is closed for one or more days during that week due to hazardous weather conditions or other circumstances described in the first paragraph of division (B) of section 3317.01 of the Revised Code, the superintendent may apply to the superintendent of public instruction for a waiver, under which the superintendent of public instruction may exempt the district superintendent from certifying the formula ADM for that school for that week and specify an alternate week for certifying the formula ADM of that school.

The formula ADM shall consist of the average daily membership during such week of the sum of the following:

(1) On an FTE basis, the number of students in grades kindergarten through twelve receiving any educational services from the district, except that the following categories of students shall not be included in the determination:

- (a) Students enrolled in adult education classes;
- (b) Adjacent or other district students enrolled in the district under an open enrollment policy pursuant to section 3313.98 of the Revised Code;
- (c) Students receiving services in the district pursuant to a compact, cooperative education agreement, or a contract, but who are entitled to attend school in another district pursuant to section 3313.64 or 3313.65 of the Revised Code;
- (d) Students for whom tuition is payable pursuant to sections 3317.081 and 3323.141 of the Revised Code.

(2) On an FTE basis, the number of students entitled to attend school in the district pursuant to section 3313.64 or 3313.65 of the Revised Code, but receiving educational services in grades kindergarten through twelve from one or more of the following entities:

- (a) A community school pursuant to Chapter 3314. of the Revised Code, including any participation in a college pursuant to Chapter 3365. of the Revised Code while enrolled in such community school;

(b) An alternative school pursuant to sections 3313.974 to 3313.979 of the Revised Code as described in division (I)(2)(a) or (b) of this section;

(c) A college pursuant to Chapter 3365. of the Revised Code, except when the student is enrolled in the college while also enrolled in a community school pursuant to Chapter 3314. of the Revised Code;

(d) An adjacent or other school district under an open enrollment policy adopted pursuant to section 3313.98 of the Revised Code;

(e) An educational service center or cooperative education district;

(f) Another school district under a cooperative education agreement, compact, or contract;

(g) A chartered nonpublic school with a scholarship paid under section 3310.08 of the Revised Code.

(3) Twenty per cent of the number of students enrolled in a joint vocational school district or under a vocational education compact, excluding any students entitled to attend school in the district under section 3313.64 or 3313.65 of the Revised Code who are enrolled in another school district through an open enrollment policy as reported under division (A)(2)(d) of this section and then enroll in a joint vocational school district or under a vocational education compact;

(4) The number of handicapped children, other than handicapped preschool children, entitled to attend school in the district pursuant to section 3313.64 or 3313.65 of the Revised Code who are placed with a county MR/DD board, minus the number of such children placed with a county MR/DD board in fiscal year 1998. If this calculation produces a negative number, the number reported under division (A)(4) of this section shall be zero.

(5) In the case of the report submitted for the third full week in February, or the alternative week if specified by the superintendent of public instruction, the number of students reported under division (A)(1) or (2) of this section for the first full week of the preceding October but who since that week have received high school diplomas.

(B) To enable the department of education to obtain the data needed to complete the calculation of payments pursuant to this chapter, in addition to the formula ADM, each superintendent shall report separately the following student counts for the same week for which formula ADM is certified:

(1) The total average daily membership in regular day classes included in the report under division (A)(1) or (2) of this section for kindergarten, and each of grades one through twelve in schools under the superintendent's supervision;

(2) The number of all handicapped preschool children enrolled as of the

first day of December in classes in the district that are eligible for approval under division (B) of section 3317.05 of the Revised Code and the number of those classes, which shall be reported not later than the fifteenth day of December, in accordance with rules adopted under that section;

(3) The number of children entitled to attend school in the district pursuant to section 3313.64 or 3313.65 of the Revised Code who are ~~participating~~:

(a) Participating in a pilot project scholarship program established under sections 3313.974 to 3313.979 of the Revised Code as described in division (I)(2)(a) or (b) of this section, ~~are enrolled~~;

(b) Enrolled in a college under Chapter 3365. of the Revised Code, except when the student is enrolled in the college while also enrolled in a community school pursuant to Chapter 3314. of the Revised Code, ~~are enrolled~~;

(c) Enrolled in an adjacent or other school district under section 3313.98 of the Revised Code, ~~are enrolled~~;

(d) Enrolled in a community school established under Chapter 3314. of the Revised Code that is not an internet- or computer-based community school as defined in section 3314.02 of the Revised Code, including any participation in a college pursuant to Chapter 3365. of the Revised Code while enrolled in such community school, ~~or are participating~~;

(e) Enrolled in an internet- or computer-based community school, as defined in section 3314.02 of the Revised Code, including any participation in a college pursuant to Chapter 3365. of the Revised Code while enrolled in the school;

(f) Enrolled in a chartered nonpublic school with a scholarship paid under section 3310.08 of the Revised Code;

(g) Participating in a program operated by a county MR/DD board or a state institution;

(4) The number of pupils enrolled in joint vocational schools;

(5) The average daily membership of handicapped children reported under division (A)(1) or (2) of this section receiving special education services for the category one handicap described in division (A) of section 3317.013 of the Revised Code;

(6) The average daily membership of handicapped children reported under division (A)(1) or (2) of this section receiving special education services for category two handicaps described in division (B) of section 3317.013 of the Revised Code;

(7) The average daily membership of handicapped children reported under division (A)(1) or (2) of this section receiving special education

services for category three handicaps described in division (C) of section 3317.013 of the Revised Code;

(8) The average daily membership of handicapped children reported under division (A)(1) or (2) of this section receiving special education services for category four handicaps described in division (D) of section 3317.013 of the Revised Code;

(9) The average daily membership of handicapped children reported under division (A)(1) or (2) of this section receiving special education services for the category five handicap described in division (E) of section 3317.013 of the Revised Code;

(10) The average daily membership of handicapped children reported under division (A)(1) or (2) of this section receiving special education services for category six handicaps described in division (F) of section 3317.013 of the Revised Code;

(11) The average daily membership of pupils reported under division (A)(1) or (2) of this section enrolled in category one vocational education programs or classes, described in division (A) of section 3317.014 of the Revised Code, operated by the school district or by another district, other than a joint vocational school district, or by an educational service center, excluding any student reported under division (B)(3)(e) of this section as enrolled in an internet- or computer-based community school, notwithstanding division (C) of section 3317.02 of the Revised Code and division (C)(3) of this section;

(12) The average daily membership of pupils reported under division (A)(1) or (2) of this section enrolled in category two vocational education programs or services, described in division (B) of section 3317.014 of the Revised Code, operated by the school district or another school district, other than a joint vocational school district, or by an educational service center, excluding any student reported under division (B)(3)(e) of this section as enrolled in an internet- or computer-based community school, notwithstanding division (C) of section 3317.02 of the Revised Code and division (C)(3) of this section;

(13) The average number of children transported by the school district on board-owned or contractor-owned and -operated buses, reported in accordance with rules adopted by the department of education;

(14)(a) The number of children, other than handicapped preschool children, the district placed with a county MR/DD board in fiscal year 1998;

(b) The number of handicapped children, other than handicapped preschool children, placed with a county MR/DD board in the current fiscal year to receive special education services for the category one handicap

described in division (A) of section 3317.013 of the Revised Code;

(c) The number of handicapped children, other than handicapped preschool children, placed with a county MR/DD board in the current fiscal year to receive special education services for category two handicaps described in division (B) of section 3317.013 of the Revised Code;

(d) The number of handicapped children, other than handicapped preschool children, placed with a county MR/DD board in the current fiscal year to receive special education services for category three handicaps described in division (C) of section 3317.013 of the Revised Code;

(e) The number of handicapped children, other than handicapped preschool children, placed with a county MR/DD board in the current fiscal year to receive special education services for category four handicaps described in division (D) of section 3317.013 of the Revised Code;

(f) The number of handicapped children, other than handicapped preschool children, placed with a county MR/DD board in the current fiscal year to receive special education services for the category five handicap described in division (E) of section 3317.013 of the Revised Code;

(g) The number of handicapped children, other than handicapped preschool children, placed with a county MR/DD board in the current fiscal year to receive special education services for category six handicaps described in division (F) of section 3317.013 of the Revised Code.

(C)(1) Except as otherwise provided in this section for kindergarten students, the average daily membership in divisions (B)(1) to (12) of this section shall be based upon the number of full-time equivalent students. The state board of education shall adopt rules defining full-time equivalent students and for determining the average daily membership therefrom for the purposes of divisions (A), (B), and (D) of this section.

(2) A student enrolled in a community school established under Chapter 3314. of the Revised Code shall be counted in the formula ADM and, if applicable, the category one, two, three, four, five, or six special education ADM of the school district in which the student is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code for the same proportion of the school year that the student is counted in the enrollment of the community school for purposes of section 3314.08 of the Revised Code.

(3) No child shall be counted as more than a total of one child in the sum of the average daily memberships of a school district under division (A), divisions (B)(1) to (12), or division (D) of this section, except as follows:

(a) A child with a handicap described in section 3317.013 of the Revised Code may be counted both in formula ADM and in category one,

two, three, four, five, or six special education ADM and, if applicable, in category one or two vocational education ADM. As provided in division (C) of section 3317.02 of the Revised Code, such a child shall be counted in category one, two, three, four, five, or six special education ADM in the same proportion that the child is counted in formula ADM.

(b) A child enrolled in vocational education programs or classes described in section 3317.014 of the Revised Code may be counted both in formula ADM and category one or two vocational education ADM and, if applicable, in category one, two, three, four, five, or six special education ADM. Such a child shall be counted in category one or two vocational education ADM in the same proportion as the percentage of time that the child spends in the vocational education programs or classes.

(4) Based on the information reported under this section, the department of education shall determine the total student count, as defined in section 3301.011 of the Revised Code, for each school district.

(D)(1) The superintendent of each joint vocational school district shall certify to the superintendent of public instruction on or before the fifteenth day of October in each year for the first full school week in October the formula ADM, ~~which. Beginning in fiscal year 2006, each superintendent also shall certify to the state superintendent the formula ADM for the third full week in February. If a school operated by the joint vocational school district is closed for one or more days during that week due to hazardous weather conditions or other circumstances described in the first paragraph of division (B) of section 3317.01 of the Revised Code, the superintendent may apply to the superintendent of public instruction for a waiver, under which the superintendent of public instruction may exempt the district superintendent from certifying the formula ADM for that school for that week and specify an alternate week for certifying the formula ADM of that school.~~

The formula ADM, except as otherwise provided in this division, shall consist of the average daily membership during such week, on an FTE basis, of the number of students receiving any educational services from the district, including students enrolled in a community school established under Chapter 3314. of the Revised Code who are attending the joint vocational district under an agreement between the district board of education and the governing authority of the community school and are entitled to attend school in a city, local, or exempted village school district whose territory is part of the territory of the joint vocational district. In the case of the report submitted for the third week in February, or the alternative week if specified by the superintendent of public instruction, the superintendent of the joint

vocational school district may include the number of students reported under division (D)(1) of this section for the first full week of the preceding October but who since that week have received high school diplomas.

The following categories of students shall not be included in the determination made under division (D)(1) of this section:

- (a) Students enrolled in adult education classes;
- (b) Adjacent or other district joint vocational students enrolled in the district under an open enrollment policy pursuant to section 3313.98 of the Revised Code;
- (c) Students receiving services in the district pursuant to a compact, cooperative education agreement, or a contract, but who are entitled to attend school in a city, local, or exempted village school district whose territory is not part of the territory of the joint vocational district;
- (d) Students for whom tuition is payable pursuant to sections 3317.081 and 3323.141 of the Revised Code.

(2) To enable the department of education to obtain the data needed to complete the calculation of payments pursuant to this chapter, in addition to the formula ADM, each superintendent shall report separately the average daily membership included in the report under division (D)(1) of this section for each of the following categories of students for the same week for which formula ADM is certified:

- (a) Students enrolled in each grade included in the joint vocational district schools;
- (b) Handicapped children receiving special education services for the category one handicap described in division (A) of section 3317.013 of the Revised Code;
- (c) Handicapped children receiving special education services for the category two handicaps described in division (B) of section 3317.013 of the Revised Code;
- (d) Handicapped children receiving special education services for category three handicaps described in division (C) of section 3317.013 of the Revised Code;
- (e) Handicapped children receiving special education services for category four handicaps described in division (D) of section 3317.013 of the Revised Code;
- (f) Handicapped children receiving special education services for the category five handicap described in division (E) of section 3317.013 of the Revised Code;
- (g) Handicapped children receiving special education services for category six handicaps described in division (F) of section 3317.013 of the



Revised Code;

(h) Students receiving category one vocational education services, described in division (A) of section 3317.014 of the Revised Code;

(i) Students receiving category two vocational education services, described in division (B) of section 3317.014 of the Revised Code.

The superintendent of each joint vocational school district shall also indicate the city, local, or exempted village school district in which each joint vocational district pupil is entitled to attend school pursuant to section 3313.64 or 3313.65 of the Revised Code.

(E) In each school of each city, local, exempted village, joint vocational, and cooperative education school district there shall be maintained a record of school membership, which record shall accurately show, for each day the school is in session, the actual membership enrolled in regular day classes. For the purpose of determining average daily membership, the membership figure of any school shall not include any pupils except those pupils described by division (A) of this section. The record of membership for each school shall be maintained in such manner that no pupil shall be counted as in membership prior to the actual date of entry in the school and also in such manner that where for any cause a pupil permanently withdraws from the school that pupil shall not be counted as in membership from and after the date of such withdrawal. There shall not be included in the membership of any school any of the following:

(1) Any pupil who has graduated from the twelfth grade of a public high school;

(2) Any pupil who is not a resident of the state;

(3) Any pupil who was enrolled in the schools of the district during the previous school year when tests were administered under section 3301.0711 of the Revised Code but did not take one or more of the tests required by that section and was not excused pursuant to division (C)(1) or (3) of that section;

(4) Any pupil who has attained the age of twenty-two years, except for veterans of the armed services whose attendance was interrupted before completing the recognized twelve-year course of the public schools by reason of induction or enlistment in the armed forces and who apply for reenrollment in the public school system of their residence not later than four years after termination of war or their honorable discharge.

If, however, any veteran described by division (E)(4) of this section elects to enroll in special courses organized for veterans for whom tuition is paid under the provisions of federal laws, or otherwise, that veteran shall not be included in average daily membership.

Notwithstanding division (E)(3) of this section, the membership of any school may include a pupil who did not take a test required by section 3301.0711 of the Revised Code if the superintendent of public instruction grants a waiver from the requirement to take the test to the specific pupil. The superintendent may grant such a waiver only for good cause in accordance with rules adopted by the state board of education.

Except as provided in divisions (B)(2) and (F) of this section, the average daily membership figure of any local, city, exempted village, or joint vocational school district shall be determined by dividing the figure representing the sum of the number of pupils enrolled during each day the school of attendance is actually open for instruction during the ~~first full school week in October~~ first full school week in October for which the formula ADM is being certified by the total number of days the school was actually open for instruction during that week. For purposes of state funding, "enrolled" persons are only those pupils who are attending school, those who have attended school during the current school year and are absent for authorized reasons, and those handicapped children currently receiving home instruction.

The average daily membership figure of any cooperative education school district shall be determined in accordance with rules adopted by the state board of education.

(F)(1) If the formula ADM for the first full school week in February is at least three per cent greater than that certified for the first full school week in the preceding October, the superintendent of schools of any city, exempted village, or joint vocational school district or educational service center shall certify such increase to the superintendent of public instruction. Such certification shall be submitted no later than the fifteenth day of February. For the balance of the fiscal year, beginning with the February payments, the superintendent of public instruction shall use the increased formula ADM in calculating or recalculating the amounts to be allocated in accordance with section 3317.022 or 3317.16 of the Revised Code. In no event shall the superintendent use an increased membership certified to the superintendent after the fifteenth day of February. Division (F)(1) of this section does not apply after fiscal year 2005.

(2) If on the first school day of April the total number of classes or units for handicapped preschool children that are eligible for approval under division (B) of section 3317.05 of the Revised Code exceeds the number of units that have been approved for the year under that division, the superintendent of schools of any city, exempted village, or cooperative education school district or educational service center shall make the certifications required by this section for that day. If the department

determines additional units can be approved for the fiscal year within any limitations set forth in the acts appropriating moneys for the funding of such units, the department shall approve additional units for the fiscal year on the basis of such average daily membership. For each unit so approved, the department shall pay an amount computed in the manner prescribed in section 3317.052 or 3317.19 and section 3317.053 of the Revised Code.

(3) If a student attending a community school under Chapter 3314. of the Revised Code is not included in the formula ADM certified ~~for the first full school week of October~~ for the school district in which the student is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code, the department of education shall adjust the formula ADM of that school district to include the community school student in accordance with division (C)(2) of this section, and shall recalculate the school district's payments under this chapter for the entire fiscal year on the basis of that adjusted formula ADM. This requirement applies regardless of whether the student was enrolled, as defined in division (E) of this section, in the community school during the first full school week in October.

(G)(1)(a) The superintendent of an institution operating a special education program pursuant to section 3323.091 of the Revised Code shall, for the programs under such superintendent's supervision, certify to the state board of education ~~the, in the manner prescribed by the superintendent of public instruction, both of the following:~~

(i) The average daily membership of all handicapped children other than handicapped preschool children receiving services at the institution for each category of handicap described in divisions (A) to (F) of section 3317.013 of the Revised Code;

(ii) The average daily membership of all handicapped preschool children in classes or programs approved annually by the department of education, in the manner prescribed by the superintendent of public instruction for unit funding under section 3317.05 of the Revised Code.

(b) The superintendent of an institution with vocational education units approved under division (A) of section 3317.05 of the Revised Code shall, for the units under the superintendent's supervision, certify to the state board of education the average daily membership in those units, in the manner prescribed by the superintendent of public instruction.

(2) The superintendent of each county MR/DD board that maintains special education classes under section 3317.20 of the Revised Code or units approved pursuant to section 3317.05 of the Revised Code shall do both of the following:

(a) Certify to the state board, in the manner prescribed by the board, the

average daily membership in classes under section 3317.20 of the Revised Code for each school district that has placed children in the classes;

(b) Certify to the state board, in the manner prescribed by the board, the number of all handicapped preschool children enrolled as of the first day of December in classes eligible for approval under division (B) of section 3317.05 of the Revised Code, and the number of those classes.

(3)(a) If on the first school day of April the number of classes or units maintained for handicapped preschool children by the county MR/DD board that are eligible for approval under division (B) of section 3317.05 of the Revised Code is greater than the number of units approved for the year under that division, the superintendent shall make the certification required by this section for that day.

(b) If the department determines that additional classes or units can be approved for the fiscal year within any limitations set forth in the acts appropriating moneys for the funding of the classes and units described in division (G)(3)(a) of this section, the department shall approve and fund additional units for the fiscal year on the basis of such average daily membership. For each unit so approved, the department shall pay an amount computed in the manner prescribed in sections 3317.052 and 3317.053 of the Revised Code.

(H) Except as provided in division (I) of this section, when any city, local, or exempted village school district provides instruction for a nonresident pupil whose attendance is unauthorized attendance as defined in section 3327.06 of the Revised Code, that pupil's membership shall not be included in that district's membership figure used in the calculation of that district's formula ADM or included in the determination of any unit approved for the district under section 3317.05 of the Revised Code. The reporting official shall report separately the average daily membership of all pupils whose attendance in the district is unauthorized attendance, and the membership of each such pupil shall be credited to the school district in which the pupil is entitled to attend school under division (B) of section 3313.64 or section 3313.65 of the Revised Code as determined by the department of education.

(I)(1) A city, local, exempted village, or joint vocational school district admitting a scholarship student of a pilot project district pursuant to division (C) of section 3313.976 of the Revised Code may count such student in its average daily membership.

(2) In any year for which funds are appropriated for pilot project scholarship programs, a school district implementing a state-sponsored pilot project scholarship program that year pursuant to sections 3313.974 to

3313.979 of the Revised Code may count in average daily membership:

(a) All children residing in the district and utilizing a scholarship to attend kindergarten in any alternative school, as defined in section 3313.974 of the Revised Code;

(b) All children who were enrolled in the district in the preceding year who are utilizing a scholarship to attend any such alternative school.

(J) The superintendent of each cooperative education school district shall certify to the superintendent of public instruction, in a manner prescribed by the state board of education, the applicable average daily memberships for all students in the cooperative education district, also indicating the city, local, or exempted village district where each pupil is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code.

Sec. 3317.031. A membership record shall be kept by grade level in each city, local, exempted village, joint vocational, and cooperative education school district and such a record shall be kept by grade level in each educational service center that provides academic instruction to pupils, classes for handicapped pupils, or any other direct instructional services to pupils. Such membership record shall show the following information for each pupil enrolled: Name, date of birth, name of parent, date entered school, date withdrawn from school, days present, days absent, and the number of days school was open for instruction while the pupil was enrolled. At the end of the school year this membership record shall show the total days present, the total days absent, and the total days due for all pupils in each grade. Such membership record shall show the pupils that are transported to and from school and it shall also show the pupils that are transported living within one mile of the school attended. This membership record shall also show any other information prescribed by the state board of education.

This membership record shall be kept intact for at least five years and shall be made available to the state board of education or its representative in making an audit of the average daily membership or the transportation of the district or educational service center. The membership records of local school districts shall be filed at the close of each school year in the office of the educational service center superintendent.

The state board of education may withhold any money due any school district or educational service center under sections 3317.022 to ~~3317.0212~~ 3317.0211, 3317.11, 3317.16, 3317.17, or 3317.19 of the Revised Code until it has satisfactory evidence that the board of education or educational service center governing board has fully complied with all of the provisions

of this section.

Nothing in this section shall require any person to release, or to permit access to, public school records in violation of section 3319.321 of the Revised Code.

Sec. 3317.035. The auditor of state may conduct annual audits of the information certified under section 3317.03 of the Revised Code by a number of school districts determined by the auditor of state and selected at random.

Sec. 3317.05. (A) For the purpose of calculating payments under sections 3317.052 and 3317.053 of the Revised Code, the department of education shall determine for each institution, by the last day of January of each year and based on information certified under section 3317.03 of the Revised Code, the number of vocational education units or fractions of units approved by the department on the basis of standards and rules adopted by the state board of education. As used in this division, "institution" means an institution operated by a department specified in section 3323.091 of the Revised Code and that provides vocational education programs under the supervision of the division of vocational education of the department that meet the standards and rules for these programs, including licensure of professional staff involved in the programs, as established by the state board.

(B) For the purpose of calculating payments under sections 3317.052, 3317.053, 3317.11, and 3317.19 of the Revised Code, the department shall determine, based on information certified under section 3317.03 of the Revised Code, the following by the last day of January of each year for each educational service center, for each school district, including each cooperative education school district, for each institution eligible for payment under section 3323.091 of the Revised Code, and for each county MR/DD board: the number of classes operated by the school district, service center, institution, or county MR/DD board for handicapped preschool children, or fraction thereof, including in the case of a district or service center that is a funding agent, classes taught by a licensed teacher employed by that district or service center under section 3313.841 of the Revised Code, approved annually by the department on the basis of standards and rules adopted by the state board.

(C) For the purpose of calculating payments under sections 3317.052, 3317.053, 3317.11, and 3317.19 of the Revised Code, the department shall determine, based on information certified under section 3317.03 of the Revised Code, the following by the last day of January of each year for each school district, including each cooperative education school district, for each

institution eligible for payment under section 3323.091 of the Revised Code, and for each county MR/DD board: the number of preschool handicapped ~~related services~~ units for ~~child study, occupational, physical, or speech and hearing therapy, special education supervisors, and special education coordinators~~ related services, as defined in section 3323.01 of the Revised Code, approved annually by the department on the basis of standards and rules adopted by the state board.

~~(D) For the purpose of calculating payments under sections 3317.052 and 3317.053 of the Revised Code, the department shall determine, based on information certified under section 3317.03 of the Revised Code, the following by the last day of January of each year for each institution eligible for payment under section 3323.091 of the Revised Code:~~

~~(1) The number of classes operated by an institution for handicapped children other than handicapped preschool children, or fraction thereof, approved annually by the department on the basis of standards and rules adopted by the state board;~~

~~(2) The number of related services units for children other than handicapped preschool children for child study, occupational, physical, or speech and hearing therapy, special education supervisors, and special education coordinators approved annually by the department on the basis of standards and rules adopted by the state board.~~

~~(E)~~ All of the arithmetical calculations made under this section shall be carried to the second decimal place. The total number of units for school districts, service centers, and institutions approved annually under this section shall not exceed the number of units included in the estimate of cost for these units and appropriations made for them by the general assembly.

~~In the case of units described in division (D)(1) of this section operated by institutions eligible for payment under section 3323.091 of the Revised Code, the department shall approve only units for persons who are under age twenty-two on the first day of the academic year, but not less than six years of age on the thirtieth day of September of that year, except that such a unit may include one or more children who are under six years of age on the thirtieth day of September if such children have been admitted to the unit pursuant to rules of the state board.~~ In the case of handicapped preschool units described in division (B) of this section, the department shall approve only preschool units for children who are under age six on the thirtieth day of September of the academic year, or on the first day of August of the academic year if the school district in which the child is enrolled has adopted a resolution under division (A)(3) of section 3321.01 of the Revised Code, but not less than age three on the first day of December of the

academic year, except that such a unit may include one or more children who are under age three or are age six or over on the ~~first day of December~~ applicable date, as reported under division (B)(2) or (G)(2)(b) of section 3317.03 of the Revised Code, if such children have been admitted to the unit pursuant to rules of the state board. The number of units for county MR/DD boards and institutions eligible for payment under section 3323.091 of the Revised Code approved under this section shall not exceed the number that can be funded with appropriations made for such purposes by the general assembly.

No unit shall be approved under divisions (B) ~~to (D)~~ and (C) of this section unless a plan has been submitted and approved under Chapter 3323. of the Revised Code.

~~(F)~~(E) The department shall approve units or fractions thereof for gifted children on the basis of standards and rules adopted by the state board.

Sec. 3317.052. As used in this section, "institution" means an institution operated by a department specified in division (A) of section 3323.091 of the Revised Code.

(A)(1) The department of education shall pay each school district, educational service center, institution eligible for payment under section 3323.091 of the Revised Code, or county MR/DD board an amount for the total of all classroom units for handicapped preschool children approved under division (B) of section 3317.05 of the Revised Code. For each unit, the amount shall be the sum of the minimum salary for the teacher of the unit, calculated on the basis of the teacher's training level and years of experience pursuant to the salary schedule prescribed in the version of section 3317.13 of the Revised Code in effect prior to ~~the effective date of this amendment~~ July 1, 2001, plus fifteen per cent of that minimum salary amount, and eight thousand twenty-three dollars.

(2) The department shall pay each school district, educational service center, institution eligible for payment under section 3323.091 of the Revised Code, or county MR/DD board an amount for the total of all related services units for handicapped preschool children approved under division (C) of section 3317.05 of the Revised Code. For each such unit, the amount shall be the sum of the minimum salary for the teacher of the unit calculated on the basis of the teacher's training level and years of experience pursuant to the salary schedule prescribed in the version of section 3317.13 of the Revised Code in effect prior to ~~the effective date of this amendment~~ July 1, 2001, fifteen per cent of that minimum salary amount, and two thousand one hundred thirty-two dollars.

(B) If a school district, educational service center, or county MR/DD



board has had additional handicapped preschool units approved for the year under division (F)(2) or (G)(3) of section 3317.03 of the Revised Code, the district, educational service center, or board shall receive an additional amount during the last half of the fiscal year. For each district, center, or board, the additional amount for each unit shall equal fifty per cent of the amounts computed for the unit in the manner prescribed by division (A) of this section and division (C) of section 3317.053 of the Revised Code.

~~(C)(1) The department shall pay each institution eligible for payment under section 3323.091 of the Revised Code or county MR/DD board an amount for the total of all special education units approved under division (D)(1) of section 3317.05 of the Revised Code. The amount for each unit shall be the sum of the minimum salary for the teacher of the unit, calculated on the basis of the teacher's training level and years of experience pursuant to the salary schedule prescribed in the version of section 3317.13 of the Revised Code in effect prior to the effective date of this amendment, plus fifteen per cent of that minimum salary amount, and eight thousand twenty three dollars.~~

~~(2) The department shall pay each institution eligible for payment under section 3323.091 of the Revised Code an amount for the total of all related services units approved under division (D)(2) of section 3317.05 of the Revised Code. The amount for each unit shall be the sum of the minimum salary for the teacher of the unit, calculated on the basis of the teacher's training level and years of experience pursuant to the salary schedule prescribed in the version of section 3317.13 of the Revised Code in effect prior to the effective date of this amendment, plus fifteen per cent of that minimum salary amount, and two thousand one hundred thirty two dollars.~~

~~(D) The department shall pay each institution approved for vocational education units under division (A) of section 3317.05 of the Revised Code an amount for the total of all the units approved under that division. The amount for each unit shall be the sum of the minimum salary for the teacher of the unit, calculated on the basis of the teacher's training level and years of experience pursuant to the salary schedule prescribed in the version of section 3317.13 of the Revised Code in effect prior to the effective date of this amendment July 1, 2001, plus fifteen per cent of that minimum salary amount, and nine thousand five hundred ten dollars. Each institution that receives units funds under this division annually shall report to the department on the delivery of services and the performance of students and any other information required by the department to evaluate the institution's vocational education program.~~

Sec. 3317.053. (A) As used in this section:

(1) "State share percentage" has the same meaning as in section 3317.022 of the Revised Code.

(2) "Dollar amount" means the amount shown in the following table for the corresponding type of unit:

TYPE OF UNIT	DOLLAR AMOUNT
Division (B) of section 3317.05 of the Revised Code	\$8,334
Division (C) of that section	\$3,234
Division <del>(F)</del> (E) of that section	\$5,550

(3) "Average unit amount" means the amount shown in the following table for the corresponding type of unit:

TYPE OF UNIT	AVERAGE UNIT AMOUNT
Division (B) of section 3317.05 of the Revised Code	\$7,799
Division (C) of that section	\$2,966
Division <del>(F)</del> (E) of that section	\$5,251

(B) In the case of each unit described in division (B), (C), or ~~(F)~~(E) of section 3317.05 of the Revised Code and allocated to a city, local, or exempted village school district, the department of education, in addition to the amounts specified in division (P) of section 3317.024 and sections 3317.052 and 3317.19 of the Revised Code, shall pay a supplemental unit allowance equal to the sum of the following amounts:

- (1) An amount equal to 50% of the average unit amount for the unit;
- (2) An amount equal to the percentage of the dollar amount for the unit that equals the district's state share percentage.

If, prior to the fifteenth day of May of a fiscal year, a school district's aid computed under section 3317.022 of the Revised Code is recomputed pursuant to section 3317.027 or 3317.028 of the Revised Code, the department shall also recompute the district's entitlement to payment under this section utilizing a new state share percentage. Such new state share percentage shall be determined using the district's recomputed basic aid amount pursuant to section 3317.027 or 3317.028 of the Revised Code. During the last six months of the fiscal year, the department shall pay the district a sum equal to one-half of the recomputed payment in lieu of one-half the payment otherwise calculated under this section.

(C)(1) In the case of each unit allocated to an institution pursuant to division (A) of section 3317.05 of the Revised Code, the department, in addition to the amount specified in section 3317.052 of the Revised Code, shall pay a supplemental unit allowance of \$7,227.

(2) In the case of each unit described in division (B) ~~or (D)(1)~~ of section 3317.05 of the Revised Code that is allocated to any entity other than a city, exempted village, or local school district, the department, in addition to the amount specified in section 3317.052 of the Revised Code, shall pay a supplemental unit allowance of \$7,799.

(3) In the case of each unit described in division (C) ~~or (D)(2)~~ of section 3317.05 of the Revised Code and allocated to any entity other than a city, exempted village, or local school district, the department, in addition to the amounts specified in section 3317.052 of the Revised Code, shall pay a supplemental unit allowance of \$2,966.

(4) In the case of each unit described in division ~~(F)~~(E) of section 3317.05 of the Revised Code and allocated to an educational service center, the department, in addition to the amounts specified in division (P) of section 3317.024 of the Revised Code, shall pay a supplemental unit allowance of \$5,251.

Sec. 3317.06. Moneys paid to school districts under division (L) of section 3317.024 of the Revised Code shall be used for the following independent and fully severable purposes:

(A) To purchase such secular textbooks or electronic textbooks as have been approved by the superintendent of public instruction for use in public schools in the state and to loan such textbooks or electronic textbooks to pupils attending nonpublic schools within the district or to their parents and to hire clerical personnel to administer such lending program. Such loans shall be based upon individual requests submitted by such nonpublic school pupils or parents. Such requests shall be submitted to the school district in which the nonpublic school is located. Such individual requests for the loan of textbooks or electronic textbooks shall, for administrative convenience, be submitted by the nonpublic school pupil or the pupil's parent to the nonpublic school, which shall prepare and submit collective summaries of the individual requests to the school district. As used in this section:

(1) "Textbook" means any book or book substitute that a pupil uses as a consumable or nonconsumable text, text substitute, or text supplement in a particular class or program in the school the pupil regularly attends.

(2) "Electronic textbook" means computer software, interactive videodisc, magnetic media, CD-ROM, computer courseware, local and remote computer assisted instruction, on-line service, electronic medium, or other means of conveying information to the student or otherwise contributing to the learning process through electronic means.

(B) To provide speech and hearing diagnostic services to pupils attending nonpublic schools within the district. Such service shall be

provided in the nonpublic school attended by the pupil receiving the service.

(C) To provide physician, nursing, dental, and optometric services to pupils attending nonpublic schools within the district. Such services shall be provided in the school attended by the nonpublic school pupil receiving the service.

(D) To provide diagnostic psychological services to pupils attending nonpublic schools within the district. Such services shall be provided in the school attended by the pupil receiving the service.

(E) To provide therapeutic psychological and speech and hearing services to pupils attending nonpublic schools within the district. Such services shall be provided in the public school, in nonpublic schools, in public centers, or in mobile units located on or off of the nonpublic premises. If such services are provided in the public school or in public centers, transportation to and from such facilities shall be provided by the school district in which the nonpublic school is located.

(F) To provide guidance and counseling services to pupils attending nonpublic schools within the district. Such services shall be provided in the public school, in nonpublic schools, in public centers, or in mobile units located on or off of the nonpublic premises. If such services are provided in the public school or in public centers, transportation to and from such facilities shall be provided by the school district in which the nonpublic school is located.

(G) To provide remedial services to pupils attending nonpublic schools within the district. Such services shall be provided in the public school, in nonpublic schools, in public centers, or in mobile units located on or off of the nonpublic premises. If such services are provided in the public school or in public centers, transportation to and from such facilities shall be provided by the school district in which the nonpublic school is located.

(H) To supply for use by pupils attending nonpublic schools within the district such standardized tests and scoring services as are in use in the public schools of the state;

(I) To provide programs for children who attend nonpublic schools within the district and are handicapped children as defined in division (A) of section 3323.01 of the Revised Code or gifted children. Such programs shall be provided in the public school, in nonpublic schools, in public centers, or in mobile units located on or off of the nonpublic premises. If such programs are provided in the public school or in public centers, transportation to and from such facilities shall be provided by the school district in which the nonpublic school is located.

(J) To hire clerical personnel to assist in the administration of programs

pursuant to divisions (B), (C), (D), (E), (F), (G), and (I) of this section and to hire supervisory personnel to supervise the providing of services and textbooks pursuant to this section.

(K) To purchase or lease any secular, neutral, and nonideological computer software (including site-licensing), prerecorded video laserdiscs, digital video on demand (DVD), compact discs, and video cassette cartridges, wide area connectivity and related technology as it relates to internet access, mathematics or science equipment and materials, instructional materials, and school library materials that are in general use in the public schools of the state and loan such items to pupils attending nonpublic schools within the district or to their parents, and to hire clerical personnel to administer the lending program. Only such items that are incapable of diversion to religious use and that are susceptible of loan to individual pupils and are furnished for the use of individual pupils shall be purchased and loaned under this division. As used in this section, "instructional materials" means prepared learning materials that are secular, neutral, and nonideological in character and are of benefit to the instruction of school children, and may include educational resources and services developed by the eTech Ohio ~~schoolnet~~ commission.

(L) To purchase or lease instructional equipment, including computer hardware and related equipment in general use in the public schools of the state, for use by pupils attending nonpublic schools within the district and to loan such items to pupils attending nonpublic schools within the district or to their parents, and to hire clerical personnel to administer the lending program.

(M) To purchase mobile units to be used for the provision of services pursuant to divisions (E), (F), (G), and (I) of this section and to pay for necessary repairs and operating costs associated with these units.

Clerical and supervisory personnel hired pursuant to division (J) of this section shall perform their services in the public schools, in nonpublic schools, public centers, or mobile units where the services are provided to the nonpublic school pupil, except that such personnel may accompany pupils to and from the service sites when necessary to ensure the safety of the children receiving the services.

All services provided pursuant to this section may be provided under contract with educational service centers, the department of health, city or general health districts, or private agencies whose personnel are properly licensed by an appropriate state board or agency.

Transportation of pupils provided pursuant to divisions (E), (F), (G), and (I) of this section shall be provided by the school district from its

general funds and not from moneys paid to it under division (L) of section 3317.024 of the Revised Code unless a special transportation request is submitted by the parent of the child receiving service pursuant to such divisions. If such an application is presented to the school district, it may pay for the transportation from moneys paid to it under division (L) of section 3317.024 of the Revised Code.

No school district shall provide health or remedial services to nonpublic school pupils as authorized by this section unless such services are available to pupils attending the public schools within the district.

Materials, equipment, computer hardware or software, textbooks, electronic textbooks, and health and remedial services provided for the benefit of nonpublic school pupils pursuant to this section and the admission of pupils to such nonpublic schools shall be provided without distinction as to race, creed, color, or national origin of such pupils or of their teachers.

No school district shall provide services, materials, or equipment that contain religious content for use in religious courses, devotional exercises, religious training, or any other religious activity.

As used in this section, "parent" includes a person standing in loco parentis to a child.

Notwithstanding section 3317.01 of the Revised Code, payments shall be made under this section to any city, local, or exempted village school district within which is located one or more nonpublic elementary or high schools and any payments made to school districts under division (L) of section 3317.024 of the Revised Code for purposes of this section may be disbursed without submission to and approval of the controlling board.

The allocation of payments for materials, equipment, textbooks, electronic textbooks, health services, and remedial services to city, local, and exempted village school districts shall be on the basis of the state board of education's estimated annual average daily membership in nonpublic elementary and high schools located in the district.

Payments made to city, local, and exempted village school districts under this section shall be equal to specific appropriations made for the purpose. All interest earned by a school district on such payments shall be used by the district for the same purposes and in the same manner as the payments may be used.

The department of education shall adopt guidelines and procedures under which such programs and services shall be provided, under which districts shall be reimbursed for administrative costs incurred in providing such programs and services, and under which any unexpended balance of the amounts appropriated by the general assembly to implement this section

may be transferred to the auxiliary services personnel unemployment compensation fund established pursuant to section 4141.47 of the Revised Code. The department shall also adopt guidelines and procedures limiting the purchase and loan of the items described in division (K) of this section to items that are in general use in the public schools of the state, that are incapable of diversion to religious use, and that are susceptible to individual use rather than classroom use. Within thirty days after the end of each biennium, each board of education shall remit to the department all moneys paid to it under division (L) of section 3317.024 of the Revised Code and any interest earned on those moneys that are not required to pay expenses incurred under this section during the biennium for which the money was appropriated and during which the interest was earned. If a board of education subsequently determines that the remittal of moneys leaves the board with insufficient money to pay all valid expenses incurred under this section during the biennium for which the remitted money was appropriated, the board may apply to the department of education for a refund of money, not to exceed the amount of the insufficiency. If the department determines the expenses were lawfully incurred and would have been lawful expenditures of the refunded money, it shall certify its determination and the amount of the refund to be made to the director of job and family services who shall make a refund as provided in section 4141.47 of the Revised Code.

Sec. 3317.063. The superintendent of public instruction, in accordance with rules adopted by the department of education, shall annually reimburse each chartered nonpublic school for the actual mandated service administrative and clerical costs incurred by such school during the preceding school year in preparing, maintaining, and filing reports, forms, and records, and in providing such other administrative and clerical services that are not an integral part of the teaching process as may be required by state law or rule or by requirements duly promulgated by city, exempted village, or local school districts. The mandated service costs reimbursed pursuant to this section shall include, but are not limited to, the preparation, filing and maintenance of forms, reports, or records and other clerical and administrative services relating to state chartering or approval of the nonpublic school, pupil attendance, pupil health and health testing, transportation of pupils, federally funded education programs, pupil appraisal, pupil progress, educator licensure, unemployment and workers' compensation, transfer of pupils, and such other education related data which are now or hereafter shall be required of such nonpublic school by state law or rule, or by requirements of the state department of education,

other state agencies, or city, exempted village, or local school districts.

The reimbursement required by this section shall be for school years beginning on or after July 1, 1981.

Each nonpublic school which seeks reimbursement pursuant to this section shall submit to the superintendent of public instruction an application together with such additional reports and documents as the department of education may require. Such application, reports, and documents shall contain such information as the department of education may prescribe in order to carry out the purposes of this section. No payment shall be made until the superintendent of public instruction has approved such application.

Each nonpublic school which applies for reimbursement pursuant to this section shall maintain a separate account or system of accounts for the expenses incurred in rendering the required services for which reimbursement is sought. Such accounts shall contain such information as is required by the department of education and shall be maintained in accordance with rules adopted by the department of education.

Reimbursement payments to a nonpublic school pursuant to this section shall not exceed an amount for each school year equal to two hundred ~~fifty~~ seventy-five dollars per pupil enrolled in that nonpublic school.

The superintendent of public instruction may, from time to time, examine any and all accounts and records of a nonpublic school which have been maintained pursuant to this section in support of an application for reimbursement, for the purpose of determining the costs to such school of rendering the services for which reimbursement is sought. If after such audit it is determined that any school has received funds in excess of the actual cost of providing such services, said school shall immediately reimburse the state in such excess amount.

Any payments made to chartered nonpublic schools under this section may be disbursed without submission to and approval of the controlling board.

Sec. 3317.07. The state board of education shall establish rules for the purpose of distributing subsidies for the purchase of school buses under division (E) of section 3317.024 of the Revised Code.

No school bus subsidy payments shall be paid to any district unless such district can demonstrate that pupils residing more than one mile from the school could not be transported without such additional aid.

The amount paid to a county MR/DD board for buses purchased for transportation of children in special education programs operated by the board shall be ~~one hundred per cent of the board's net cost~~ based on a per



pupil allocation for eligible students.

The amount paid to a school district for buses purchased for transportation of handicapped and nonpublic school pupils shall be ~~one hundred per cent of the school district's net cost~~ determined by a per pupil allocation based on the number of special education and nonpublic school pupils for whom transportation is provided.

The state board of education shall adopt a formula to determine the amount of payments that shall be distributed to school districts to purchase school buses for pupils other than handicapped or nonpublic school pupils.

If any district or MR/DD board obtains bus services for pupil transportation pursuant to a contract, such district or board may use payments received under this section to defray the costs of contracting for bus services in lieu of for purchasing buses.

If the department of education determines that a county MR/DD board no longer needs a school bus because the board no longer transports children to a special education program operated by the board, or if the department determines that a school district no longer needs a school bus to transport pupils to a nonpublic school or special education program, the department may reassign a bus that was funded with payments provided pursuant to this section for the purpose of transporting such pupils. The department may reassign a bus to a county MR/DD board or school district that transports children to a special education program designated in the children's individualized education plans, or to a school district that transports pupils to a nonpublic school, and needs an additional school bus.

Sec. 3317.081. (A) Tuition shall be computed in accordance with this section if:

(1) The tuition is required by division (C)(3)(b) of section 3313.64 of the Revised Code; or

(2) Neither the child nor the child's parent resides in this state and tuition is required by section 3327.06 of the Revised Code.

(B) Tuition computed in accordance with this section shall equal the attendance district's tuition rate computed under section 3317.08 of the Revised Code plus the amount that district would have received for the child pursuant to sections 3317.022, 3317.023, and 3317.025 to ~~3317.0213~~ 3317.0211 of the Revised Code during the school year had the attendance district been authorized to count the child in its formula ADM for that school year under section 3317.03 of the Revised Code.

Sec. 3317.09. All moneys distributed to a school district, including any cooperative education or joint vocational school district and all moneys distributed to any educational service center, by the state whether from a

state or federal source, shall be accounted for by the division of school finance of the department of education. All moneys distributed shall be coded as to county, school district or educational service center, source, and other pertinent information, and at the end of each month, a report of such distribution shall be made by such division of school finance ~~to the clerk of the senate and the chief administrative officer of the house of representatives, to the Ohio legislative service commission to be available for examination by any member of either house, to each school district and educational service center, and to the governor.~~

~~On or before the first day of September in each year, a copy of the annual statistical report required in section 3319.33 of the Revised Code shall be filed by the state board of education with the clerk of the senate and the chief administrative officer of the house of representatives, the Ohio legislative service commission, the governor, and the auditor of state. The report shall contain an analysis for the prior fiscal year on an accrual basis of revenue receipts from all sources and expenditures for all purposes for each school district, including each joint vocational and cooperative education school district, in the state. If any board of education fails to make the report required in section 3319.33 of the Revised Code, the superintendent of public instruction shall be without authority to distribute funds to that school district or educational service center pursuant to sections 3317.022 to 3317.0242 3317.0211, 3317.11, 3317.16, 3317.17, or 3317.19 of the Revised Code until such time as the required reports are filed with all specified officers, boards, or agencies.~~

Sec. 3317.10. (A) On or before the first day of March of each year, the department of job and family services shall certify to the state board of education the unduplicated number of children ages five through seventeen residing in each school district and living in a family that, during the preceding October, ~~had family income not exceeding the federal poverty guidelines as defined in section 5101.46 of the Revised Code and participated in one of the following:~~

- ~~(1) Ohio works first;~~
- ~~(2) The food stamp program;~~
- ~~(3) The medical assistance program, including the healthy start program, established under Chapter 5111. of the Revised Code;~~
- ~~(4) The children's health insurance program part I established under section 5101.50 of the Revised Code;~~
- ~~(5) The disability financial assistance program established under Chapter 5115. of the Revised Code;~~
- ~~(6) The disability medical assistance program established under Chapter~~

~~5115. of the Revised Code.~~

The department of job and family services shall certify this information according to the school district of residence for each child. Except as provided under division (B) of this section, the number of children so certified in any year shall be used by the department of education in calculating the distribution of moneys for the ensuing fiscal year as provided in section 3317.029 of the Revised Code.

(B) Upon the transfer of part of the territory of one school district to the territory of one or more other school districts, the department of education may adjust the number of children certified under division (A) of this section for any district gaining or losing territory in such a transfer in order to take into account the effect of the transfer on the number of such children who reside in the district. Within sixty days of receipt of a request for information from the department of education, the department of job and family services shall provide any information the department of education determines is necessary to make such adjustments. The department of education may use the adjusted number for any district for the applicable fiscal year, in lieu of the number certified for the district for that fiscal year under division (A) of this section, in the calculation of the distribution of moneys provided in section 3317.029 of the Revised Code.

Sec. 3317.16. (A) As used in this section:

(1) "State share percentage" means the percentage calculated for a joint vocational school district as follows:

(a) Calculate the state base cost funding amount for the district under division (B) of this section. If the district would not receive any base cost funding for that year under that division, the district's state share percentage is zero.

(b) If the district would receive base cost funding under that division, divide that base cost amount by an amount equal to the following:

$$\frac{\text{cost-of-doing-business factor X}}{\text{the formula amount X}} \\ \text{formula ADM}$$

The resultant number is the district's state share percentage.

(2) The "total special education weight" for a joint vocational school district shall be calculated in the same manner as prescribed in division (B)(1) of section 3317.022 of the Revised Code.

(3) The "total vocational education weight" for a joint vocational school district shall be calculated in the same manner as prescribed in division (B)(4) of section 3317.022 of the Revised Code.

(4) The "total recognized valuation" of a joint vocational school district

shall be determined by adding the recognized valuations of all its constituent school districts for the applicable fiscal year.

(5) "Resident district" means the city, local, or exempted village school district in which a student is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code.

(6) "Community school" means a community school established under Chapter 3314. of the Revised Code.

(B) The department of education shall compute and distribute state base cost funding to each joint vocational school district for the fiscal year in accordance with division (B) of this section.

(1) Compute the following formula for each eligible district:

(cost-of-doing-business factor X  
formula amount X  
formula ADM) -  
(.0005 X total recognized valuation)

If the difference obtained under this division is a negative number, the district's computation shall be zero.

(2) Compute both of the following for each district:

(a) The difference of (i) the district's fiscal year 2005 base cost payment under the version of division (B) of this section in effect in fiscal year 2005, minus (ii) the amount computed for the district for the current fiscal year under current division (B)(1) of this section;

(b) The following amount:

[(fiscal year 2005 base cost payment/fiscal year 2005 formula  
ADM) X current year formula ADM] minus the amount computed for  
the district under current division (B)(1) of this section

If one of the amounts computed under division (B)(2)(a) or (b) of this section is a positive amount, the department shall pay the district that amount in addition to the amount calculated under division (B)(1) of this section. If both amounts are positive amounts, the department shall pay the district the lesser of the two amounts in addition to the amount calculated under division (B)(1) of this section.

(C)(1) The department shall compute and distribute state vocational education additional weighted costs funds to each joint vocational school district in accordance with the following formula:

state share percentage X formula amount X  
total vocational education weight

In each fiscal year, a joint vocational school district receiving funds under division (C)(1) of this section shall spend those funds only for the purposes the department designates as approved for vocational education

expenses. Vocational educational expenses approved by the department shall include only expenses connected to the delivery of career-technical programming to career-technical students. The department shall require the joint vocational school district to report data annually so that the department may monitor the district's compliance with the requirements regarding the manner in which funding received under division (C)(1) of this section may be spent.

(2) The department shall compute for each joint vocational school district state funds for vocational education associated services costs in accordance with the following formula:

$$\frac{\text{state share percentage} \times .05 \times \text{the formula amount} \times \text{the sum of categories one and two vocational education ADM}}{\text{ADM}}$$

In any fiscal year, a joint vocational school district receiving funds under division (C)(2) of this section, or through a transfer of funds pursuant to division (L) of section 3317.023 of the Revised Code, shall spend those funds only for the purposes that the department designates as approved for vocational education associated services expenses, which may include such purposes as apprenticeship coordinators, coordinators for other vocational education services, vocational evaluation, and other purposes designated by the department. The department may deny payment under division (C)(2) of this section to any district that the department determines is not operating those services or is using funds paid under division (C)(2) of this section, or through a transfer of funds pursuant to division (L) of section 3317.023 of the Revised Code, for other purposes.

(D)(1) The department shall compute and distribute state special education and related services additional weighted costs funds to each joint vocational school district in accordance with the following formula:

$$\frac{\text{state share percentage} \times \text{formula amount} \times \text{total special education weight}}{\text{ADM}}$$

(2)(a) As used in this division, the "personnel allowance" means thirty thousand dollars in fiscal years 2002, 2003, 2004, ~~and~~ 2005, 2006, and 2007.

(b) For the provision of speech language pathology services to students, including students who do not have individualized education programs prepared for them under Chapter 3323. of the Revised Code, and for no other purpose, the department shall pay each joint vocational school district an amount calculated under the following formula:

$$(\text{formula ADM divided by 2000}) \times \text{the personnel}$$

allowance X state share percentage

(3) In any fiscal year, a joint vocational school district shall spend for purposes that the department designates as approved for special education and related services expenses at least the amount calculated as follows:

(cost-of-doing-business factor X formula amount

X the sum of categories one through

six special education ADM) +

(total special education weight X

formula amount)

The purposes approved by the department for special education expenses shall include, but shall not be limited to, compliance with state rules governing the education of handicapped children, providing services identified in a student's individualized education program as defined in section 3323.01 of the Revised Code, provision of speech language pathology services, and the portion of the district's overall administrative and overhead costs that are attributable to the district's special education student population.

The department shall require joint vocational school districts to report data annually to allow for monitoring compliance with division (D)(3) of this section. The department shall annually report to the governor and the general assembly the amount of money spent by each joint vocational school district for special education and related services.

(4) In any fiscal year, a joint vocational school district shall spend for the provision of speech language pathology services not less than the sum of the amount calculated under division (D)(1) of this section for the students in the district's category one special education ADM and the amount calculated under division (D)(2) of this section.

(E)(1) If a joint vocational school district's costs for a fiscal year for a student in its categories two through six special education ADM exceed the threshold catastrophic cost for serving the student, as specified in division (C)(3)(b) of section 3317.022 of the Revised Code, the district may submit to the superintendent of public instruction documentation, as prescribed by the superintendent, of all of its costs for that student. Upon submission of documentation for a student of the type and in the manner prescribed, the department shall pay to the district an amount equal to the sum of the following:

(a) One-half of the district's costs for the student in excess of the threshold catastrophic cost;

(b) The product of one-half of the district's costs for the student in excess of the threshold catastrophic cost multiplied by the district's state

share percentage.

(2) The district shall only report under division (E)(1) of this section, and the department shall only pay for, the costs of educational expenses and the related services provided to the student in accordance with the student's individualized education program. Any legal fees, court costs, or other costs associated with any cause of action relating to the student may not be included in the amount.

(F) Each fiscal year, the department shall pay each joint vocational school district an amount for adult technical and vocational education and specialized consultants.

(G)(1) A joint vocational school district's local share of special education and related services additional weighted costs equals:

$$\frac{(1 - \text{state share percentage}) \times \text{Total special education weight}}{\text{the formula amount}}$$

(2) For each handicapped student receiving special education and related services under an individualized education program, as defined in section 3323.01 of the Revised Code, at a joint vocational district, the resident district or, if the student is enrolled in a community school, the community school shall be responsible for the amount of any costs of providing those special education and related services to that student that exceed the sum of the amount calculated for those services attributable to that student under divisions (B), (D), (E), and (G)(1) of this section.

Those excess costs shall be calculated by subtracting the sum of the following from the actual cost to provide special education and related services to the student:

(a) The product of the formula amount times the cost-of-doing-business factor;

(b) The product of the formula amount times the applicable multiple specified in section 3317.013 of the Revised Code;

(c) Any funds paid under division (E) of this section for the student;

(d) Any other funds received by the joint vocational school district under this chapter to provide special education and related services to the student, not including the amount calculated under division (G)(2) of this section.

(3) The board of education of the joint vocational school district ~~shall~~ may report the excess costs calculated under division (G)(2) of this section to the department of education.

(4) ~~The~~ If the board of education of the joint vocational school district reports excess costs under division (G)(3) of this section, the department

shall pay the amount of excess cost calculated under division (G)(2) of this section to the joint vocational school district and shall deduct that amount as provided in division (G)(4)(a) or (b) of this section, as applicable:

(a) If the student is not enrolled in a community school, the department shall deduct the amount from the account of the student's resident district pursuant to division (M) of section 3317.023 of the Revised Code.

(b) If the student is enrolled in a community school, the department shall deduct the amount from the account of the community school pursuant to section 3314.083 of the Revised Code.

~~(H) In any fiscal year, if the total of all payments made to a joint vocational school district under divisions (B) to (D) of this section and division (R) of section 3317.024 of the Revised Code is less than the amount that district received in fiscal year 1999 under the version of this section in effect that year, plus the amount that district received under the version of section 3317.162 of the Revised Code in effect that year and minus the amounts received that year for driver education and adult education, the department shall pay the district an additional amount equal to the difference between those two amounts.~~

Sec. 3317.20. This section does not apply to handicapped preschool children.

(A) As used in this section:

(1) "Applicable weight" means the multiple specified in section 3317.013 of the Revised Code for a handicap described in that section.

(2) "Child's school district" means the school district in which a child is entitled to attend school pursuant to section 3313.64 or 3313.65 of the Revised Code.

(3) "State share percentage" means the state share percentage of the child's school district as defined in section 3317.022 of the Revised Code.

(B) Except as provided in division (C) of this section, the department shall annually pay each county MR/DD board ~~an amount calculated under the following formula~~ for each handicapped child, other than a handicapped preschool child, for whom the county MR/DD board provides special education and related services the greater of the amount calculated under division (B)(1) or (2) of this section:

~~(formula amount X the cost-of-doing-business factor  
for the child's school district) +  
(state share percentage X formula amount X  
the applicable weight)~~

(1) (The formula amount for fiscal year 2005 X the cost-of-doing-business factor for the child's school district for fiscal year



2005) + (state share percentage for fiscal year 2005 X formula amount for fiscal year 2005 X the applicable weight);

(2) (The current formula amount times the current cost-of-doing-business factor for the child's school district) + (state share percentage X current formula amount X the applicable weight).

(C) If any school district places with a county MR/DD board more handicapped children than it had placed with a county MR/DD board in fiscal year 1998, the department shall not make a payment under division (B) of this section for the number of children exceeding the number placed in fiscal year 1998. The department instead shall deduct from the district's payments under this chapter, and pay to the county MR/DD board, an amount calculated in accordance with the formula prescribed in division (B) of this section for each child over the number of children placed in fiscal year 1998.

(D) The department shall calculate for each county MR/DD board receiving payments under divisions (B) and (C) of this section the following amounts:

(1) The amount received by the county MR/DD board for approved special education and related services units, other than preschool handicapped units, in fiscal year 1998, divided by the total number of children served in the units that year;

(2) The product of the quotient calculated under division (D)(1) of this section times the number of children for whom payments are made under divisions (B) and (C) of this section.

If the amount calculated under division (D)(2) of this section is greater than the total amount calculated under divisions (B) and (C) of this section, the department shall pay the county MR/DD board one hundred per cent of the difference in addition to the payments under divisions (B) and (C) of this section.

Sec. 3317.201. This section does not apply to handicapped preschool children.

(A) As used in this section, the "total special education weight" for an institution means the sum of the following amounts:

(1) The number of children reported by the institution under division (G)(1)(a)(i) of section 3317.03 of the Revised Code as receiving services for a handicap described in division (A) of section 3317.013 of the Revised Code multiplied by the multiple specified in that division;

(2) The number of children reported by the institution under division (G)(1)(a)(i) of section 3317.03 of the Revised Code as receiving services for a handicap described in division (B) of section 3317.013 of the Revised

Code multiplied by the multiple specified in that division:

(3) The number of children reported by the institution under division (G)(1)(a)(i) of section 3317.03 of the Revised Code as receiving services for a handicap described in division (C) of section 3317.013 of the Revised Code multiplied by the multiple specified in that division:

(4) The number of children reported by the institution under division (G)(1)(a)(i) of section 3317.03 of the Revised Code as receiving services for a handicap described in division (D) of section 3317.013 of the Revised Code multiplied by the multiple specified in that division:

(5) The number of children reported by the institution under division (G)(1)(a)(i) of section 3317.03 of the Revised Code as receiving services for a handicap described in division (E) of section 3317.013 of the Revised Code multiplied by the multiple specified in that division:

(6) The number of children reported by the institution under division (G)(1)(a)(i) of section 3317.03 of the Revised Code as receiving services for a handicap described in division (F) of section 3317.013 of the Revised Code multiplied by the multiple specified in that division.

(B) The department of education annually shall pay each state institution required to provide special education services under division (A) of section 3323.091 of the Revised Code an amount equal to the greater of:

(1) The formula amount times the institution's total special education weight;

(2) The aggregate amount of special education and related services unit funding the institution received for all handicapped children other than handicapped preschool children in fiscal year 2005 under sections 3317.052 and 3317.053 of the Revised Code, as those sections existed prior to the effective date of this section.

Sec. 3317.50. The eTech Ohio ~~schoolnet~~ telecommunity education fund is hereby created in the state treasury. The fund shall consist of certain excess local exchange telephone company contributions transferred from the reserve fund of the Ohio telecommunications advisory board pursuant to an agreement between the public utilities commission of Ohio and the Ohio department of education. The fund shall be used to finance technology grants to state-chartered elementary and secondary schools. Investment earnings of the fund shall be credited to the fund.

Sec. 3317.51. (A) The distance learning fund is hereby created in the state treasury. The fund shall consist of moneys paid to the eTech Ohio ~~SchoolNet~~ commission by any telephone company as a part of a settlement agreement between such company and the public utilities commission in fiscal year 1995 in part to establish distance learning throughout the state.

The ~~authority~~ commission shall administer the fund and expend moneys from it to finance technology grants to eligible schools chartered by the state board of education to establish distance learning in those schools. Chartered schools are eligible for funds if they are within the service area of the telephone company. Investment earnings of the fund shall be credited to the fund.

(B) For purposes of this section, "distance learning" means the creation of a learning environment involving a school setting and at least one other location outside of the school which allows for information available at one site to be accessed at the other through the use of such educational applications as one-way or two-way transmission of data, voice, and video, singularly or in appropriate combinations.

Sec. 3318.091. (A) Promptly after the written agreement between the school district board and the Ohio school facilities commission has been entered into, the school district board shall proceed with the issuance of its bonds or notes in anticipation thereof pursuant to the provision of such agreement required by division (A) of section 3318.08 of the Revised Code and the deposit of the proceeds thereof in the school district's project construction fund pursuant to the provision of such agreement required by division (B) of section 3318.08 of the Revised Code, and the school district board, with the approval of the commission shall employ a qualified professional person or firm to prepare preliminary plans, working drawings, specifications, estimates of cost, and such data as the school district board and the commission consider necessary for the project. When the preliminary plans and preliminary estimates of cost have been prepared, and approved by the school district board, they shall be submitted to the commission for approval, modification, or rejection. The commission shall ensure that the plans and materials proposed for use in the project comply with specifications for plans and materials that shall be established by the commission. When such preliminary plans and preliminary estimates of cost and any modifications thereof have been approved by the commission and the school district board, the school district board shall cause such qualified professional person or firm to prepare the working drawings, specifications, and estimates of cost.

(B) Whenever project plans submitted to the commission for approval under division (A) of this section propose to locate a facility on a state route or United States highway or within one mile of a state route or United States highway, the commission shall send a copy of the plans to the director of transportation. The director of transportation shall review the plans to determine the feasibility of the proposed ingress and egress to the facility.

the traffic circulation pattern on roadways around the facility, and any improvements that would be necessary to conform the roadways to provisions of the manual adopted by the department of transportation pursuant to section 4511.09 of the Revised Code or state or federal law. The director of transportation shall provide a written summary of the director's findings to the commission in a timely manner. The commission shall consider the findings in deciding whether to approve the plans.

Sec. 3318.18. (A) As used in this section:

(1) "Valuation" of a school district means the sum of the amounts described in divisions (A)(1) and (2) of section 3317.021 of the Revised Code as most recently certified for the district before the annual computation is made under division (B) of this section.

(2) "Valuation per pupil" of a school district means the district's valuation divided by the district's formula ADM as most recently reported for October under section 3317.03 of the Revised Code before the annual computation is made under division (B) of this section.

(3) "Statewide average valuation per pupil" means the total of the valuations of all school districts divided by the total of the formula ADMs of all school districts as most recently reported for October under section 3317.03 of the Revised Code before the annual computation is made under division (C) of this section.

(4) "Maintenance levy requirement" means the tax required to be levied pursuant to division (C)(2)(a) of section 3318.08 and division (B) of section 3318.05 of the Revised Code or the application of proceeds of another levy to paying the costs of maintaining classroom facilities pursuant to division (A)(2) of section 3318.052, division (C)(1) or (C)(2)(b) of section 3318.08, or division (D)(2) of section 3318.36 of the Revised Code, or a combination thereof.

(5) "Project agreement" means an agreement between a school district and the Ohio school facilities commission under section 3318.08 or division (B)(1) of section 3318.36 of the Revised Code.

(B) On or before July 1, 2006, the department of education shall compute the statewide average valuation per pupil and the valuation per pupil of each school district, and provide them to the Ohio school facilities commission. On or before the first day of July each year beginning in 2007, the department of education shall compute the statewide average valuation per pupil and the valuation per pupil of each school district that has not already entered into a project agreement, and provide the results of those computations to the commission.

(C)(1) At the time the Ohio school facilities commission enters into a

project agreement with a school district, the commission shall compute the difference between the district's valuation per pupil and the statewide average valuation per pupil as most recently provided to the commission under division (B) of this section. If the school district's valuation per pupil is less than the average statewide valuation per pupil, the commission shall multiply the difference between those amounts by one-half mill times the formula ADM of the district as most recently reported to the department of education for October under division (A) of section 3317.03 of the Revised Code. The commission shall certify the resulting product to the department of education, along with the date on which the maintenance levy requirement terminates as provided in the project agreement between the school district board and the commission.

(2) In the case of a school district that entered into a project agreement after July 1, 1997, but before July 1, 2006, the commission shall make the computation described in division (C)(1) of this section on the basis of the district's valuation per pupil and the statewide average valuation per pupil computed as of September 1, 2006, and the district's formula ADM reported for October 2005.

(3) The amount computed for a school district under division (C)(1) or (2) of this section shall not change for the period during which payments are made to the district under division (D) of this section.

(4) A computation need not be made under division (C)(1) or (2) of this section for a school district that certified a resolution to the commission under division (D)(3) of section 3318.36 of the Revised Code until the district becomes eligible for state assistance as provided in that division.

(D) In the fourth quarter of each fiscal year, for each school district for which a computation has been made under division (C) of this section, the department of education shall pay the amount computed to each such school district. Payments shall be made to a school district each year until and including the tax year in which the district's maintenance levy requirement terminates. Payments shall be paid from the half-mill equalization fund, subject to appropriation by the general assembly.

(E) Payments made to a school district under this section shall be credited to the district's classroom facilities maintenance fund and shall be used only for the purpose of maintaining facilities constructed or renovated under the project agreement.

(F) There is hereby created in the state treasury the half-mill equalization fund. The fund shall receive transfers pursuant to section 5727.85 of the Revised Code. The fund shall be used first to make annual payments under division (D) of this section. If a balance remains in the fund

after such payments are made in full for a year, the Ohio school facilities commission may request the controlling board to transfer a reasonable amount from such remaining balance to the public school building fund created under section 3318.15 of the Revised Code for the purposes of this chapter.

All investment earnings arising from investment of money in the half-mill equalization fund shall be credited to the fund.

Sec. 3318.33. (A) There is hereby created in the state treasury the Ohio school facilities commission fund, which shall consist of transfers of moneys authorized by the general assembly and revenues received by the Ohio school facilities commission under section 3318.31 of the Revised Code. Investment earnings on moneys in the fund shall be credited to the fund. Moneys in the fund may be used by the commission to pay personnel and other administrative expenses, to pay the cost of conducting evaluations of classroom facilities, to pay the cost of preparing building design specifications, to pay the cost of providing project management services, and for other purposes determined by the commission to be necessary to fulfill its duties under ~~Chapter 3318. of the Revised Code~~ this chapter.

(B) The director of budget and management may transfer to the Ohio school facilities commission fund the investment earnings on the public school building fund; created in section 3318.15 of the Revised Code, the investment earnings on the education facilities trust fund created in section 183.26 of the Revised Code, or both. The director of budget and management may transfer to the Ohio school facilities commission fund the investment earnings on the school building program assistance fund, created under section 3318.25 of the Revised Code, in excess of the amounts needed to meet estimated federal arbitrage rebate requirements.

Sec. ~~3317.21~~ 3318.47. There is hereby created in the state treasury the ~~vocational career-technical~~ school building assistance fund. Money in the fund shall be used solely to provide interest-free loans to school districts, including joint vocational school districts, under sections ~~3317.22~~ 3318.48 and ~~3317.23~~ 3318.49 of the Revised Code to assist in financing the construction of new vocational classroom facilities, the renovation of existing vocational classroom facilities, or the purchase of vocational education equipment or facilities. Moneys in the fund shall consist of transfers made to the fund, any interest earned by the fund, and repayments of loans made under sections ~~3317.22~~ 3318.48 and ~~3317.23~~ 3318.49 of the Revised Code. Investment earnings of the fund shall be credited to the fund.

Sec. ~~3317.22~~ 3318.48. ~~The state board of education~~ Ohio school facilities commission shall adopt rules in accordance with Chapter 119. of

the Revised Code under which, in any fiscal year that funds are appropriated from the ~~vocational~~ career-technical school building assistance fund for such purpose, the ~~state board~~ commission may make interest-free loans to school districts. The rules shall include all of the following:

(A) Application procedures, including the date by which applications shall be made;

(B) Eligibility criteria, which shall include at least the following provisions:

(1) A requirement that an applicant district demonstrate financial need for the loan. Indicators of need may include, but need not be limited to, levels of assessed valuation, enrollment levels and enrollment changes, ability of the district to maintain minimum educational standards, and demonstrated good faith efforts by the district to secure funds from sources other than the state.

(2) A requirement that an applicant district demonstrate the ability to repay the loan within the maximum period permitted by division (D) of this section;

(3) A requirement that an applicant district is not eligible for a loan, other than a loan for the purchase of any vocational education equipment that is not an approved project cost under this chapter, if the district, on the date of application for the loan, has at any time received any state assistance under sections 3318.01 to 3318.20, section 3318.37 or 3318.38, or sections 3318.40 to 3318.45 of the Revised Code or is reasonably expected to receive state assistance under any of those sections within three fiscal years;

(4) A requirement that an applicant district agree to comply with all applicable design specifications and policies of the commission established pursuant to this chapter in the construction, renovation, or purchase of facilities or equipment paid for with the loan, unless such specifications or policies are waived by the commission.

(C) Loan approval procedures and criteria, including criteria for prioritizing eligible applications. Criteria for such prioritization shall include:

(1) Preference for applicant districts that demonstrate commitment and innovative approaches to the implementation of the department of education's vocational education modernization plan pursuant to section 3313.901 of the Revised Code;

(2) Preference for applicant districts that have entered into or are in the process of entering into cooperative agreements with technical colleges or other institutions of higher education either to coordinate secondary vocational education and post-secondary technical education programs, or to

share facilities and equipment.

(D) Provisions governing the repayment of loans, including a provision that loans for construction, acquisition, or renovation of facilities shall be repaid within a maximum of fifteen years and loans for vocational education equipment shall be repaid within a maximum of five years;

(E) A requirement that no loan shall be applied to the local resources a district expends as a condition of participation in a program established under section 3318.36 or 3318.46 of the Revised Code.

Sec. 3317.23 3318.49. The ~~state board of education~~ Ohio school facilities commission shall enter into a loan agreement with each school district it approves for a loan under section ~~3317.22~~ 3318.48 of the Revised Code. The agreement shall specify the amount of the loan, the purposes for which it is to be used, the duration of the loan, and the repayment schedule. Every such agreement shall contain a provision ~~authorizing~~ directing the state board of education, upon the request of the executive director of the commission, to deduct from payments due to the district under Chapter 3317. of the Revised Code or from any other funds appropriated to the district by the general assembly, the amount of any scheduled loan payment due but not paid by the district and, within ten days, to transfer that amount to the commission.

A copy of each loan agreement shall be furnished to the controlling board. No money shall be released from the ~~vocational~~ career-technical school building assistance fund without the approval of the controlling board.

Sec. 3319.06. (A) The board of education of each city, exempted village, or local school district may create the position of internal auditor. Any person employed by the board as an internal auditor shall hold a valid permit issued under section 4701.10 of the Revised Code to practice as a certified public accountant or a public accountant.

(B) The board shall execute a written contract of employment with each internal auditor it employs. The contract shall specify the internal auditor's duties, the salary and other compensation to be paid for performance of those duties, the number of days to be worked, the number of days of vacation leave, if any, and any paid holidays in the contractual year. The salary and other compensation prescribed by the contract may be increased by the board during the term of the contract but shall not be reduced during that term unless such reduction is part of a uniform plan affecting employees of the entire district. The term of the initial contract shall not exceed three years. Any renewal of the contract shall be for a term of not less than two years and not more than five years.



The internal auditor shall be directly responsible to the board for the performance of all duties outlined in the contract. If the board does not intend to renew the contract upon its expiration, the board shall provide written notice to the internal auditor of its intention not to renew the contract not later than the last day of March of the year in which the contract expires. If the board does not provide such notice by that date, the internal auditor shall be deemed reemployed for a term of one year at the same salary plus any increments that may be authorized by the board. Termination of an internal auditor's contract shall be pursuant to section 3319.16 of the Revised Code.

(C) Each board that employs an internal auditor shall adopt procedures for the evaluation of the internal auditor and shall evaluate the internal auditor in accordance with those procedures. The evaluation based upon the procedures shall be considered by the board in deciding whether to renew the internal auditor's contract of employment. The establishment of an evaluation procedure shall not create an expectancy of continued employment. Nothing in this section shall prevent the board from making the final determination regarding the renewal or nonrenewal of the contract of an internal auditor.

Sec. 3319.081. Except as otherwise provided in division (G) of this section, in all school districts wherein the provisions of Chapter 124. of the Revised Code do not apply, the following employment contract system shall control for employees whose contracts of employment are not otherwise provided by law:

(A) Newly hired regular nonteaching school employees, including regular hourly rate and per diem employees, shall enter into written contracts for their employment which shall be for a period of not more than one year. If such employees are rehired, their subsequent contract shall be for a period of two years.

(B) After the termination of the two-year contract provided in division (A) of this section, if the contract of a nonteaching employee is renewed, the employee shall be continued in employment, and the salary provided in the contract may be increased but not reduced unless such reduction is a part of a uniform plan affecting the nonteaching employees of the entire district.

(C) The contracts as provided for in this section may be terminated by a majority vote of the board of education. ~~Such~~ Except as provided in sections 3319.0810 and 3319.172 of the Revised Code, the contracts may be terminated only for violation of written rules and regulations as set forth by the board of education or for incompetency, inefficiency, dishonesty, drunkenness, immoral conduct, insubordination, discourteous treatment of

the public, neglect of duty, or any other acts of misfeasance, malfeasance, or nonfeasance. In addition to the right of the board of education to terminate the contract of an employee, the board may suspend an employee for a definite period of time or demote the employee for the reasons set forth in this division. The action of the board of education terminating the contract of an employee or suspending or demoting ~~him~~ the employee shall be served upon the employee by certified mail. Within ten days following the receipt of such notice by the employee, the employee may file an appeal, in writing, with the court of common pleas of the county in which such school board is situated. After hearing the appeal the common pleas court may affirm, disaffirm, or modify the action of the school board.

A violation of division (A)(7) of section 2907.03 of the Revised Code is grounds for termination of employment of a nonteaching employee under this division.

(D) All employees who have been employed by a school district where the provisions of Chapter 124. of the Revised Code do not apply, for a period of at least three years on November 24, 1967, shall hold continuing contracts of employment pursuant to this section.

(E) Any nonteaching school employee may terminate ~~his~~ the nonteaching school employee's contract of employment thirty days subsequent to the filing of a written notice of such termination with the treasurer of the board.

(F) A person hired exclusively for the purpose of replacing a nonteaching school employee while such employee is on leave of absence granted under section 3319.13 of the Revised Code is not a regular nonteaching school employee under this section.

(G) All nonteaching employees employed pursuant to this section and Chapter 124. of the Revised Code shall be paid for all time lost when the schools in which they are employed are closed owing to an epidemic or other public calamity. Nothing in this division shall be construed as requiring payment in excess of an employee's regular wage rate or salary for any time worked while the school in which ~~he~~ the employee is employed is officially closed for the reasons set forth in this division.

Sec. 3319.0810. (A) The board of education of any school district wherein the provisions of Chapter 124. of the Revised Code do not apply may terminate any of its transportation staff positions for reasons of economy and efficiency if the board instead of employing its own staff to transport some or all of the students enrolled in the district schools enters into a contract with an independent agent for the provision of transportation services for such students. Such a contract may be entered into only if all of

the following conditions are satisfied:

(1) Any collective bargaining agreement between the employee organization representing the employees whose positions are terminated under this section and the board has expired or will expire within sixty days and has not been renewed in conformance with provisions of that agreement and with Chapter 4117. of the Revised Code, or the agreement contains provisions permitting the termination of positions for reasons of economy and efficiency while the agreement is in force and the board is in conformance with those provisions.

(2) The board permits any employee whose position is terminated under this section to fill any vacancy within the district's organization for which the employee is qualified. The board shall select from among similarly qualified employees to fill such vacancies pursuant to procedures established under any collective bargaining agreement between the employee organization representing the terminated employees and the board that is in force at the time of the termination, or in absence of such provisions on the basis of seniority of employment by the board with the employee with the greatest seniority having highest priority.

(3) Unless a collective bargaining agreement between the employee organization representing the terminated employees and the board that is in force at the time of the termination provides otherwise, the board permits any employee whose position is terminated under this section to fill the employee's former position in the event that the board reinstates that position within one year after the date the position is terminated under this section.

(4) The board permits any employee whose position is terminated under this section to appeal in accordance with section 119.12 of the Revised Code the board's decision to terminate the employee's position, not to hire that employee for another position pursuant to division (A)(2) of this section, or not to rehire that employee for the position if it is reinstated within one year after the position is terminated pursuant to division (A)(3) of this section.

(5) The contract entered into by the board and an independent agent for the provision of transportation services contains a stipulation requiring the agent to consider hiring any employees of the school district whose positions are terminated under this section for similar positions within the agent's organization.

(6) The contract entered into by the board and an independent agent for the provision of transportation services contains a stipulation requiring the agent to recognize for purposes of employee representation in collective bargaining any employee organization that represented the employees

whose positions are terminated under this section in collective bargaining with the board at the time of the termination provided:

(a) A majority of all employees in the bargaining unit agree to such representation;

(b) Such representation is not prohibited by federal law, including any ruling of the national labor relations board;

(c) The employee organization is not prohibited from representing nonpublic employees by other provisions of law or its own governing instruments.

However, any employee whose position is terminated under this section shall not be compelled to be included in such bargaining unit if there is another bargaining unit within the agent's organization that is applicable to the employee.

(B) If after terminating any positions of employment under this section the board fails to comply with any condition prescribed in division (A) of this section or fails to enforce on the agent its contractual obligations prescribed in divisions (A)(5) and (6) of this section, the terminations shall be void and the board shall reinstate the positions and fill them with the employees who filled those positions just prior to the terminations. Such employees shall be compensated at a rate equal to their rate of compensation in those positions just prior to the terminations plus any increases paid since the terminations to other nonteaching employees. The employees shall also be entitled to back pay at such rate for the period from the date of the terminations to the date of the reinstatements minus any pay received by the employees during any time the board was in compliance with such conditions or during any time the board enforced those obligations.

Any employee aggrieved by the failure of the board to comply with any condition prescribed in division (A) of this section or to enforce on the agent its contractual obligations prescribed in divisions (A)(5) and (6) of this section shall have the right to sue the board for reinstatement of the employee's former position as provided for in this division in the court of common pleas for the county in which the school district is located or, if the school district is located in more than one county, in the court of common pleas for the county in which the majority of the territory of the school district is located.

Sec. 3319.17. (A) As used in this section, "interdistrict contract" means any contract or agreement entered into by an educational service center governing board and another board or other public entity pursuant to section 3313.17, 3313.841, 3313.842, 3313.843, 3313.91, or 3323.08 of the Revised Code, including any such contract or agreement for the provision of services

funded under division (L) of section 3317.024 of the Revised Code or provided in any unit approved under section 3317.05 of the Revised Code.

(B) When, for any of the following reasons that apply to any city, exempted village, local, or joint vocational school district or any educational service center, the board decides that it will be necessary to reduce the number of teachers it employs, it may make a reasonable reduction:

(1) In the case of any district or service center, return to duty of regular teachers after leaves of absence including leaves provided pursuant to division (B) of section 3314.10 of the Revised Code, suspension of schools, ~~or territorial changes affecting the district or center,~~ or financial reasons;

(2) In the case of any city, exempted village, local, or joint vocational school district, decreased enrollment of pupils in the district;

(3) In the case of any governing board of a service center providing any particular service directly to pupils pursuant to one or more interdistrict contracts requiring such service, reduction in the total number of pupils the governing board is required to provide with the service under all interdistrict contracts as a result of the termination or nonrenewal of one or more of these interdistrict contracts;

(4) In the case of any governing board providing any particular service that it does not provide directly to pupils pursuant to one or more interdistrict contracts requiring such service, reduction in the total level of the service the governing board is required to provide under all interdistrict contracts as a result of the termination or nonrenewal of one or more of these interdistrict contracts.

(C) In making any such reduction, any city, exempted village, local, or joint vocational school board shall proceed to suspend contracts in accordance with the recommendation of the superintendent of schools who shall, within each teaching field affected, give preference first to teachers on continuing contracts and then to teachers who have greater seniority. In making any such reduction, any governing board of a service center shall proceed to suspend contracts in accordance with the recommendation of the superintendent who shall, within each teaching field or service area affected, give preference first to teachers on continuing contracts and then to teachers who have greater seniority.

On a case-by-case basis, in lieu of suspending a contract in whole, a board may suspend a contract in part, so that an individual is required to work a percentage of the time the employee otherwise is required to work under the contract and receives a commensurate percentage of the full compensation the employee otherwise would receive under the contract.

The teachers whose continuing contracts are suspended by any board

pursuant to this section shall have the right of restoration to continuing service status by that board in the order of seniority of service in the district or service center if and when teaching positions become vacant or are created for which any of such teachers are or become qualified. No teacher whose continuing contract has been suspended pursuant to this section shall lose that right of restoration to continuing service status by reason of having declined recall to a position that is less than full-time or, if the teacher was not employed full-time just prior to suspension of the teacher's continuing contract, to a position requiring a lesser percentage of full-time employment than the position the teacher last held while employed in the district or service center.

(D) Notwithstanding any provision to the contrary in Chapter 4117. of the Revised Code, the requirements of this section prevail over any conflicting provisions of agreements between employee organizations and public employers entered into after the effective date of this amendment.

Sec. 3319.172. The board of education of each school district wherein the provisions of Chapter 124. of the Revised Code do not apply and the governing board of each educational service center may adopt a resolution ordering reasonable reductions in the number of nonteaching employees for any of the reasons for which the board of education or governing board may make reductions in teaching employees, as set forth in division (B) of section 3319.17 of the Revised Code.

In making any reduction under this section, the board of education or governing board shall proceed to suspend contracts in accordance with the recommendation of the superintendent of the district or service center who shall, within each pay classification affected, give preference first to employees under continuing contracts and then to employees on the basis of seniority. On a case-by-case basis, in lieu of suspending a contract in whole, a board may suspend a contract in part, so that an individual is required to work a percentage of the time the employee otherwise is required to work under the contract and receives a commensurate percentage of the full compensation the employee otherwise would receive under the contract.

Any nonteaching employee whose continuing contract is suspended under this section shall have the right of restoration to continuing service status by the board of education or governing board that suspended that contract in order of seniority of service in the district or service center, if and when a nonteaching position for which the employee is qualified becomes vacant or is created. No nonteaching employee whose continuing contract has been suspended under this section shall lose that right of restoration to continuing service status by reason of having declined recall to

a position requiring fewer regularly scheduled hours of work than required by the position the employee last held while employed in the district or service center.

Notwithstanding any provision to the contrary in Chapter 4117. of the Revised Code, the requirements of this section prevail over any conflicting provisions of agreements between employee organizations and public employers entered into after the effective date of this section.

Sec. 3319.22. (A)(1) The state board of education shall adopt rules establishing the standards and requirements for obtaining temporary, associate, provisional, and professional educator licenses of any categories, types, and levels the board elects to provide. However, no educator license shall be required for teaching children two years old or younger.

(2) If the state board requires any examinations for educator licensure, the department of education shall provide the results of such examinations received by the department to the Ohio board of regents, in the manner and to the extent permitted by state and federal law.

(B) Any rules the state board of education adopts, amends, or rescinds for educator licenses under this section, division (D) of section 3301.07 of the Revised Code, or any other law shall be adopted, amended, or rescinded under Chapter 119. of the Revised Code except as follows:

(1) Notwithstanding division (D) of section 119.03 and division (A)(1) of section 119.04 of the Revised Code, in the case of the adoption of any rule or the amendment or rescission of any rule that necessitates institutions' offering teacher preparation programs that are approved by the state board of education under section 3319.23 of the Revised Code to revise the curriculum of those programs, the effective date shall not be as prescribed in division (D) of section 119.03 and division (A)(1) of section 119.04 of the Revised Code. Instead, the effective date of such rules, or the amendment or rescission of such rules, shall be the date prescribed by section 3319.23 of the Revised Code.

(2) Notwithstanding the authority to adopt, amend, or rescind emergency rules in division (F) of section 119.03 of the Revised Code, this authority shall not apply to the state board of education with regard to rules for educator licenses.

(C)(1) The rules adopted under this section establishing standards requiring additional coursework for the renewal of any educator license shall require a school district and a chartered nonpublic school to establish local professional development committees. In a nonpublic school, the chief administrative officer shall establish the committees in any manner acceptable to such officer. The committees established under this division

shall determine whether coursework that a district or chartered nonpublic school teacher proposes to complete meets the requirement of the rules. The department of education shall provide technical assistance and support to committees as the committees incorporate the professional development standards adopted by the state board of education pursuant to section 3319.61 of the Revised Code into their review of coursework that is appropriate for license renewal. The rules shall establish a procedure by which a teacher may appeal the decision of a local professional development committee.

(2) In any school district in which there is no exclusive representative established under Chapter 4117. of the Revised Code, the professional development committees shall be established as described in division (C)(2) of this section.

Not later than the effective date of the rules adopted under this section, the board of education of each school district shall establish the structure for one or more local professional development committees to be operated by such school district. The committee structure so established by a district board shall remain in effect unless within thirty days prior to an anniversary of the date upon which the current committee structure was established, the board provides notice to all affected district employees that the committee structure is to be modified. Professional development committees may have a district-level or building-level scope of operations, and may be established with regard to particular grade or age levels for which an educator license is designated.

Each professional development committee shall consist of at least three classroom teachers employed by the district, one principal employed by the district, and one other employee of the district appointed by the district superintendent. For committees with a building-level scope, the teacher and principal members shall be assigned to that building, and the teacher members shall be elected by majority vote of the classroom teachers assigned to that building. For committees with a district-level scope, the teacher members shall be elected by majority vote of the classroom teachers of the district, and the principal member shall be elected by a majority vote of the principals of the district, unless there are two or fewer principals employed by the district, in which case the one or two principals employed shall serve on the committee. If a committee has a particular grade or age level scope, the teacher members shall be licensed to teach such grade or age levels, and shall be elected by majority vote of the classroom teachers holding such a license and the principal shall be elected by all principals serving in buildings where any such teachers serve. The district



superintendent shall appoint a replacement to fill any vacancy that occurs on a professional development committee, except in the case of vacancies among the elected classroom teacher members, which shall be filled by vote of the remaining members of the committee so selected.

Terms of office on professional development committees shall be prescribed by the district board establishing the committees. The conduct of elections for members of professional development committees shall be prescribed by the district board establishing the committees. A professional development committee may include additional members, except that the majority of members on each such committee shall be classroom teachers employed by the district. Any member appointed to fill a vacancy occurring prior to the expiration date of the term for which a predecessor was appointed shall hold office as a member for the remainder of that term.

The initial meeting of any professional development committee, upon election and appointment of all committee members, shall be called by a member designated by the district superintendent. At this initial meeting, the committee shall select a chairperson and such other officers the committee deems necessary, and shall adopt rules for the conduct of its meetings. Thereafter, the committee shall meet at the call of the chairperson or upon the filing of a petition with the district superintendent signed by a majority of the committee members calling for the committee to meet.

(3) In the case of a school district in which an exclusive representative has been established pursuant to Chapter 4117. of the Revised Code, professional development committees shall be established in accordance with any collective bargaining agreement in effect in the district that includes provisions for such committees.

If the collective bargaining agreement does not specify a different method for the selection of teacher members of the committees, the exclusive representative of the district's teachers shall select the teacher members.

If the collective bargaining agreement does not specify a different structure for the committees, the board of education of the school district shall establish the structure, including the number of committees and the number of teacher and administrative members on each committee; the specific administrative members to be part of each committee; whether the scope of the committees will be district levels, building levels, or by type of grade or age levels for which educator licenses are designated; the lengths of terms for members; the manner of filling vacancies on the committees; and the frequency and time and place of meetings. However, in all cases, except as provided in division (C)(4) of this section, there shall be a majority of

teacher members of any professional development committee, there shall be at least five total members of any professional development committee, and the exclusive representative shall designate replacement members in the case of vacancies among teacher members, unless the collective bargaining agreement specifies a different method of selecting such replacements.

(4) Whenever an administrator's coursework plan is being discussed or voted upon, the local professional development committee shall, at the request of one of its administrative members, cause a majority of the committee to consist of administrative members by reducing the number of teacher members voting on the plan.

(D)(1) The department of education, educational service centers, county boards of mental retardation and developmental disabilities, regional professional development centers, special education regional resource centers, college and university departments of education, head start programs, the eTech Ohio ~~SchoolNet~~ commission, and the Ohio education computer network may establish local professional development committees to determine whether the coursework proposed by their employees who are licensed or certificated under this section or section 3319.222 of the Revised Code meet the requirements of the rules adopted under this section. They may establish local professional development committees on their own or in collaboration with a school district or other agency having authority to establish them.

Local professional development committees established by county boards of mental retardation and developmental disabilities shall be structured in a manner comparable to the structures prescribed for school districts in divisions (C)(2) and (3) of this section, as shall the committees established by any other entity specified in division (D)(1) of this section that provides educational services by employing or contracting for services of classroom teachers licensed or certificated under this section or section 3319.222 of the Revised Code. All other entities specified in division (D)(1) of this section shall structure their committees in accordance with guidelines which shall be issued by the state board.

(2) Any public agency that is not specified in division (D)(1) of this section but provides educational services and employs or contracts for services of classroom teachers licensed or certificated under this section or section 3319.222 of the Revised Code may establish a local professional development committee, subject to the approval of the department of education. The committee shall be structured in accordance with guidelines issued by the state board.

Sec. 3319.235. (A) The standards for the preparation of teachers

adopted under section 3319.23 of the Revised Code shall require any institution that provides a course of study for the training of teachers to ensure that graduates of such course of study are skilled at integrating educational technology in the instruction of children, as evidenced by the graduate having either demonstrated proficiency in such skills in a manner prescribed by the department of education or completed a course that includes training in such skills.

(B) The eTech Ohio ~~SchoolNet~~ commission, ~~established pursuant to section 3301.80 of the Revised Code~~, shall establish model professional development programs to assist teachers who completed their teacher preparation prior to the effective date of division (A) of this section to become skilled at integrating educational technology in the instruction of children. The commission shall provide technical assistance to school districts wishing to establish such programs.

Sec. 3319.55. (A) A grant program is hereby established to recognize and reward teachers in public and chartered nonpublic schools who hold valid teaching certificates or licenses issued by the national board for professional teaching standards. The superintendent of public instruction shall administer this program in accordance with this section and rules which the state board of education shall adopt in accordance with Chapter 119. of the Revised Code.

In each fiscal year that the general assembly appropriates funds for purposes of this section, the superintendent of public instruction shall award a grant to each person who, by the first day of April of that year and in accordance with the rules adopted under this section, submits to the superintendent evidence indicating all of the following:

(1) The person holds a valid certificate or license issued by the national board for professional teaching standards;

(2) The person has been employed full-time as a teacher by the board of education of a school district or by a chartered nonpublic school in this state during the current school year;

(3) The date the person was accepted into the national board certification or licensure program.

An individual may receive a grant under this section in each fiscal year the person is eligible for a grant and submits evidence of that eligibility in accordance with this section. No person may receive a grant after the expiration of the person's initial certification or license issued by the national board.

(B) The amount of the grant awarded to each eligible person under division (A) of this section in any fiscal year shall equal the following:

(1) Two thousand five hundred dollars for any teacher accepted as a candidate for certification or licensure by the national board on or before May 31, 2003, and issued a certificate or license by the national board on or before December 31, 2004;

(2) One thousand dollars for any other teacher issued a certificate or license by the national board.

However, if the funds appropriated for purposes of this section in any fiscal year are not sufficient to award the full grant amount to each person who is eligible in that fiscal year, the superintendent shall prorate the amount of the grant awarded in that fiscal year to each eligible person.

Sec. 3323.021. As used in this section, "participating county MR/DD board" means a county board of mental retardation and developmental disabilities electing to participate in the provision of or contracting for educational services for children under division (D) of section 5126.05 of the Revised Code.

(A) When a school district, educational service center, or participating county MR/DD board enters into an agreement or contract with another school district, educational service center, or participating county MR/DD board to provide educational services to a disabled child during a school year, both of the following shall apply:

(1) Beginning with fiscal year 1999, if the provider of the services intends to increase the amount it charges for some or all of those services during the next school year or if the provider intends to cease offering all or part of those services during the next school year, the provider shall notify the entity for which the services are provided of these intended changes no later than the first day of March of the current fiscal year.

(2) Beginning with fiscal year 1999, if the entity for which services are provided intends to cease obtaining those services from the provider for the next school year or intends to change the type or amount of services it obtains from the provider for the next school year, the entity shall notify the service provider of these intended changes no later than the first day of March of the current fiscal year.

(B) School districts, educational service centers, participating county MR/DD boards, and other applicable governmental entities shall collaborate where possible to maximize federal sources of revenue, ~~including the community alternative funding system of the medical assistance program established under Chapter 5111. of the Revised Code,~~ to provide additional funds for special education related services for disabled children. Annually, each school district shall report to the department of education any amounts of money the district received through such medical assistance program.

(C) The state board of education, the department of mental retardation and developmental disabilities, and the department of job and family services shall develop working agreements for pursuing additional funds for services for disabled children.

Sec. 3323.091. (A) The department of mental health, the department of mental retardation and developmental disabilities, the department of youth services, and the department of rehabilitation and correction shall establish and maintain special education programs for handicapped children in institutions under their jurisdiction according to standards adopted by the state board of education. ~~The~~

(B) The superintendent of each state institution required to provide services under division (A) of this section, and each county MR/DD board, providing special education for handicapped preschool children under this chapter may apply to the state department of education for unit funding, which shall be paid in accordance with sections 3317.052 and 3317.053 of the Revised Code.

~~(B) On~~ The superintendent of each state institution required to provide services under division (A) of this section may apply to the department of education for special education and related services weighted funding for handicapped children other than handicapped preschool children, calculated in accordance with section 3317.201 of the Revised Code.

Each county MR/DD board providing special education for handicapped children other than handicapped preschool children may apply to the department of education for base cost and special education and related services weighted funding calculated in accordance with section 3317.20 of the Revised Code.

(C) In addition to the authorization to apply for state funding described in division (B) of this section, each state institution required to provide services under division (A) of this section is entitled to tuition payments calculated in the manner described in division (C) of this section.

On or before the thirtieth day of June of each year, the superintendent of each institution that during the school year provided special education pursuant to this section shall prepare a statement for each handicapped child under twenty-two years of age who has received special education. The statement shall contain the child's name and the name of the child's school district of residence. Within sixty days after receipt of such statement, the department of education shall perform one of the following:

(1) For any child except a handicapped preschool child described in division ~~(B)~~(C)(2) of this section, pay to the institution submitting the statement an amount equal to the tuition calculated under division (A) of

section 3317.08 of the Revised Code for the period covered by the statement, and deduct the same from the amount of state funds, if any, payable under sections 3317.022 and 3317.023 of the Revised Code, to the child's school district of residence or, if the amount of such state funds is insufficient, require the child's school district of residence to pay the institution submitting the statement an amount equal to the amount determined under this division.

(2) For any handicapped preschool child not included in a unit approved under division (B) of section 3317.05 of the Revised Code, perform the following:

(a) Pay to the institution submitting the statement an amount equal to the tuition calculated under division (B) of section 3317.08 of the Revised Code for the period covered by the statement, except that in calculating the tuition under that section the operating expenses of the institution submitting the statement under this section shall be used instead of the operating expenses of the school district of residence;

(b) Deduct from the amount of state funds, if any, payable under sections 3317.022 and 3317.023 of the Revised Code to the child's school district of residence an amount equal to the amount paid under division ~~(B)~~(C)(2)(a) of this section.

Sec. 3323.14. This section does not apply to any handicapped preschool child except if included in a unit approved under division (B) of section 3317.05 of the Revised Code.

(A) Where a child who is a school resident of one school district receives special education from another district and the per capita cost to the educating district for that child exceeds the sum of the amount received by the educating district for that child under division (A) of section 3317.08 of the Revised Code and the amount received by the district from the state board of education for that child, then the board of education of the district of residence shall pay ~~directly~~ to the board of the school district that is providing the special education such excess cost as is determined by using a formula approved by the department of education and agreed upon in contracts entered into by the boards of the district concerned at the time the district providing such special education accepts the child for enrollment. The department of education shall certify the amount of the payments under Chapter 3317. of the Revised Code for such handicapped pupils for each school year ending on the thirtieth day of July.

(B) In the case of a child described in division (A) of this section who has been placed in a home, as defined in section 3313.64 of the Revised Code, pursuant to the order of a court and who is not subject to section

3323.141 of the Revised Code, the district providing the child with special education and related services may charge to the child's district of residence the excess cost determined by formula approved by the department, regardless of whether the district of residence has entered into a contract with the district providing the services. If the district providing the services chooses to charge excess costs, the district may report the amount calculated under this division to the department.

(C) If a district providing special education for a child reports an amount for the excess cost of those services, as authorized and calculated under division (A) or (B) of this section, the department shall pay that amount of excess cost to the district providing the services and shall deduct that amount from the child's district of residence in accordance with division (N) of section 3317.023 of the Revised Code.

Sec. 3323.16. No unit for deaf children shall be disapproved for funding under division (B) ~~or (D)(1)~~ of section 3317.05 of the Revised Code on the basis of the methods of instruction used in educational programs in the school district or institution to teach deaf children to communicate, and no preference in approving units for funding shall be given for teaching deaf children by the oral, manual, total communication, or other method of instruction.

Sec. ~~41.36~~ 3323.19. (A) ~~In the 2004-2005 and 2005-2006 school years, within~~ Within three months after a student identified with disabilities begins receiving services for the first time under an individualized education program, ~~as defined in section 3323.01 of the Revised Code,~~ the school district in which that student is enrolled shall require the student to undergo a comprehensive eye examination performed either by an optometrist licensed under Chapter 4725. of the Revised Code or by a physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery who is comprehensively trained and educated in the treatment of the human eye, eye disease, or comprehensive vision services, unless the student underwent such an examination within the nine-month period immediately prior to being identified with disabilities.

However, no student who has not undergone the eye examination required under this section shall be prohibited from initiating, receiving, or continuing to receive services prescribed in the student's individualized education program.

(B) The superintendent of each school district or the superintendent's designee may determine fulfillment of the requirement prescribed in division (A) of this section based on any special circumstances of the

student, the student's parent, guardian, or family that may prevent the student from undergoing the eye examination prior to beginning special education services.

(C) Except for a student who may be entitled to a comprehensive eye examination in the identification of the student's disabilities, in the development of the student's individualized education program, or as a related service under the student's individualized education program, neither the state nor any school district shall be responsible for paying for the eye examination required by this section.

Sec. 3323.20. On July 1, 2006, and on each first day of July thereafter, the department of education shall electronically report to the general assembly the number of handicapped preschool children who received services for which the department made a payment to any provider during the previous fiscal year, disaggregated according to each category of handicap described in divisions (A) to (F) of section 3317.013 of the Revised Code, regardless of whether payment for services was based on the multiples prescribed in those divisions.

Sec. 3323.30. The Ohio center for autism and low incidence is hereby established within the department of education's office for exceptional children, or any successor of that office. The center shall administer programs and coordinate services for infants, preschool and school-age children, and adults with autism and low incidence disabilities. The center's principal focus shall be programs and services for persons with autism. The center shall be under the direction of an executive director, appointed by the superintendent of public instruction in consultation with the advisory board established under section 3323.31 of the Revised Code. The department shall use state and federal funds appropriated to the department for operation of the center.

As used in this section and in sections 3323.31 to 3323.33 of the Revised Code, "autism and low incidence disabilities" includes any of the following:

(A) Autism;

(B) Deafness or hearing handicap;

(C) Multihandicap;

(D) Orthopedic handicap;

(E) Other health handicap;

(F) Traumatic brain injury;

(G) Visual disability.

Sec. 3323.31. The superintendent of public instruction shall establish an advisory board to assist and advise the department of education in the



operation of the Ohio center for autism and low incidence. As determined by the superintendent, the advisory board shall consist of individuals who are stakeholders in the service to persons with autism and low incidence disabilities, including, but not limited to, the following:

(A) Persons with autism and low incidence disabilities;

(B) Parents and family members;

(C) Educators and other professionals;

(D) Higher education instructors;

(E) Representatives of state agencies.

The advisory board shall be organized as determined by the superintendent.

Members of the advisory board shall receive no compensation for their services.

Sec. 3323.32. The Ohio center for autism and low incidence shall do all of the following:

(A) Collaborate and consult with state agencies that serve persons with autism and low incidence disabilities;

(B) Collaborate and consult with institutions of higher education in development and implementation of courses for educators and other professionals serving persons with autism and low incidence disabilities;

(C) Collaborate with parent and professional organizations;

(D) Create and implement programs for professional development, technical assistance, intervention services, and research in the treatment of persons with autism and low incidence disabilities;

(E) Create a regional network for communication and dissemination of information among educators and professionals serving persons with autism and low incidence disabilities. The regional network shall address educational services, evaluation, diagnosis, assistive technology, family support, leisure and recreational activities, transition, employment and adult services, and medical care for persons with autism and low incidence disabilities.

(F) Develop a statewide clearinghouse for information about autism spectrum disorders and low incidence disabilities, as described in section 3323.33 of the Revised Code.

Sec. 3323.33. In developing a clearinghouse for information about autism spectrum disorders and low incidence disabilities, as required under section 3323.32 of the Revised Code, the Ohio center for autism and low incidence shall do all of the following:

(A) Maintain a collection of resources for public distribution;

(B) Monitor information on resources, trends, policies, services, and

current educational interventions:

(C) Respond to requests for information from parents and educators of children with autism and low incidence disabilities.

Sec. 3324.10. (A) Prior to June 30, 2006, the state board of education shall adopt a model student acceleration policy addressing recommendations in the department of education's 2005 study conducted under the gifted research and demonstration grant program. The policy shall address, but not be limited to, whole grade acceleration, subject area acceleration, and early high school graduation.

(B) The board of education of each city, local, and exempted village school district shall implement a student acceleration policy to take effect beginning in the 2006-2007 school year. The policy shall either be the model adopted by the state board under division (A) of this section or a policy covering similar issues that is adopted by the district board.

Sec. 3325.10. The state school for the blind may receive and administer any federal funds relating to the education of blind or visually impaired students. The school for the blind also may accept and administer any gifts, donations, or bequests made to it for programs or services relating to the education of blind or visually impaired students.

Sec. 3325.11. There is hereby created in the state treasury the state school for the blind student activity and work-study fund. Moneys received from donations, bequests, the school vocational program, and any other moneys designated for deposit in the fund by the superintendent of the state school for the blind shall be credited to the fund. Notwithstanding section 3325.01 of the Revised Code, the approval of the state board of education is not required to designate money for deposit into the fund. The school for the blind shall use money in the fund for school operating expenses, including, but not limited to, personal services, maintenance, and equipment related to student support, activities, and vocational programs, and for providing scholarships to students for further training upon graduation.

Sec. 3325.12. There is hereby created the state school for the blind student account fund, which shall be in the custody of the treasurer of state but shall not be part of the state treasury. The fund shall consist of all moneys received from the parents or guardians of students attending the state school for the blind that are designated for use by the respective students in activities of their choice. The treasurer of state may invest any portion of the fund not needed for immediate use in the same manner as, and subject to laws regarding the investment of, state funds. The treasurer of state shall disburse money from the fund on order of the superintendent of the state school for the blind or the superintendent's designee. All

investment earnings of the fund shall be credited to the fund and allocated among the student accounts in proportion to the amount invested from each student's account.

Sec. 3325.15. The state school for the deaf may receive and administer any federal funds relating to the education of deaf or hearing-impaired students. The school for the deaf also may accept and administer any gifts, donations, or bequests given to it for programs or services relating to the education of deaf or hearing-impaired students.

Sec. 3325.16. There is hereby created in the state treasury the state school for the deaf educational program expenses fund. Moneys received by the school from donations, bequests, student fundraising activities, fees charged for camps and workshops, gate receipts from athletic contests, and the student work experience program operated by the school, and any other moneys designated for deposit in the fund by the superintendent of the school, shall be credited to the fund. Notwithstanding section 3325.01 of the Revised Code, the approval of the state board of education is not required to designate money for deposit into the fund. The state school for the deaf shall use moneys in the fund for educational programs, after-school activities, and expenses associated with student activities and clubs.

Sec. 3325.17. There is hereby created the state school for the deaf student account fund, which shall be in the custody of the treasurer of state but shall not be part of the state treasury. The fund shall consist of all moneys received from the parents or guardians of students attending the state school for the deaf that are designated for use by the respective students in activities of their choice. The treasurer of state may invest any portion of the fund not needed for immediate use in the same manner as, and subject to laws regarding the investment of, state funds. The treasurer of state shall disburse money from the fund on order of the superintendent of the state school for the deaf or the superintendent's designee. All investment earnings of the fund shall be credited to the fund and allocated among the student accounts in proportion to the amount invested from each student's account.

Sec. 3327.01. Notwithstanding division (D) of section 3311.19 and division (D) of section 3311.52 of the Revised Code, this section and sections 3327.011, 3327.012, and 3327.02 of the Revised Code do not apply to any joint vocational or cooperative education school district.

In all city, local, and exempted village school districts where resident school pupils in grades kindergarten through eight live more than two miles from the school for which the state board of education prescribes minimum standards pursuant to division (D) of section 3301.07 of the Revised Code

and to which they are assigned by the board of education of the district of residence or to and from the nonpublic or community school which they attend the board of education shall provide transportation for such pupils to and from such school except as provided in section 3327.02 of the Revised Code.

In all city, local, and exempted village school districts where pupil transportation is required under a career-technical plan approved by the state board of education under section 3313.90 of the Revised Code, for any student attending a career-technical program operated by another school district, including a joint vocational school district, as prescribed under that section, the board of education of the student's district of residence shall provide transportation from the public high school operated by that district to which the student is assigned to the career-technical program.

In all city, local, and exempted village school districts the board may provide transportation for resident school pupils in grades nine through twelve to and from the high school to which they are assigned by the board of education of the district of residence or to and from the nonpublic or community high school which they attend for which the state board of education prescribes minimum standards pursuant to division (D) of section 3301.07 of the Revised Code.

A board of education shall not be required to transport elementary or high school pupils to and from a nonpublic or community school where such transportation would require more than thirty minutes of direct travel time as measured by school bus from the public school building to which the pupils would be assigned if attending the public school designated by the district of residence.

Where it is impractical to transport a pupil by school conveyance, a board of education may offer payment, in lieu of providing such transportation in accordance with section 3327.02 of the Revised Code.

In all city, local, and exempted village school districts the board shall provide transportation for all children who are so crippled that they are unable to walk to and from the school for which the state board of education prescribes minimum standards pursuant to division (D) of section 3301.07 of the Revised Code and which they attend. In case of dispute whether the child is able to walk to and from the school, the health commissioner shall be the judge of such ability. In all city, exempted village, and local school districts the board shall provide transportation to and from school or special education classes for educable mentally retarded children in accordance with standards adopted by the state board of education.

When transportation of pupils is provided the conveyance shall be run

on a time schedule that shall be adopted and put in force by the board not later than ten days after the beginning of the school term.

The cost of any transportation service authorized by this section shall be paid first out of federal funds, if any, available for the purpose of pupil transportation, and secondly out of state appropriations, in accordance with regulations adopted by the state board of education.

No transportation of any pupils shall be provided by any board of education to or from any school which in the selection of pupils, faculty members, or employees, practices discrimination against any person on the grounds of race, color, religion, or national origin.

Sec. 3332.092. Any school subject to this chapter receiving money under section 3333.12 or 3333.122 of the Revised Code on behalf of a student who is determined by the state board of career colleges and schools to be ineligible under such section because the program in which the student is enrolled does not lead to an associate or baccalaureate degree, shall be liable to the state for the amount specified in section 3333.12 or 3333.122 of the Revised Code. The state board of career colleges and schools shall suspend the certificate of registration of a school receiving money under section 3333.12 or 3333.122 of the Revised Code for such ineligible student until such time as the money is repaid to the Ohio board of regents.

Sec. 3333.04. The Ohio board of regents shall:

(A) Make studies of state policy in the field of higher education and formulate a master plan for higher education for the state, considering the needs of the people, the needs of the state, and the role of individual public and private institutions within the state in fulfilling these needs;

(B)(1) Report annually to the governor and the general assembly on the findings from its studies and the master plan for higher education for the state;

(2) Report at least semiannually to the general assembly and the governor the enrollment numbers at each state-assisted institution of higher education.

(C) Approve or disapprove the establishment of new branches or academic centers of state colleges and universities;

(D) Approve or disapprove the establishment of state technical colleges or any other state institution of higher education;

(E) Recommend the nature of the programs, undergraduate, graduate, professional, state-financed research, and public services which should be offered by the state colleges, universities, and other state-assisted institutions of higher education in order to utilize to the best advantage their facilities and personnel;

(F) Recommend to the state colleges, universities, and other state-assisted institutions of higher education graduate or professional programs, including, but not limited to, doctor of philosophy, doctor of education, and juris doctor programs, that could be eliminated because they constitute unnecessary duplication, as shall be determined using the process developed pursuant to this section, or for other good and sufficient cause. For purposes of determining the amounts of any state instructional subsidies paid to these colleges, universities, and institutions, the board may exclude students enrolled in any program that the board has recommended for elimination pursuant to this division except that the board shall not exclude any such student who enrolled in the program prior to the date on which the board initially commences to exclude students under this division. The board of regents and these colleges, universities, and institutions shall jointly develop a process for determining which existing graduate or professional programs constitute unnecessary duplication.

(G) Recommend to the state colleges, universities, and other state-assisted institutions of higher education programs which should be added to their present programs;

(H) Conduct studies for the state colleges, universities, and other state-assisted institutions of higher education to assist them in making the best and most efficient use of their existing facilities and personnel;

(I) Make recommendations to the governor and general assembly concerning the development of state-financed capital plans for higher education; the establishment of new state colleges, universities, and other state-assisted institutions of higher education; and the establishment of new programs at the existing state colleges, universities, and other institutions of higher education;

(J) Review the appropriation requests of the public community colleges and the state colleges and universities and submit to the office of budget and management and to the chairpersons of the finance committees of the house of representatives and of the senate its recommendations in regard to the biennial higher education appropriation for the state, including appropriations for the individual state colleges and universities and public community colleges. For the purpose of determining the amounts of instructional subsidies to be paid to state-assisted colleges and universities, the board shall define "full-time equivalent student" by program per academic year. The definition may take into account the establishment of minimum enrollment levels in technical education programs below which support allowances will not be paid. Except as otherwise provided in this section, the board shall make no change in the definition of "full-time

equivalent student" in effect on November 15, 1981, which would increase or decrease the number of subsidy-eligible full-time equivalent students, without first submitting a fiscal impact statement to the president of the senate, the speaker of the house of representatives, ~~the legislative budget office~~ of the legislative service commission, and the director of budget and management. The board shall work in close cooperation with the director of budget and management in this respect and in all other matters concerning the expenditures of appropriated funds by state colleges, universities, and other institutions of higher education.

(K) Seek the cooperation and advice of the officers and trustees of both public and private colleges, universities, and other institutions of higher education in the state in performing its duties and making its plans, studies, and recommendations;

(L) Appoint advisory committees consisting of persons associated with public or private secondary schools, members of the state board of education, or personnel of the state department of education;

(M) Appoint advisory committees consisting of college and university personnel, or other persons knowledgeable in the field of higher education, or both, in order to obtain their advice and assistance in defining and suggesting solutions for the problems and needs of higher education in this state;

(N) Approve or disapprove all new degrees and new degree programs at all state colleges, universities, and other state-assisted institutions of higher education;

(O) Adopt such rules as are necessary to carry out its duties and responsibilities;

(P) Establish and submit to the governor and the general assembly a clear and measurable set of goals and timetables for their achievement for each program under the supervision of the board that is designed to accomplish any of the following:

- (1) Increased access to higher education;
- (2) Job training;
- (3) Adult literacy;
- (4) Research;
- (5) Excellence in higher education;
- (6) Reduction in the number of graduate programs within the same subject area.

In July of each odd-numbered year, the board of regents shall submit to the governor and the general assembly a report on progress made toward these goals.

(Q) Make recommendations to the governor and the general assembly regarding the design and funding of the student financial aid programs specified in sections 3333.12, 3333.122, 3333.21 to 3333.27, and 5910.02 of the Revised Code;

(R) Participate in education-related state or federal programs on behalf of the state and assume responsibility for the administration of such programs in accordance with applicable state or federal law;

(S) Adopt rules for student financial aid programs as required by sections 3333.12, 3333.122, 3333.21 to 3333.27, 3333.28, 3333.29, and 5910.02 of the Revised Code, and perform any other administrative functions assigned to the board by those sections;

(T) Administer contracts under sections 3702.74 and 3702.75 of the Revised Code in accordance with rules adopted by the director of health under section 3702.79 of the Revised Code;

(U) Conduct enrollment audits of state-supported institutions of higher education;

(V) Appoint consortiums of college and university personnel to participate in the development and operation of statewide collaborative efforts, including the Ohio supercomputer center, the Ohio academic resources network, OhioLink, and the Ohio learning network. For each consortium, the board shall designate a college or university to serve as that consortium's fiscal agent, financial officer, and employer. Any funds appropriated to the board for consortiums shall be distributed to the fiscal agents for the operation of the consortiums. A consortium shall follow the rules of the college or university that serves as its fiscal agent.

Sec. 3333.044. (A) The Ohio board of regents may contract with any consultants that are necessary for the discharge of the board's duties under this chapter.

(B) The Ohio board of regents may purchase, upon the terms that the board determines to be advisable, one or more policies of insurance from insurers authorized to do business in this state that insure consultants who have contracted with the board under division (A) of this section or members of an advisory committee appointed under section 3333.04 of the Revised Code, with respect to the activities of the consultants or advisory committee members in the course of the performance of their responsibilities as consultants or advisory committee members.

(C) Subject to the approval of the controlling board, the Ohio board of regents may contract with any entities for the discharge of the board's duties and responsibilities under any of the programs established pursuant to sections 3333.12, 3333.122, 3333.21 to 3333.28, 3702.71 to 3702.81, and



5120.55, and Chapter 5910. of the Revised Code. The board shall not enter into a contract under this division unless the proposed contractor demonstrates that its primary purpose is to promote access to higher education by providing student financial assistance through loans, grants, or scholarships, and by providing high quality support services and information to students and their families with regard to such financial assistance.

Chapter 125. of the Revised Code does not apply to contracts entered into pursuant to this section. In awarding contracts under this division, the board shall consider factors such as the cost of the administration of the contract, the experience of the contractor, and the contractor's ability to properly execute the contract.

Sec. 3333.047. With regard to any state student financial aid program established in this chapter, Chapter 5910., or section 5919.34 of the Revised Code, the Ohio board of regents shall conduct audits to:

(A) Determine the validity of information provided by students and parents regarding eligibility for state student financial aid. If the board determines that eligibility data has been reported incorrectly or inaccurately, and where the board determines an adjustment to be appropriate, the institution of higher education shall adjust the financial aid awarded to the student.

(B) Ensure that institutions of higher education are in compliance with the board's rules governing state student financial aid programs. An institution that fails to comply with the board's rules in the administration of any state student financial aid program shall be fully liable to reimburse the board for the unauthorized use of student financial aid funds.

Sec. 3333.12. (A) As used in this section:

(1) "Eligible student" means an undergraduate student who is:

(a) An Ohio resident enrolled in an undergraduate program before the 2006-2007 academic year;

(b) Enrolled in either of the following:

(i) An accredited institution of higher education in this state that meets the requirements of Title VI of the Civil Rights Act of 1964 and is state-assisted, is nonprofit and has a certificate of authorization from the Ohio board of regents pursuant to Chapter 1713. of the Revised Code, has a certificate of registration from the state board of career colleges and schools and program authorization to award an associate or bachelor's degree, or is a private institution exempt from regulation under Chapter 3332. of the Revised Code as prescribed in section 3333.046 of the Revised Code. Students who attend an institution that holds a certificate of registration shall be enrolled in a program leading to an associate or bachelor's degree for

which associate or bachelor's degree program the institution has program authorization issued under section 3332.05 of the Revised Code.

(ii) A technical education program of at least two years duration sponsored by a private institution of higher education in this state that meets the requirements of Title VI of the Civil Rights Act of 1964.

(c) Enrolled as a full-time student or enrolled as a less than full-time student for the term expected to be the student's final term of enrollment and is enrolled for the number of credit hours necessary to complete the requirements of the program in which the student is enrolled.

(2) "Gross income" includes all taxable and nontaxable income of the parents, the student, and the student's spouse, except income derived from an Ohio academic scholarship, income earned by the student between the last day of the spring term and the first day of the fall term, and other income exclusions designated by the board. Gross income may be verified to the board by the institution in which the student is enrolled using the federal financial aid eligibility verification process or by other means satisfactory to the board.

(3) "Resident," "full-time student," "dependent," "financially independent," and "accredited" shall be defined by rules adopted by the board.

(B) The Ohio board of regents shall establish and administer an instructional grant program and may adopt rules to carry out this section. The general assembly shall support the instructional grant program by such sums and in such manner as it may provide, but the board may also receive funds from other sources to support the program. If the amounts available for support of the program are inadequate to provide grants to all eligible students, preference in the payment of grants shall be given in terms of income, beginning with the lowest income category of gross income and proceeding upward by category to the highest gross income category.

An instructional grant shall be paid to an eligible student through the institution in which the student is enrolled, except that no instructional grant shall be paid to any person serving a term of imprisonment. Applications for such grants shall be made as prescribed by the board, and such applications may be made in conjunction with and upon the basis of information provided in conjunction with student assistance programs funded by agencies of the United States government or from financial resources of the institution of higher education. The institution shall certify that the student applicant meets the requirements set forth in divisions (A)(1)(b) and (c) of this section. Instructional grants shall be provided to an eligible student only as long as the student is making appropriate progress toward a nursing

diploma or an associate or bachelor's degree. No student shall be eligible to receive a grant for more than ten semesters, fifteen quarters, or the equivalent of five academic years. A grant made to an eligible student on the basis of less than full-time enrollment shall be based on the number of credit hours for which the student is enrolled and shall be computed in accordance with a formula adopted by the board. No student shall receive more than one grant on the basis of less than full-time enrollment.

An instructional grant shall not exceed the total instructional and general charges of the institution.

(C) The tables in this division prescribe the maximum grant amounts covering two semesters, three quarters, or a comparable portion of one academic year. Grant amounts for additional terms in the same academic year shall be determined under division (D) of this section.

For a full-time student who is a dependent and enrolled in a nonprofit educational institution that is not a state-assisted institution and that has a certificate of authorization issued pursuant to Chapter 1713. of the Revised Code, the amount of the instructional grant for two semesters, three quarters, or a comparable portion of the academic year shall be determined in accordance with the following table:

Gross Income	Private Institution				
	Table of Grants				
	Maximum Grant \$5,466				
	Number of Dependents				
	1	2	3	4	5 or more
\$0 - \$15,000	\$5,466	\$5,466	\$5,466	\$5,466	\$5,466
\$15,001 - \$16,000	4,920	5,466	5,466	5,466	5,466
\$16,001 - \$17,000	4,362	4,920	5,466	5,466	5,466
\$17,001 - \$18,000	3,828	4,362	4,920	5,466	5,466
\$18,001 - \$19,000	3,288	3,828	4,362	4,920	5,466
\$19,001 - \$22,000	2,736	3,288	3,828	4,362	4,920
\$22,001 - \$25,000	2,178	2,736	3,288	3,828	4,362
\$25,001 - \$28,000	1,626	2,178	2,736	3,288	3,828
\$28,001 - \$31,000	1,344	1,626	2,178	2,736	3,288
\$31,001 - \$32,000	1,080	1,344	1,626	2,178	2,736
\$32,001 - \$33,000	984	1,080	1,344	1,626	2,178
\$33,001 - \$34,000	888	984	1,080	1,344	1,626
\$34,001 - \$35,000	444	888	984	1,080	1,344
\$35,001 - \$36,000	--	444	888	984	1,080
\$36,001 - \$37,000	--	--	444	888	984

\$37,001 - \$38,000	--	--	--	444	888
\$38,001 - \$39,000	--	--	--	--	444

For a full-time student who is financially independent and enrolled in a nonprofit educational institution that is not a state-assisted institution and that has a certificate of authorization issued pursuant to Chapter 1713. of the Revised Code, the amount of the instructional grant for two semesters, three quarters, or a comparable portion of the academic year shall be determined in accordance with the following table:

Private Institution						
Table of Grants						
Maximum Grant \$5,466						
Gross Income	Number of Dependents					
	0	1	2	3	4	5 or more
\$0 - \$4,800	\$5,466	\$5,466	\$5,466	\$5,466	\$5,466	\$5,466
\$4,801 - \$5,300	4,920	5,466	5,466	5,466	5,466	5,466
\$5,301 - \$5,800	4,362	5,196	5,466	5,466	5,466	5,466
\$5,801 - \$6,300	3,828	4,914	5,196	5,466	5,466	5,466
\$6,301 - \$6,800	3,288	4,650	4,914	5,196	5,466	5,466
\$6,801 - \$7,300	2,736	4,380	4,650	4,914	5,196	5,466
\$7,301 - \$8,300	2,178	4,104	4,380	4,650	4,914	5,196
\$8,301 - \$9,300	1,626	3,822	4,104	4,380	4,650	4,914
\$9,301 - \$10,300	1,344	3,546	3,822	4,104	4,380	4,650
\$10,301 - \$11,800	1,080	3,408	3,546	3,822	4,104	4,380
\$11,801 - \$13,300	984	3,276	3,408	3,546	3,822	4,104
\$13,301 - \$14,800	888	3,228	3,276	3,408	3,546	3,822
\$14,801 - \$16,300	444	2,904	3,228	3,276	3,408	3,546
\$16,301 - \$19,300	--	2,136	2,628	2,952	3,276	3,408
\$19,301 - \$22,300	--	1,368	1,866	2,358	2,676	3,000
\$22,301 - \$25,300	--	1,092	1,368	1,866	2,358	2,676
\$25,301 - \$30,300	--	816	1,092	1,368	1,866	2,358
\$30,301 - \$35,300	--	492	540	672	816	1,314

For a full-time student who is a dependent and enrolled in an educational institution that holds a certificate of registration from the state board of career colleges and schools or a private institution exempt from regulation under Chapter 3332. of the Revised Code as prescribed in section 3333.046 of the Revised Code, the amount of the instructional grant for two semesters, three quarters, or a comparable portion of the academic year shall be determined in accordance with the following table:

#### Career Institution

Gross Income	Table of Grants				
	Maximum Grant \$4,632				
	Number of Dependents				
	1	2	3	4	5 or more
\$0 - \$15,000	\$4,632	\$4,632	\$4,632	\$4,632	\$4,632
\$15,001 - \$16,000	4,182	4,632	4,632	4,632	4,632
\$16,001 - \$17,000	3,684	4,182	4,632	4,632	4,632
\$17,001 - \$18,000	3,222	3,684	4,182	4,632	4,632
\$18,001 - \$19,000	2,790	3,222	3,684	4,182	4,632
\$19,001 - \$22,000	2,292	2,790	3,222	3,684	4,182
\$22,001 - \$25,000	1,854	2,292	2,790	3,222	3,684
\$25,001 - \$28,000	1,416	1,854	2,292	2,790	3,222
\$28,001 - \$31,000	1,134	1,416	1,854	2,292	2,790
\$31,001 - \$32,000	906	1,134	1,416	1,854	2,292
\$32,001 - \$33,000	852	906	1,134	1,416	1,854
\$33,001 - \$34,000	750	852	906	1,134	1,416
\$34,001 - \$35,000	372	750	852	906	1,134
\$35,001 - \$36,000	--	372	750	852	906
\$36,001 - \$37,000	--	--	372	750	852
\$37,001 - \$38,000	--	--	--	372	750
\$38,001 - \$39,000	--	--	--	--	372

For a full-time student who is financially independent and enrolled in an educational institution that holds a certificate of registration from the state board of career colleges and schools or a private institution exempt from regulation under Chapter 3332. of the Revised Code as prescribed in section 3333.046 of the Revised Code, the amount of the instructional grant for two semesters, three quarters, or a comparable portion of the academic year shall be determined in accordance with the following table:

Gross Income	Career Institution					
	Table of Grants					
	Maximum Grant \$4,632					
	Number of Dependents					
	0	1	2	3	4	5 or more
\$0 - \$4,800	\$4,632	\$4,632	\$4,632	\$4,632	\$4,632	\$4,632
\$4,801 - \$5,300	4,182	4,632	4,632	4,632	4,632	4,632
\$5,301 - \$5,800	3,684	4,410	4,632	4,632	4,632	4,632
\$5,801 - \$6,300	3,222	4,158	4,410	4,632	4,632	4,632
\$6,301 - \$6,800	2,790	3,930	4,158	4,410	4,632	4,632

\$6,801 - \$7,300	2,292	3,714	3,930	4,158	4,410	4,632
\$7,301 - \$8,300	1,854	3,462	3,714	3,930	4,158	4,410
\$8,301 - \$9,300	1,416	3,246	3,462	3,714	3,930	4,158
\$9,301 - \$10,300	1,134	3,024	3,246	3,462	3,714	3,930
\$10,301 - \$11,800	906	2,886	3,024	3,246	3,462	3,714
\$11,801 - \$13,300	852	2,772	2,886	3,024	3,246	3,462
\$13,301 - \$14,800	750	2,742	2,772	2,886	3,024	3,246
\$14,801 - \$16,300	372	2,466	2,742	2,772	2,886	3,024
\$16,301 - \$19,300	--	1,800	2,220	2,520	2,772	2,886
\$19,301 - \$22,300	--	1,146	1,584	1,986	2,268	2,544
\$22,301 - \$25,300	--	930	1,146	1,584	1,986	2,268
\$25,301 - \$30,300	--	708	930	1,146	1,584	1,986
\$30,301 - \$35,300	--	426	456	570	708	1,116

For a full-time student who is a dependent and enrolled in a state-assisted educational institution, the amount of the instructional grant for two semesters, three quarters, or a comparable portion of the academic year shall be determined in accordance with the following table:

## Public Institution

## Table of Grants

Maximum Grant \$2,190

Gross Income	Number of Dependents				
	1	2	3	4	5 or more
\$0 - \$15,000	\$2,190	\$2,190	\$2,190	\$2,190	\$2,190
\$15,001 - \$16,000	1,974	2,190	2,190	2,190	2,190
\$16,001 - \$17,000	1,740	1,974	2,190	2,190	2,190
\$17,001 - \$18,000	1,542	1,740	1,974	2,190	2,190
\$18,001 - \$19,000	1,320	1,542	1,740	1,974	2,190
\$19,001 - \$22,000	1,080	1,320	1,542	1,740	1,974
\$22,001 - \$25,000	864	1,080	1,320	1,542	1,740
\$25,001 - \$28,000	648	864	1,080	1,320	1,542
\$28,001 - \$31,000	522	648	864	1,080	1,320
\$31,001 - \$32,000	420	522	648	864	1,080
\$32,001 - \$33,000	384	420	522	648	864
\$33,001 - \$34,000	354	384	420	522	648
\$34,001 - \$35,000	174	354	384	420	522
\$35,001 - \$36,000	--	174	354	384	420
\$36,001 - \$37,000	--	--	174	354	384
\$37,001 - \$38,000	--	--	--	174	354
\$38,001 - \$39,000	--	--	--	--	174

For a full-time student who is financially independent and enrolled in a state-assisted educational institution, the amount of the instructional grant for two semesters, three quarters, or a comparable portion of the academic year shall be determined in accordance with the following table:

Public Institution						
Table of Grants						
Maximum Grant \$2,190						
Number of Dependents						
Gross Income	0	1	2	3	4	5 or more
\$0 - \$4,800	\$2,190	\$2,190	\$2,190	\$2,190	\$2,190	\$2,190
\$4,801 - \$5,300	1,974	2,190	2,190	2,190	2,190	2,190
\$5,301 - \$5,800	1,740	2,082	2,190	2,190	2,190	2,190
\$5,801 - \$6,300	1,542	1,968	2,082	2,190	2,190	2,190
\$6,301 - \$6,800	1,320	1,866	1,968	2,082	2,190	2,190
\$6,801 - \$7,300	1,080	1,758	1,866	1,968	2,082	2,190
\$7,301 - \$8,300	864	1,638	1,758	1,866	1,968	2,082
\$8,301 - \$9,300	648	1,530	1,638	1,758	1,866	1,968
\$9,301 - \$10,300	522	1,422	1,530	1,638	1,758	1,866
\$10,301 - \$11,800	420	1,356	1,422	1,530	1,638	1,758
\$11,801 - \$13,300	384	1,308	1,356	1,422	1,530	1,638
\$13,301 - \$14,800	354	1,290	1,308	1,356	1,422	1,530
\$14,801 - \$16,300	174	1,164	1,290	1,308	1,356	1,422
\$16,301 - \$19,300	--	858	1,050	1,182	1,308	1,356
\$19,301 - \$22,300	--	540	750	948	1,062	1,200
\$22,301 - \$25,300	--	432	540	750	948	1,062
\$25,301 - \$30,300	--	324	432	540	750	948
\$30,301 - \$35,300	--	192	210	264	324	522

(D) For a full-time student enrolled in an eligible institution for a semester or quarter in addition to the portion of the academic year covered by a grant determined under division (C) of this section, the maximum grant

amount shall be a percentage of the maximum prescribed in the applicable table of that division. The maximum grant for a fourth quarter shall be one-third of the maximum amount prescribed under that division. The maximum grant for a third semester shall be one-half of the maximum amount prescribed under that division.

(E) No grant shall be made to any student in a course of study in theology, religion, or other field of preparation for a religious profession unless such course of study leads to an accredited bachelor of arts, bachelor of science, associate of arts, or associate of science degree.

(F)(1) Except as provided in division (F)(2) of this section, no grant shall be made to any student for enrollment during a fiscal year in an institution with a cohort default rate determined by the United States secretary of education pursuant to the "Higher Education Amendments of 1986," 100 Stat. 1278, 1408, 20 U.S.C.A. 1085, as amended, as of the fifteenth day of June preceding the fiscal year, equal to or greater than thirty per cent for each of the preceding two fiscal years.

(2) Division (F)(1) of this section does not apply to the following:

(a) Any student enrolled in an institution that under the federal law appeals its loss of eligibility for federal financial aid and the United States secretary of education determines its cohort default rate after recalculation is lower than the rate specified in division (F)(1) of this section or the secretary determines due to mitigating circumstances the institution may continue to participate in federal financial aid programs. The board shall adopt rules requiring institutions to provide information regarding an appeal to the board.

(b) Any student who has previously received a grant under this section who meets all other requirements of this section.

(3) The board shall adopt rules for the notification of all institutions whose students will be ineligible to participate in the grant program pursuant to division (F)(1) of this section.

(4) A student's attendance at an institution whose students lose eligibility for grants under division (F)(1) of this section shall not affect that student's eligibility to receive a grant when enrolled in another institution.

(G) Institutions of higher education that enroll students receiving instructional grants under this section shall report to the board all students who have received instructional grants but are no longer eligible for all or part of such grants and shall refund any moneys due the state within thirty days after the beginning of the quarter or term immediately following the quarter or term in which the student was no longer eligible to receive all or part of the student's grant. There shall be an interest charge of one per cent



per month on all moneys due and payable after such thirty-day period. The board shall immediately notify the office of budget and management and the legislative service commission of all refunds so received.

Sec. 3333.121. There is hereby established in the state treasury the ~~instructional grant~~ state need-based financial aid reconciliation fund, which shall consist of refunds of instructional grant payments made pursuant to section 3333.12 of the Revised Code and refunds of state need-based financial aid payments made pursuant to section 3333.122 of the Revised Code. Revenues credited to the fund shall be used by the Ohio board of regents to pay to higher education institutions any outstanding obligations from the prior year owed for the Ohio instructional grant program and the Ohio college opportunity grant program that are identified through the annual reconciliation and financial audit. Any amount in the fund that is in excess of the amount certified to the director of budget and management by the board of regents as necessary to reconcile prior year payments under the program shall be transferred to the general revenue fund.

Sec. 3333.122. (A) As used in this section:

(1) "Eligible student" means a student who is:

(a) An Ohio resident who first enrolls in an undergraduate program in the 2006-2007 academic year or thereafter;

(b) Enrolled in either of the following:

(i) An accredited institution of higher education in this state that meets the requirements of Title VI of the Civil Rights Act of 1964 and is state-assisted, is nonprofit and has a certificate of authorization from the Ohio board of regents pursuant to Chapter 1713. of the Revised Code, has a certificate of registration from the state board of career colleges and schools and program authorization to award an associate or bachelor's degree, or is a private institution exempt from regulation under Chapter 3332. of the Revised Code as prescribed in section 3333.046 of the Revised Code. Students who attend an institution that holds a certificate of registration shall be enrolled in a program leading to an associate or bachelor's degree for which associate or bachelor's degree program the institution has program authorization issued under section 3332.05 of the Revised Code.

(ii) A technical education program of at least two years duration sponsored by a private institution of higher education in this state that meets the requirements of Title VI of the Civil Rights Act of 1964.

(2) A student who participated in either the early college high school program administered by the department of education or in the post-secondary enrollment options program pursuant to Chapter 3365. of the Revised Code before the 2006-2007 academic year shall not be excluded

from eligibility for a need based grant under this section.

(3) "Resident," "expected family contribution" or "EFC," "full-time student," "three-quarters-time student," "half-time student," "one-quarter-time student," and "accredited" shall be defined by rules adopted by the board.

(B) The Ohio board of regents shall establish and administer a needs-based financial aid program based on the United States department of education's method of determining financial need and may adopt rules to carry out this section. The program shall be known as the Ohio college opportunity grant program. The general assembly shall support the needs-based financial aid program by such sums and in such manner as it may provide, but the board may also receive funds from other sources to support the program. If the amounts available for support of the program are inadequate to provide grants to all eligible students, preference in the payment of grants shall be given in terms of expected family contribution, beginning with the lowest expected family contribution category and proceeding upward by category to the highest expected family contribution category.

A needs-based financial aid grant shall be paid to an eligible student through the institution in which the student is enrolled, except that no needs-based financial aid grant shall be paid to any person serving a term of imprisonment. Applications for such grants shall be made as prescribed by the board, and such applications may be made in conjunction with and upon the basis of information provided in conjunction with student assistance programs funded by agencies of the United States government or from financial resources of the institution of higher education. The institution shall certify that the student applicant meets the requirements set forth in divisions (A)(1)(a) and (b) of this section. Needs-based financial aid grants shall be provided to an eligible student only as long as the student is making appropriate progress toward a nursing diploma or an associate or bachelor's degree. No student shall be eligible to receive a grant for more than ten semesters, fifteen quarters, or the equivalent of five academic years. A grant made to an eligible student on the basis of less than full-time enrollment shall be based on the number of credit hours for which the student is enrolled and shall be computed in accordance with a formula adopted by the board. No student shall receive more than one grant on the basis of less than full-time enrollment.

A needs-based financial aid grant shall not exceed the total instructional and general charges of the institution.

(C) The tables in this division prescribe the maximum grant amounts

covering two semesters, three quarters, or a comparable portion of one academic year. Grant amounts for additional terms in the same academic year shall be determined under division (D) of this section.

As used in the tables in division (C) of this section:

(1) "Private institution" means an institution that is nonprofit and has a certificate of authorization from the Ohio board of regents pursuant to Chapter 1713. of the Revised Code.

(2) "Career college" means either an institution that holds a certificate of registration from the state board of career colleges and schools or a private institution exempt from regulation under Chapter 3332. of the Revised Code as prescribed in section 3333.046 of the Revised Code.

Full-time students shall be eligible to receive awards according to the following table:

<u>Full-Time Enrollment</u>				
<u>If the EFC</u> <u>is equal to</u> <u>or greater</u> <u>than:</u>	<u>And if the</u> <u>EFC is no</u> <u>more than:</u>	<u>If the</u> <u>student</u> <u>attends a</u> <u>public</u> <u>institution,</u> <u>the annual</u> <u>award</u> <u>shall be:</u>	<u>If the</u> <u>student</u> <u>attends a</u> <u>private</u> <u>institution,</u> <u>the annual</u> <u>award</u> <u>shall be:</u>	<u>If the</u> <u>student</u> <u>attends a</u> <u>career</u> <u>college,</u> <u>the annual</u> <u>award</u> <u>shall be:</u>
\$2,101	\$2,190	\$300	\$600	\$480
2,001	2,100	402	798	642
1,901	2,000	498	1,002	798
1,801	1,900	600	1,200	960
1,701	1,800	702	1,398	1,122
1,601	1,700	798	1,602	1,278
1,501	1,600	900	1,800	1,440
1,401	1,500	1,002	1,998	1,602
1,301	1,400	1,098	2,202	1,758
1,201	1,300	1,200	2,400	1,920
1,101	1,200	1,302	2,598	2,082
1,001	1,100	1,398	2,802	2,238
901	1,000	1,500	3,000	2,400
801	900	1,602	3,198	2,562
701	800	1,698	3,402	2,718
601	700	1,800	3,600	2,280
501	600	1,902	3,798	3,042
401	500	1,998	4,002	3,198

<u>301</u>	<u>400</u>	<u>2,100</u>	<u>4,200</u>	<u>3,360</u>
<u>201</u>	<u>300</u>	<u>2,202</u>	<u>4,398</u>	<u>3,522</u>
<u>101</u>	<u>200</u>	<u>2,298</u>	<u>4,602</u>	<u>3,678</u>
<u>1</u>	<u>100</u>	<u>2,400</u>	<u>4,800</u>	<u>3,840</u>
<u>0</u>	<u>0</u>	<u>2,496</u>	<u>4,992</u>	<u>3,996</u>

Three-quarters-time students shall be eligible to receive awards according to the following table:

<u>Three-Quarters-Time Enrollment</u>				
<u>If the EFC is equal to or greater than:</u>	<u>And the EFC is no more than:</u>	<u>If the student attends a public institution, the annual award shall be:</u>	<u>If the student attends a private institution, the annual award shall be:</u>	<u>If the student attends a career college, the annual award shall be:</u>
<u>\$2,101</u>	<u>\$2,190</u>	<u>\$228</u>	<u>\$450</u>	<u>\$360</u>
<u>2,001</u>	<u>2,100</u>	<u>300</u>	<u>600</u>	<u>480</u>
<u>1,901</u>	<u>2,000</u>	<u>372</u>	<u>750</u>	<u>600</u>
<u>1,801</u>	<u>1,900</u>	<u>450</u>	<u>900</u>	<u>720</u>
<u>1,701</u>	<u>1,800</u>	<u>528</u>	<u>1,050</u>	<u>840</u>
<u>1,601</u>	<u>1,700</u>	<u>600</u>	<u>1,200</u>	<u>960</u>
<u>1,501</u>	<u>1,600</u>	<u>678</u>	<u>1,350</u>	<u>1,080</u>
<u>1,401</u>	<u>1,500</u>	<u>750</u>	<u>1,500</u>	<u>1,200</u>
<u>1,301</u>	<u>1,400</u>	<u>822</u>	<u>1,650</u>	<u>1,320</u>
<u>1,201</u>	<u>1,300</u>	<u>900</u>	<u>1,800</u>	<u>1,440</u>
<u>1,101</u>	<u>1,200</u>	<u>978</u>	<u>1,950</u>	<u>1,560</u>
<u>1,001</u>	<u>1,100</u>	<u>1,050</u>	<u>2,100</u>	<u>1,680</u>
<u>901</u>	<u>1,000</u>	<u>1,128</u>	<u>2,250</u>	<u>1,800</u>
<u>801</u>	<u>900</u>	<u>1,200</u>	<u>2,400</u>	<u>1,920</u>
<u>701</u>	<u>800</u>	<u>1,272</u>	<u>2,550</u>	<u>2,040</u>
<u>601</u>	<u>700</u>	<u>1,350</u>	<u>2,700</u>	<u>2,160</u>
<u>501</u>	<u>600</u>	<u>1,428</u>	<u>2,850</u>	<u>2,280</u>
<u>401</u>	<u>500</u>	<u>1,500</u>	<u>3,000</u>	<u>2,400</u>
<u>301</u>	<u>400</u>	<u>1,578</u>	<u>3,150</u>	<u>2,520</u>
<u>201</u>	<u>300</u>	<u>1,650</u>	<u>3,300</u>	<u>2,640</u>
<u>101</u>	<u>200</u>	<u>1,722</u>	<u>3,450</u>	<u>2,760</u>
<u>1</u>	<u>100</u>	<u>1,800</u>	<u>3,600</u>	<u>2,880</u>
<u>0</u>	<u>0</u>	<u>1,872</u>	<u>3,744</u>	<u>3,000</u>

Half-time students shall be eligible to receive awards according to the

following table:

<u>Half-Time Enrollment</u>				
<u>If the EFC</u> <u>is equal to</u> <u>or greater</u> <u>than:</u>	<u>And if the</u> <u>EFC is no</u> <u>more than:</u>	<u>If the</u> <u>student</u> <u>attends a</u> <u>public</u> <u>institution,</u> <u>the annual</u> <u>award</u> <u>shall be:</u>	<u>If the</u> <u>student</u> <u>attends a</u> <u>private</u> <u>institution,</u> <u>the annual</u> <u>award</u> <u>shall be:</u>	<u>If the</u> <u>student</u> <u>attends a</u> <u>career</u> <u>college,</u> <u>the annual</u> <u>award</u> <u>shall be:</u>
\$2,101	\$2,190	\$150	\$300	\$240
2,001	2,100	204	402	324
1,901	2,000	252	504	402
1,801	1,900	300	600	480
1,701	1,800	354	702	564
1,601	1,700	402	804	642
1,501	1,600	450	900	720
1,401	1,500	504	1,002	804
1,301	1,400	552	1,104	882
1,201	1,300	600	1,200	960
1,101	1,200	654	1,302	1,044
1,001	1,100	702	1,404	1,122
901	1,000	750	1,500	1,200
801	900	804	1,602	1,284
701	800	852	1,704	1,362
601	700	900	1,800	1,440
501	600	954	1,902	1,524
401	500	1,002	2,004	1,602
301	400	1,050	2,100	1,680
201	300	1,104	2,202	1,764
101	200	1,152	2,304	1,842
1	100	1,200	2,400	1,920
0	0	1,248	2,496	1,998

One-quarter-time students shall be eligible to receive awards according to the following table:

<u>One-Quarter-Time Enrollment</u>				
<u>If the EFC</u> <u>is equal to</u> <u>or greater</u> <u>than:</u>	<u>And if the</u> <u>EFC is no</u> <u>more than:</u>	<u>If the</u> <u>student</u> <u>attends a</u> <u>public</u>	<u>If the</u> <u>student</u> <u>attends a</u> <u>private</u>	<u>If the</u> <u>student</u> <u>attends a</u> <u>career</u>

		<u>institution.</u> <u>the annual</u> <u>award</u> <u>shall be:</u>	<u>institution.</u> <u>the annual</u> <u>award</u> <u>shall be:</u>	<u>college.</u> <u>the annual</u> <u>award</u> <u>shall be:</u>
\$2,101	\$2,190	\$78	\$150	\$120
<u>2,001</u>	<u>2,100</u>	<u>102</u>	<u>198</u>	<u>162</u>
<u>1,901</u>	<u>2,000</u>	<u>126</u>	<u>252</u>	<u>198</u>
<u>1,801</u>	<u>1,900</u>	<u>150</u>	<u>300</u>	<u>240</u>
<u>1,701</u>	<u>1,800</u>	<u>174</u>	<u>348</u>	<u>282</u>
<u>1,601</u>	<u>1,700</u>	<u>198</u>	<u>402</u>	<u>318</u>
<u>1,501</u>	<u>1,600</u>	<u>228</u>	<u>450</u>	<u>360</u>
<u>1,401</u>	<u>1,500</u>	<u>252</u>	<u>498</u>	<u>402</u>
<u>1,301</u>	<u>1,400</u>	<u>276</u>	<u>552</u>	<u>438</u>
<u>1,201</u>	<u>1,300</u>	<u>300</u>	<u>600</u>	<u>480</u>
<u>1,101</u>	<u>1,200</u>	<u>324</u>	<u>648</u>	<u>522</u>
<u>1,001</u>	<u>1,100</u>	<u>348</u>	<u>702</u>	<u>558</u>
<u>901</u>	<u>1,000</u>	<u>378</u>	<u>750</u>	<u>600</u>
<u>801</u>	<u>900</u>	<u>402</u>	<u>798</u>	<u>642</u>
<u>701</u>	<u>800</u>	<u>426</u>	<u>852</u>	<u>678</u>
<u>601</u>	<u>700</u>	<u>450</u>	<u>900</u>	<u>720</u>
<u>501</u>	<u>600</u>	<u>474</u>	<u>948</u>	<u>762</u>
<u>401</u>	<u>500</u>	<u>498</u>	<u>1,002</u>	<u>798</u>
<u>301</u>	<u>400</u>	<u>528</u>	<u>1,050</u>	<u>840</u>
<u>201</u>	<u>300</u>	<u>552</u>	<u>1,098</u>	<u>882</u>
<u>101</u>	<u>200</u>	<u>576</u>	<u>1,152</u>	<u>918</u>
<u>1</u>	<u>100</u>	<u>600</u>	<u>1,200</u>	<u>960</u>
<u>0</u>	<u>0</u>	<u>624</u>	<u>1,248</u>	<u>1,002</u>

(D) For a full-time student enrolled in an eligible institution for a semester or quarter in addition to the portion of the academic year covered by a grant determined under division (C) of this section, the maximum grant amount shall be a percentage of the maximum prescribed in the applicable table of that division. The maximum grant for a fourth quarter shall be one-third of the maximum amount prescribed under that division. The maximum grant for a third semester shall be one-half of the maximum amount prescribed under that division.

(E) No grant shall be made to any student in a course of study in theology, religion, or other field of preparation for a religious profession unless such course of study leads to an accredited bachelor of arts, bachelor of science, associate of arts, or associate of science degree.

(F)(1) Except as provided in division (F)(2) of this section, no grant

shall be made to any student for enrollment during a fiscal year in an institution with a cohort default rate determined by the United States secretary of education pursuant to the "Higher Education Amendments of 1986," 100 Stat. 1278, 1408, 20 U.S.C.A. 1085, as amended, as of the fifteenth day of June preceding the fiscal year, equal to or greater than thirty per cent for each of the preceding two fiscal years.

(2) Division (F)(1) of this section does not apply to the following:

(a) Any student enrolled in an institution that under the federal law appeals its loss of eligibility for federal financial aid and the United States secretary of education determines its cohort default rate after recalculation is lower than the rate specified in division (F)(1) of this section or the secretary determines due to mitigating circumstances the institution may continue to participate in federal financial aid programs. The board shall adopt rules requiring institutions to provide information regarding an appeal to the board.

(b) Any student who has previously received a grant under this section who meets all other requirements of this section.

(3) The board shall adopt rules for the notification of all institutions whose students will be ineligible to participate in the grant program pursuant to division (F)(1) of this section.

(4) A student's attendance at an institution whose students lose eligibility for grants under division (F)(1) of this section shall not affect that student's eligibility to receive a grant when enrolled in another institution.

(G) Institutions of higher education that enroll students receiving needs-based financial aid grants under this section shall report to the board all students who have received needs-based financial aid grants but are no longer eligible for all or part of such grants and shall refund any moneys due the state within thirty days after the beginning of the quarter or term immediately following the quarter or term in which the student was no longer eligible to receive all or part of the student's grant. There shall be an interest charge of one per cent per month on all moneys due and payable after such thirty-day period. The board shall immediately notify the office of budget and management and the legislative service commission of all refunds so received.

Sec. 3333.123. (A) As used in this section:

(1) "The Ohio college opportunity grant program" means the program established under section 3333.122 of the Revised Code.

(2) "Rules for the Ohio college opportunity grant program" means the rules authorized in division (S) of section 3333.04 of the Revised Code for the implementation of the program.

(B) In adopting rules for the Ohio college opportunity grant program, the Ohio board of regents may include provisions that give preferential or priority funding to low-income students who in their primary and secondary school work participate in or complete rigorous academic coursework, attain passing scores on the tests prescribed in section 3301.0710 of the Revised Code, or meet other high academic performance standards determined by the board to reduce the need for remediation and ensure academic success at the postsecondary education level. Any such rules shall include a specification of procedures needed to certify student achievement of primary and secondary standards as well as the timeline for implementation of the provisions authorized by this section.

Sec. 3333.162. (A) As used in this section, "state institution of higher education" means an institution of higher education as defined in section 3345.12 of the Revised Code.

(B) By April 15, 2007, the Ohio board of regents, in consultation with the department of education, public adult and secondary career-technical education institutions, and state institutions of higher education, shall establish criteria, policies, and procedures that enable students to transfer agreed upon technical courses completed through an adult career-technical education institution, a public secondary career-technical institution, or a state institution of higher education to a state institution of higher education without unnecessary duplication or institutional barriers. The courses to which the criteria, policies, and procedures apply shall be those that adhere to recognized industry standards and equivalent coursework common to the secondary career pathway and adult career-technical education system and regionally accredited state institutions of higher education. Where applicable, the policies and procedures shall build upon the articulation agreement and transfer initiative course equivalency system required by section 3333.16 of the Revised Code.

(C) By April 15, 2006, the board shall report to the general assembly on its progress in establishing these policies and procedures.

Sec. 3333.27. As used in this section:

(A) "Eligible institution" means a nonprofit Ohio institution of higher education that holds a certificate of authorization issued under section 1713.02 of the Revised Code and meets the requirements of Title VI of the Civil Rights Act of 1964.

(B) "Resident" and "full-time student" have the meanings established for purposes of this section by rule of the Ohio board of regents.

The board shall establish and administer a student choice grant program and shall adopt rules for the administration of the program.



The board may make a grant to any resident of this state who is enrolled as a full-time student in a bachelor's degree program at an eligible institution and maintains an academic record that meets or exceeds the standard established pursuant to this section by rule of the board, except that no grant shall be made to any individual who was enrolled as a student in an institution of higher education on or before July 1, 1984, or is serving a term of imprisonment. The grant shall not exceed the lesser of the total instructional and general charges of the institution in which the student is enrolled, or an amount equal to one-fourth of the total of any state instructional subsidy amount distributed by the board in the second fiscal year of the preceding biennium for all full-time students enrolled in bachelor's degree programs at four-year state-assisted institutions of higher education divided by the sum of the actual number of full-time students enrolled in bachelor's degree programs at four-year state-assisted institutions of higher education reported to the board for such year by the institutions to which the subsidy was distributed.

The board shall prescribe the form and manner of application for grants including the manner of certification by eligible institutions that each applicant from such institution is enrolled in a bachelor's degree program as a full-time student and has an academic record that meets or exceeds the standard established by the board.

A grant awarded to an eligible student shall be paid to the institution in which the student is enrolled, and the institution shall reduce the student's instructional and general charges by the amount of the grant. Each grant awarded shall be prorated and paid in equal installments at the time of enrollment for each term of the academic year for which the grant is awarded. No student shall be eligible to receive a grant for more than ten semesters, fifteen quarters, or the equivalent of five academic years.

The receipt of an Ohio student choice grant shall not affect a student's eligibility for assistance, or the amount of such assistance, granted under section 3315.33, 3333.12, 3333.122, 3333.22, 3333.26, 5910.03, 5910.032, or 5919.34 of the Revised Code. If a student receives assistance under one or more of such sections, the student choice grant made to the student shall not exceed the difference between the amount of assistance received under such sections and the total instructional and general charges of the institution in which the student is enrolled.

The general assembly shall support the student choice grant program by such sums and in such manner as it may provide, but the board may also receive funds from other sources to support the program.

No grant shall be made to any student enrolled in a course of study

leading to a degree in theology, religion, or other field of preparation for a religious profession unless the course of study leads to an accredited bachelor of arts or bachelor of science degree.

Institutions of higher education that enroll students receiving grants under this section shall report to the board the name of each student who has received such a grant but who is no longer eligible for all or part of such grant and shall refund all moneys due to the state within thirty days after the beginning of the term immediately following the term in which the student was no longer eligible to receive all or part of the grant. There shall be an interest charge of one per cent per month on all moneys due and payable after such thirty-day period. The board shall immediately notify the office of budget and management and ~~the legislative budget office of the legislative service commission~~ of all refunds received.

Sec. 3333.28. (A) The Ohio board of regents shall establish the nurse education assistance program, the purpose of which shall be to make loans to students enrolled in prelicensure nurse education programs at institutions approved by the board of nursing under section 4723.06 of the Revised Code and postlicensure nurse education programs approved by the board of regents under section 3333.04 of the Revised Code or offered by an institution holding a certificate of authorization issued by the board of regents under Chapter 1713. of the Revised Code. The board of nursing shall assist the board of regents in administering the program.

(B) There is hereby created in the state treasury the nurse education assistance fund, which shall consist of all money transferred to it pursuant to section 4743.05 of the Revised Code. The fund shall be used by the board of regents for loans made under division (A) of this section and for expenses of administering the loan program.

(C) The Between July 1, 2005, and January 1, 2012, the board of regents shall distribute money in the nurse education assistance fund in the following manner:

(1)(a) Fifty per cent of available funds shall be awarded as loans to registered nurses enrolled in postlicensure nurse education programs described in division (A) of this section. To be eligible for a loan, the applicant shall provide the board with a letter of intent to practice as a faculty member at a prelicensure or postlicensure program for nursing in this state upon completion of the applicant's academic program.

(b) If the borrower of a loan under division (C)(1)(a) of this section secures employment as a faculty member of an approved nursing education program in this state within six months following graduation from an approved nurse education program, the board may forgive the principal and

interest of the student's loans received under division (C)(1)(a) of this section at a rate of twenty-five per cent per year, for a maximum of four years, for each year in which the borrower is so employed. A deferment of the service obligation, and other conditions regarding the forgiveness of loans may be granted as provided by the rules adopted under division (D)(7) of this section.

(c) Loans awarded under division (C)(1)(a) of this section shall be awarded on the basis of the student's expected family contribution, with preference given to those applicants with the lowest expected family contribution. However, the board of regents may consider other factors it determines relevant in ranking the applications.

(d) Each loan awarded to a student under division (C)(1)(a) of this section shall be not less than five thousand dollars per year.

(2) Twenty-five per cent of available funds shall be awarded to students enrolled in prelicensure nurse education programs for registered nurses, as defined in section 4723.01 of the Revised Code.

(3) Twenty-five per cent of available funds shall be awarded to students enrolled in prelicensure professional nurse education programs for licensed practical nurses, as defined in section 4723.01 of the Revised Code.

After January 1, 2012, the board of regents shall determine the manner in which to distribute loans under this section.

(D) Subject to the requirements specified in division (C) of this section, the board of regents shall adopt rules in accordance with Chapter 119. of the Revised Code establishing:

- (1) Eligibility criteria for receipt of a loan;
- (2) Loan application procedures;
- (3) The amounts in which loans may be made and the total amount that may be loaned to an individual;
- (4) The total amount of loans that can be made each year;
- (5) The percentage of the money in the fund that must remain in the fund at all times as a fund balance;
- (6) Interest and principal repayment schedules;
- (7) Conditions under which a portion of principal and interest obligations incurred by an individual under the program will be forgiven;
- (8) Ways that the program may be used to encourage individuals who are members of minority groups to enter the nursing profession;
- (9) Any other matters incidental to the operation of the program.

~~(D)~~(E) The obligation to repay a portion of the principal and interest on a loan made under this section shall be forgiven if the recipient of the loan meets the criteria for forgiveness established by division (C)(1)(b) of this

section, in the case of loans awarded under division (C)(1)(a) of this section, or by the board of regents by rule adopted under division ~~(C)(D)~~(7) of this section, in the case of other loans awarded under this section.

~~(E)~~(F) The receipt of a loan under this section shall not affect a student's eligibility for assistance, or the amount of that assistance, granted under section 3333.12, 3333.122, 3333.22, 3333.26, 3333.27, 5910.03, 5910.032, or 5919.34 of the Revised Code, but the rules of the board of regents may provide for taking assistance received under those sections into consideration when determining a student's eligibility for a loan under this section.

Sec. 3333.36. ~~The~~ Provided that sufficient unencumbered and unexpended funds are available from general revenue fund appropriations made to the Ohio board of regents, the chancellor of the Ohio board of regents ~~may~~ shall allocate up to seventy thousand dollars in each fiscal year to make payments to the Columbus program in intergovernmental issues, an Ohio internship program at Kent state university, for scholarships of up to two thousand dollars for each student enrolled in the program. The chancellor may utilize any general revenue funds appropriated to the board of regents that the chancellor determines to be available for purposes of this section.

Sec. 3333.38. (A) As used in this section:

(1) "Institution of higher education" includes all of the following:

(a) A state institution of higher education, as defined in section 3345.011 of the Revised Code;

(b) A nonprofit institution issued a certificate of authorization by the Ohio board of regents under Chapter 1713. of the Revised Code;

(c) A private institution exempt from regulation under Chapter 3332. of the Revised Code, as prescribed in section 3333.046 of the Revised Code;

(d) An institution of higher education with a certificate of registration from the state board of career colleges and schools under Chapter 3332. of the Revised Code.

(2) "Student financial assistance supported by state funds" includes assistance granted under sections 3315.33, 3333.12, 3333.122, 3333.21, 3333.26, 3333.27, 3333.28, 3333.29, 3333.372, 5910.03, 5910.032, and 5919.34 of the Revised Code and any other post-secondary student financial assistance supported by state funds.

(B) An individual who is convicted of, pleads guilty to, or is adjudicated a delinquent child for one of the following violations shall be ineligible to receive any student financial assistance supported by state funds at an institution of higher education for two calendar years from the time the

individual applies for assistance of that nature:

- (1) A violation of section 2917.02 or 2917.03 of the Revised Code;
- (2) A violation of section 2917.04 of the Revised Code that is a misdemeanor of the fourth degree;
- (3) A violation of section 2917.13 of the Revised Code that is a misdemeanor of the fourth or first degree and occurs within the proximate area where four or more others are acting in a course of conduct in violation of section 2917.11 of the Revised Code.

(C) If an individual is convicted of, pleads guilty to, or is adjudicated a delinquent child for committing a violation of section 2917.02 or 2917.03 of the Revised Code, and if the individual is enrolled in a state-supported institution of higher education, the institution in which the individual is enrolled shall immediately dismiss the individual. No state-supported institution of higher education shall admit an individual of that nature for one academic year after the individual applies for admission to a state-supported institution of higher education. This division does not limit or affect the ability of a state-supported institution of higher education to suspend or otherwise discipline its students.

Sec. 3334.01. As used in this chapter:

(A) "Aggregate original principal amount" means the aggregate of the initial offering prices to the public of college savings bonds, exclusive of accrued interest, if any. "Aggregate original principal amount" does not mean the aggregate accreted amount payable at maturity or redemption of such bonds.

(B) "Beneficiary" means:

(1) An individual designated by the purchaser under a tuition payment contract or through a scholarship program as the individual on whose behalf tuition ~~credits~~ units purchased under the contract or awarded through the scholarship program will be applied toward the payment of undergraduate, graduate, or professional tuition; or

(2) An individual designated by the contributor under a variable college savings program contract as the individual whose tuition and other higher education expenses will be paid from a variable college savings program account.

(C) "Capital appreciation bond" means a bond for which the following is true:

(1) The principal amount is less than the amount payable at maturity or early redemption; and

(2) No interest is payable on a current basis.

(D) "Tuition ~~credit~~ unit" means a credit of the Ohio tuition trust

authority purchased under section 3334.09 of the Revised Code. "Tuition unit" includes a tuition credit purchased prior to July 1, 1994.

(E) "College savings bonds" means revenue and other obligations issued on behalf of the state or any agency or issuing authority thereof as a zero-coupon or capital appreciation bond, and designated as college savings bonds as provided in this chapter. "College savings bond issue" means any issue of bonds of which any part has been designated as college savings bonds.

(F) "Institution of higher education" means a state institution of higher education, a private college, university, or other postsecondary institution located in this state that possesses a certificate of authorization issued by the Ohio board of regents pursuant to Chapter 1713. of the Revised Code or a certificate of registration issued by the state board of career colleges and schools under Chapter 3332. of the Revised Code, or an accredited college, university, or other postsecondary institution located outside this state that is accredited by an accrediting organization or professional association recognized by the authority. To be considered an institution of higher education, an institution shall meet the definition of an eligible educational institution under section 529 of the Internal Revenue Code.

(G) "Issuing authority" means any authority, commission, body, agency, or individual empowered by the Ohio Constitution or the Revised Code to issue bonds or any other debt obligation of the state or any agency or department thereof. "Issuer" means the issuing authority or, if so designated under division (B) of section 3334.04 of the Revised Code, the treasurer of state.

(H) "Tuition" means the charges imposed to attend an institution of higher education as an undergraduate, graduate, or professional student and all fees required as a condition of enrollment, as determined by the Ohio tuition trust authority. "Tuition" does not include laboratory fees, room and board, or other similar fees and charges.

(I) "Weighted average tuition" means the tuition cost resulting from the following calculation:

(1) Add the products of the annual undergraduate tuition charged to Ohio residents at each four-year state university multiplied by that institution's total number of undergraduate fiscal year equated students; and

(2) Divide the gross total of the products from division (I)(1) of this section by the total number of undergraduate fiscal year equated students attending four-year state universities.

When making this calculation, the "annual undergraduate tuition charged to Ohio residents" shall not incorporate any tuition reductions that

vary in amount among individual recipients and that are awarded to Ohio residents based upon their particular circumstances, beyond any minimum amount awarded uniformly to all Ohio residents. In addition, any tuition reductions awarded uniformly to all Ohio residents shall be incorporated into this calculation.

(J) "Zero-coupon bond" means a bond which has a stated interest rate of zero per cent and on which no interest is payable until the maturity or early redemption of the bond, and is offered at a substantial discount from its original stated principal amount.

(K) "State institution of higher education" includes the state universities listed in section 3345.011 of the Revised Code, community colleges created pursuant to Chapter 3354. of the Revised Code, university branches created pursuant to Chapter 3355. of the Revised Code, technical colleges created pursuant to Chapter 3357. of the Revised Code, state community colleges created pursuant to Chapter 3358. of the Revised Code, the medical university of Ohio at Toledo, and the northeastern Ohio universities college of medicine.

(L) "Four-year state university" means those state universities listed in section 3345.011 of the Revised Code.

(M) "Principal amount" refers to the initial offering price to the public of an obligation, exclusive of the accrued interest, if any. "Principal amount" does not refer to the aggregate accreted amount payable at maturity or redemption of an obligation.

(N) "Scholarship program" means a program registered with the Ohio tuition trust authority pursuant to section 3334.17 of the Revised Code.

(O) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1 et seq., as amended.

(P) "Other higher education expenses" means room and board and books, supplies, equipment, and nontuition-related fees associated with the cost of attendance of a beneficiary at an institution of higher education, but only to the extent that such expenses meet the definition of "qualified higher education expenses" under section 529 of the Internal Revenue Code. "Other higher education expenses" does not include tuition as defined in division (H) of this section.

(Q) "Purchaser" means the person signing the tuition payment contract, who controls the account and acquires tuition ~~credits~~ units for an account under the terms and conditions of the contract.

(R) "Contributor" means a person who signs a variable college savings program contract with the Ohio tuition trust authority and contributes to and owns the account created under the contract.

(S) "Contribution" means any payment directly allocated to an account for the benefit of the designated beneficiary of the account.

Sec. 3334.02. (A) In order to help make higher education affordable and accessible to all citizens of Ohio, to maintain state institutions of higher education by helping to provide a stable financial base to these institutions, to provide the citizens of Ohio with financing assistance for higher education and protection against rising tuition costs, to encourage saving to enhance the ability of citizens of Ohio to obtain financial access to institutions of higher education, to encourage elementary and secondary students in this state to achieve academic excellence, and to promote a well-educated and financially secure population to the ultimate benefit of all citizens of the state of Ohio, there is hereby created the Ohio college savings program. The program shall consist of the issuance of college savings bonds and the sale of tuition ~~credits and, if offered, supplemental credits~~ units.

(B) The provisions of Chapter 1707. of the Revised Code shall not apply to tuition ~~credits~~ units or any agreement or transaction related thereto.

(C) To provide the citizens of Ohio with a choice of tax-advantaged college savings programs and the opportunity to participate in more than one type of college savings program at a time, the Ohio tuition trust authority shall establish and administer a variable college savings program as a qualified state tuition program under section 529 of the Internal Revenue Code. The program shall allow contributors to make cash contributions to variable college savings program accounts created for the purpose of paying future tuition and other higher education expenses and providing variable rates of return on contributions.

(D) A person may participate simultaneously in both the Ohio college savings program and the variable college savings program.

Sec. 3334.03. (A) There is hereby created the Ohio tuition trust authority, which shall have the powers enumerated in this chapter and which shall operate as a qualified state tuition program within the meaning of section 529 of the Internal Revenue Code. The exercise by the authority of its powers shall be and is hereby declared an essential state governmental function. The authority is subject to all provisions of law generally applicable to state agencies which do not conflict with the provisions of this chapter.

(B) The Ohio tuition trust authority shall consist of eleven members, no more than six of whom shall be of the same political party. Six members shall be appointed by the governor with the advice and consent of the senate as follows: one shall represent state institutions of higher education, one shall represent private nonprofit colleges and universities located in Ohio,



one shall have experience in the field of marketing or public relations, one shall have experience in the field of information systems design or management, and two shall have experience in the field of banking, investment banking, insurance, or law. Four members shall be appointed by the speaker of the house of representatives and the president of the senate as follows: the speaker of the house of representatives shall appoint one member of the house from each political party and the president of the senate shall appoint one member of the senate from each political party. The chancellor of the board of regents shall be an ex officio voting member; provided, however, that the chancellor may designate a vice-chancellor of the board of regents to serve as the chancellor's representative. The political party of the chancellor shall be deemed the political party of the designee for purposes of determining that no more than six members are of the same political party.

Initial gubernatorial appointees to the authority shall serve staggered terms, with two terms expiring on January 31, 1991, one term expiring on January 31, 1992, and one term expiring on January 31, 1993. The governor shall appoint two additional members to the authority no later than thirty days after ~~the effective date of this amendment~~ March 30, 1999, and their initial terms shall expire January 31, 2002. Thereafter, terms of office for gubernatorial appointees shall be for four years. The initial terms of the four legislative members shall expire on January 31, 1991. Thereafter legislative members shall serve two-year terms, provided that legislative members may continue to serve on the authority only if they remain members of the general assembly. Any vacancy on the authority shall be filled in the same manner as the original appointment, except that any person appointed to fill a vacancy shall be appointed to the remainder of the unexpired term. Any member is eligible for reappointment.

(C) Any member may be removed by the appointing authority for misfeasance, malfeasance, or willful neglect of duty or for other cause after notice and a public hearing, unless the notice and hearing are waived in writing by the member. Members shall serve without compensation but shall receive their reasonable and necessary expenses incurred in the conduct of authority business.

(D) The speaker of the house of representatives and the president of the senate shall each designate a member of the authority to serve as co-chairpersons. The six gubernatorial appointees and the chancellor of the board of regents or the chancellor's designee shall serve as the executive committee of the authority, and shall elect an executive chairperson from among the executive committee members. The authority and the executive

committee may elect such other officers as determined by the authority or the executive committee respectively. The authority shall meet at least annually at the call of either co-chairperson and at such other times as either co-chairperson or the authority determines necessary. In the absence of both co-chairpersons, the executive chairperson shall serve as the presiding officer of the authority. The executive committee shall meet at the call of the executive chairperson or as the executive committee determines necessary. The authority may delegate to the executive committee such duties and responsibilities as the authority determines appropriate, except that the authority may not delegate to the executive committee the final determination of the annual price of a tuition ~~credit~~ unit, the final designation of bonds as college savings bonds, or the employment of an executive director of the authority. Upon such delegation, the executive committee shall have the authority to act pursuant to such delegation without further approval or action by the authority. A majority of the authority shall constitute a quorum of the authority, and the affirmative vote of a majority of the members present shall be necessary for any action taken by the authority. A majority of the executive committee shall constitute a quorum of the executive committee, and the affirmative vote of a majority of the members present shall be necessary for any action taken by the executive committee. No vacancy in the membership of the authority or the executive committee shall impair the rights of a quorum to exercise all rights and perform all duties of the authority or the executive committee respectively.

Sec. 3334.07. (A) The Ohio tuition trust authority shall develop a plan for the sale of tuition ~~credits~~ units. The Ohio board of regents shall cooperate with the authority and provide technical assistance upon request.

(B) Annually, the authority shall determine the weighted average tuition of four-year state universities in the academic year that begins on or after the first day of August of the current calendar year, and shall establish the price of a tuition ~~credit~~ unit in the ensuing sales period. Such price shall be based on sound actuarial principles, and shall, to the extent actuarially possible, reasonably approximate one per cent of the weighted average tuition for that academic year plus the costs of administering the ~~tuition-credit~~ program that are in excess of general revenue fund appropriations for administrative costs. The sales period to which such price applies shall consist of twelve months, and the authority by rule shall establish the date on which the sales period begins. If circumstances arise during a sales period that the authority determines causes the price of tuition ~~credits~~ units to be insufficient to ensure the actuarial soundness of the Ohio tuition trust fund, the authority

may adjust the price of tuition ~~credits~~ units purchased during the remainder of the sales period. To promote the purchase of tuition ~~credits~~ units and in accordance with actuarially sound principles, the authority may adjust the sales price as part of incentive programs, such as discounting for ~~lump-sum~~ lump sum purchases and multi-year installment plans at a fixed rate of purchase.

Sec. 3334.08. (A) Subject to division (B) of this section, in addition to any other powers conferred by this chapter, the Ohio tuition trust authority may do any of the following:

(1) Impose reasonable residency requirements for beneficiaries of tuition ~~credits~~ units;

(2) Impose reasonable limits on the number of tuition ~~credit~~ unit participants;

(3) Impose and collect administrative fees and charges in connection with any transaction under this chapter;

(4) Purchase insurance from insurers licensed to do business in this state providing for coverage against any loss in connection with the authority's property, assets, or activities or to further ensure the value of tuition ~~credits~~ units;

(5) Indemnify or purchase policies of insurance on behalf of members, officers, and employees of the authority from insurers licensed to do business in this state providing for coverage for any liability incurred in connection with any civil action, demand, or claim against a director, officer, or employee by reason of an act or omission by the director, officer, or employee that was not manifestly outside the scope of the employment or official duties of the director, officer, or employee or with malicious purpose, in bad faith, or in a wanton or reckless manner;

(6) Make, execute, and deliver contracts, conveyances, and other instruments necessary to the exercise and discharge of the powers and duties of the authority;

(7) Promote, advertise, and publicize the Ohio college savings program and the variable college savings program;

(8) Adopt rules under section 111.15 of the Revised Code for the implementation of the Ohio college savings program;

(9) Contract, for the provision of all or part of the services necessary for the management and operation of the Ohio college savings program and the variable college savings program, with a bank, trust company, savings and loan association, insurance company, or licensed dealer in securities if the bank, company, association, or dealer is authorized to do business in this state and information about the contract is filed with the controlling board

pursuant to division (D)(6) of section 127.16 of the Revised Code;

(10) Contract for other services, or for goods, needed by the authority in the conduct of its business, including but not limited to credit card services;

(11) Employ an executive director and other personnel as necessary to carry out its responsibilities under this chapter, and fix the compensation of these persons. All employees of the authority shall be in the unclassified civil service and shall be eligible for membership in the public employees retirement system.

(12) Contract with financial consultants, actuaries, auditors, and other consultants as necessary to carry out its responsibilities under this chapter;

(13) Enter into agreements with any agency of the state or its political subdivisions or with private employers under which an employee may agree to have a designated amount deducted in each payroll period from the wages or salary due the employee for the purpose of purchasing tuition ~~credits~~ units pursuant to a tuition payment contract or making contributions pursuant to a variable college savings program contract;

(14) Enter into an agreement with the treasurer of state under which the treasurer of state will receive, and credit to the Ohio tuition trust fund or variable college savings program fund, from any bank or savings and loan association authorized to do business in this state, amounts that a depositor of the bank or association authorizes the bank or association to withdraw periodically from the depositor's account for the purpose of purchasing tuition ~~credits~~ units pursuant to a tuition payment contract or making contributions pursuant to a variable college savings program contract;

(15) Solicit and accept gifts, grants, and loans from any person or governmental agency and participate in any governmental program;

(16) Impose limits on the number of ~~credits~~ units which may be purchased on behalf of or assigned or awarded to any beneficiary and on the total amount of contributions that may be made on behalf of a beneficiary;

(17) Impose restrictions on the substitution of another individual for the original beneficiary under the Ohio college savings program;

(18) Impose a limit on the age of a beneficiary, above which tuition ~~credits~~ units may not be purchased on behalf of that beneficiary;

(19) Enter into a cooperative agreement with the treasurer of state to provide for the direct disbursement of payments under tuition payment or variable college savings program contracts;

(20) Determine the other higher education expenses for which tuition ~~credits~~ units or contributions may be used;

(21) Terminate any tuition payment or variable college savings program contract if no purchases or contributions are made for a period of three years

or more and there are fewer than a total of five tuition units ~~or tuition credits~~ or less than a dollar amount set by rule on account, provided that notice of a possible termination shall be provided in advance, explaining any options to prevent termination, and a reasonable amount of time shall be provided within which to act to prevent a termination;

(22) Maintain a separate account for each tuition payment or variable college savings program contract;

(23) Perform all acts necessary and proper to carry out the duties and responsibilities of the authority pursuant to this chapter.

(B) The authority shall adopt rules under section 111.15 of the Revised Code for the implementation and administration of the variable college savings program. The rules shall provide taxpayers with the maximum tax advantages and flexibility consistent with section 529 of the Internal Revenue Code and regulations adopted thereunder with regard to disposition of contributions and earnings, designation of beneficiaries, and rollover of account assets to other programs.

(C) Except as otherwise specified in this chapter, the provisions of Chapters 123., 125., and 4117. of the Revised Code shall not apply to the authority. The department of administrative services shall, upon the request of the authority, act as the authority's agent for the purchase of equipment, supplies, insurance, or services, or the performance of administrative services pursuant to Chapter 125. of the Revised Code.

Sec. 3334.09. (A) Except in the case of a scholarship program established in accordance with section 3334.17 of the Revised Code, the Ohio tuition trust authority may enter into a tuition payment contract with any person for the purchase of tuition ~~credits~~ units if either the purchaser or the beneficiary is a resident of this state at the time the contract is entered into. A tuition payment contract shall allow any person to purchase tuition ~~credits~~ units at the price determined by the authority pursuant to section 3334.07 or 3334.12 of the Revised Code for the year in which the tuition ~~credit~~ unit is purchased. The purchaser shall name in the payment contract one specific individual as the beneficiary for the tuition ~~credits~~ units.

In accordance with rules of the authority, ~~credits~~ units may be transferred to the credit of another beneficiary and a new beneficiary may be substituted for the beneficiary originally named in the contract.

(B) Each tuition ~~credit~~ unit shall entitle the beneficiary to an amount equal to one per cent of the weighted average tuition.

(C) Nothing in this chapter or in any tuition payment contract entered into pursuant to this chapter shall be construed as a guarantee by the state, the authority, or any institution of higher education that a beneficiary will be

admitted to an institution of higher education, or, upon admission to an institution of higher education, will be permitted to continue to attend or will receive a degree from an institution of higher education. Nothing in this chapter or in any tuition payment contract entered into pursuant to this chapter shall be considered a guarantee that the beneficiary's cost of tuition at an institution of higher education other than a state institution of higher education will be covered in full by the proceeds of the beneficiary's tuition ~~credits~~ units.

(D) The following information shall be disclosed in writing to each purchaser of tuition ~~credits~~ units and, where appropriate, to each entity establishing a scholarship program under section 3334.17 of the Revised Code:

(1) The terms and conditions for the purchase and use of tuition ~~credits~~ units;

(2) In the case of a contract described by division (A) of this section, any restrictions on the substitution of another individual for the original beneficiary and any restrictions on the transfer of ownership of ~~credits~~ units in the payment account;

(3) The person or entity entitled to terminate the contract;

(4) The terms and conditions under which the contract may be terminated and the amount of the refund, if any, to which the person or entity terminating the contract, or that person's or entity's designee, is entitled upon termination;

(5) The obligation of the authority to make payments to a beneficiary, or an institution of higher education on behalf of a beneficiary, under division (B) of this section based upon the number of tuition ~~credits~~ units purchased on behalf of the beneficiary or awarded to the beneficiary pursuant to a scholarship program;

(6) The method by which tuition ~~credits~~ units shall be applied toward payment of tuition and other higher education expenses if in any academic term the beneficiary is a part-time student;

(7) The period of time during which a beneficiary may receive benefits under the contract;

(8) The terms and conditions under which money may be wholly or partially withdrawn from the program, including, but not limited to, any reasonable charges and fees that may be imposed for withdrawal;

(9) All other rights and obligations of the purchaser and the authority, including the provisions of division (A) of section 3334.12 of the Revised Code, and any other terms, conditions, and provisions the authority considers necessary and appropriate.

(E) A tuition payment contract may provide that the authority will pay directly to the institution of higher education in which a beneficiary is enrolled during a term the amount represented by the tuition ~~credits~~ units being used that term.

(F) A tuition payment contract described by division (A) of this section may provide that if the contract has not been terminated or ~~credits~~ units purchased under the contract have not been applied toward the payment of tuition or other higher education expenses within a specified period of time, the authority may, after making a reasonable effort to locate the purchaser of the tuition ~~credits~~ units, the beneficiary, and any person designated in the contract to act on behalf of the purchaser of the ~~credits~~ units or the beneficiary, terminate the contract and retain the amounts payable under the contract.

(G) If, at any time after tuition ~~credits~~ units are purchased on behalf of a beneficiary or awarded to a beneficiary or pursuant to a scholarship program, the beneficiary becomes a nonresident of this state, or, if the beneficiary was not a resident of this state at the time the tuition payment contract was entered into, the purchaser becomes a nonresident of this state, ~~credits~~ units purchased or awarded while the beneficiary was a resident may be applied on behalf of the beneficiary toward the payment of tuition at an institution of higher education and other higher education expenses in the manner specified in division (B) of this section, except that if the beneficiary enrolls in a state institution of higher education, the beneficiary shall be responsible for payment of all nonresident fees charged to out-of-state residents by the institution in which the beneficiary is enrolled.

Sec. 3334.10. Divisions (A); and (B); ~~(C), and (D)~~ of this section do not apply to scholarship programs established under section 3334.17 of the Revised Code.

(A) Unless otherwise provided for in the ~~contract~~, a tuition payment contract ~~may be terminated by the purchaser under any of the following circumstances upon the written request of the purchaser to the authority:~~

- ~~(1) Upon the death or permanent disability of the beneficiary;~~
- ~~(2) Upon notification to the Ohio tuition trust authority in writing that the beneficiary is age eighteen or older, has decided not to attend an institution of higher education, and requests that the contract be terminated;~~
- ~~(3) Upon the beneficiary's completion of the degree requirements at an institution of higher education;~~
- ~~(4) Upon the rollover of all amounts in a tuition credit account to an equivalent account in another state;~~
- ~~(5) Upon the occurrence of other circumstances determined by the~~

authority to be grounds for termination.

~~(B) The authority shall determine the method and schedule for payment of refunds upon termination of a tuition payment contract. , the purchaser may rollover amounts to another qualified tuition program under section 529 of the Internal Revenue Code or terminate the contract for any reason by filing written notice with the Ohio tuition trust authority.~~

~~(1) In cases described by division (A)(2) or (3) of this section, If the contract is terminated and the beneficiary is under eighteen years of age, the authority shall use actuarially sound principles to determine the amount of the refund shall be equal to not less than one per cent of the weighted average tuition in the academic year the refund is paid, multiplied by the number of tuition credits purchased and not used, minus any reasonable charges and fees provided for by the authority, or such other lesser sum as shall be determined by the authority but only to the extent that such a lesser sum is necessary to meet the refund penalty requirements for qualified state tuition programs under section 529 of the Internal Revenue Code.~~

~~(2) In cases described by division (A)(1) of this section If the contract is terminated because of the death or permanent disability of the beneficiary, the amount of the refund shall be equal to the greater of the following:~~

~~(a) One per cent of the weighted average tuition in the academic year the refund is paid, multiplied by the number of tuition credits units purchased and not used;~~

~~(b) The total purchase price of all tuition credits units purchased for the beneficiary and not used.~~

~~(3) In cases described by division (A)(5) of this section, the amount of the refund shall be either of the following as determined by the authority:~~

~~(a) The refund provided by division (B)(1) of this section;~~

~~(b) The refund provided by division (B)(2) of this section, or such other lesser sum as shall be determined by the authority but only to the extent that such a lesser sum is necessary to meet the refund penalty requirements for qualified state tuition programs under section 529 of the Internal Revenue Code If all or part of the amount accrued under the contract is liquidated for a rollover to another qualified tuition program under section 529 of the Internal Revenue Code, the rollover amount shall be determined in an actuarially sound manner.~~

~~(C) Unless otherwise provided for in the contract, a (B) The contributor of a variable college savings program account may be terminated by rollover amounts to another qualified tuition program under section 529 of the Internal Revenue Code or terminate the contributor account for any reason upon the written request of the contributor to the authority. Termination of a~~



~~variable college savings program account shall occur no earlier than a maturity period set by the authority after the first contribution is made to the account.~~

~~(D) The authority shall determine the method and schedule for payment of refunds upon termination of a variable savings program account by filing written notice with the Ohio tuition trust authority.~~

~~(1) The contributor under a variable savings program contract may receive a refund of the an amount equal to the account balance in an account, less any applicable administrative fees, if the account is terminated upon the death or permanent disability of the beneficiary or, to the extent allowed under rules of the authority, upon the rollover of all amounts in a variable college savings program account to an equivalent account in another state.~~

~~(2) If a variable college savings program account is terminated for any reason other than those set forth in division (D)(1) of this section, the contributor may receive a refund of the balance in the account, less any administrative fees, and less any additional amount necessary to meet the minimum refund penalty requirements for a qualified state tuition program under section 529 of the Internal Revenue Code.~~

~~(3) Earnings shall be calculated as the total value of the variable savings program account less the aggregate contributions, or in such other manner as prescribed by section 529 of the Internal Revenue Code.~~

~~(E) In the case of a (C) A scholarship program, may request a refund of tuition credits units in the program's account may be made only for just cause with the approval of by filing a written request with the authority. The refund shall be paid to the entity that established the scholarship program or, with that entity's approval, to the authority if this is authorized by federal tax law. The amount of any refund shall be determined by the authority and shall meet the requirements for refunds made on account of scholarships under section 529 of the Internal Revenue Code.~~

~~(F) If a beneficiary is awarded a scholarship other than under a scholarship program, a waiver of tuition, or similar subvention that the authority determines cannot be converted into money by the beneficiary, the authority shall, during each academic term that the beneficiary furnishes the authority such information about the scholarship, waiver, or similar subvention as the authority requires, refund to the person designated in the contract, or, in the case of a beneficiary under a scholarship program, to the beneficiary an amount equal to the value that the tuition credits or the amounts in the variable college savings program account that are not needed on account of the scholarship, waiver, or similar subvention would~~

~~otherwise have to the beneficiary that term at the institution of higher education where the beneficiary is enrolled. The authority may, at its sole option, designate the institution of higher education at which the beneficiary is enrolled as the agent of the authority for purposes of refunds pursuant to this division.~~

~~(G) If, in any academic term for which tuition credits or any amounts in a variable college savings program account have been used to pay all or part of a beneficiary's tuition, the beneficiary withdraws from the institution of higher education at which the beneficiary is enrolled prior to the end of the academic term, a pro rata share of any refund of tuition as a result of the withdrawal equal to that portion of the tuition paid with tuition credits or the amounts in a variable college savings program account shall be made to the authority, unless the authority designates a different procedure. The authority shall credit any refund received, less any reasonable charges and fees provided for by the authority, to the appropriate account established under division (F)(1) or (2) of section 3334.11 of the Revised Code or division (H) of this section.~~

~~(H)(D)~~ The authority shall maintain a separate account for each variable college savings contract entered into pursuant to division (A) of section 3334.18 of the Revised Code for contributions made on behalf of a beneficiary, showing the name of the beneficiary of that contract and the amount of contributions made pursuant to that contract. Upon request of any beneficiary or contributor, the authority shall provide a statement indicating, in the case of a beneficiary, the amount of contributions made pursuant to that contract on behalf of the beneficiary, or, in the case of a contributor, contributions made, disbursed, or refunded pursuant to that contract.

Sec. 3334.11. (A) The assets of the Ohio tuition trust authority reserved for payment of the obligations of the authority pursuant to tuition payment contracts shall be placed in a fund, which is hereby created and shall be known as the Ohio tuition trust fund. The fund shall be in the custody of the treasurer of state, but shall not be part of the state treasury. That portion of payments received by the authority or the treasurer of state from persons purchasing tuition ~~credits~~ units under tuition payment contracts that the authority determines is actuarially necessary for the payment of obligations of the authority pursuant to tuition payment contracts, all interest and investment income earned by the fund, and all other receipts of the authority from any other source that the authority determines appropriate, shall be deposited in the fund. No purchaser or beneficiary of tuition ~~credits~~ units shall have any claim against the funds of any state institution of higher education. All investment fees and other costs incurred in connection with

the exercise of the investment powers of the authority pursuant to divisions (D) and (E) of this section shall be paid from the assets of the fund.

(B) Unless otherwise provided by the authority, the assets of the Ohio tuition trust fund shall be expended in the following order:

(1) To make payments to beneficiaries, or institutions of higher education on behalf of beneficiaries, under division (B) of section 3334.09 of the Revised Code;

(2) To make refunds as provided in divisions ~~(B)~~, ~~(E)~~, (A) and ~~(F)~~ (C) of section 3334.10 of the Revised Code;

(3) To pay the investment fees and other costs of administering the fund.

(C)(1) Except as may be provided in an agreement under division (A)(19) of section 3334.08 of the Revised Code, all disbursements from the Ohio tuition trust fund shall be made by the treasurer of state on order of a designee of the authority.

(2) The treasurer of state shall deposit any portion of the Ohio tuition trust fund not needed for immediate use in the same manner as state funds are deposited.

(D) The authority is the trustee of the Ohio tuition trust fund. The authority shall have full power to invest the assets of the fund and in exercising this power shall be subject to the limitations and requirements contained in divisions (K) to (M) of this section and sections 145.112 and 145.113 of the Revised Code. The evidences of title of all investments shall be delivered to the treasurer of state or to a qualified trustee designated by the treasurer of state as provided in section 135.18 of the Revised Code. Assets of the fund shall be administered by the authority in a manner designed to be actuarially sound so that the assets of the fund will be sufficient to satisfy the obligations of the authority pursuant to tuition payment contracts and defray the reasonable expenses of administering the fund.

(E) The public employees retirement board shall, with the approval of the authority, exercise the investment powers of the authority as set forth in division (D) of this section until the authority determines that assumption and exercise by the authority of the investment powers is financially and administratively feasible. The investment powers shall be exercised by the public employees retirement board in a manner agreed upon by the authority that maximizes the return on investment and minimizes the administrative expenses.

(F)(1) The authority shall maintain a separate account for each tuition payment contract entered into pursuant to division (A) of section 3334.09 of the Revised Code for the purchase of tuition ~~credits~~ units on behalf of a

beneficiary or beneficiaries showing the beneficiary or beneficiaries of that contract and the number of tuition ~~credits~~ units purchased pursuant to that contract. Upon request of any beneficiary or person who has entered into a tuition payment contract, the authority shall provide a statement indicating, in the case of a beneficiary, the number of tuition ~~credits~~ units purchased on behalf of the beneficiary, or in the case of a person who has entered into a tuition payment contract, the number of tuition ~~credits~~ units purchased, used, or refunded pursuant to that contract. A beneficiary and person that have entered into a tuition payment contract each may file only one request under this division in any year.

(2) The authority shall maintain an account for each scholarship program showing the number of tuition ~~credits~~ units that have been purchased for or donated to the program and the number of tuition ~~credits~~ units that have been used. Upon the request of the entity that established the scholarship program, the authority shall provide a statement indicating these numbers.

(G) In addition to the Ohio tuition trust fund, there is hereby established a reserve fund that shall be in the custody of the treasurer of state but shall not be part of the state treasury, and shall be known as the Ohio tuition trust reserve fund, and an operating fund that shall be part of the state treasury, and shall be known as the Ohio tuition trust operating fund. That portion of payments received by the authority or the treasurer of state from persons purchasing tuition ~~credits~~ units under tuition payment contracts that the authority determines is not actuarially necessary for the payment of obligations of the authority pursuant to tuition payment contracts, any interest and investment income earned by the reserve fund, any administrative charges and fees imposed by the authority on transactions under this chapter or on purchasers or beneficiaries of tuition ~~credits~~ units, and all other receipts from any other source that the authority determines appropriate, shall be deposited in the reserve fund to pay the operating expenses of the authority and the costs of administering the program. The assets of the reserve fund may be invested in the same manner and subject to the same limitations set forth in divisions (D), (E), and (K) to (M) of this section and sections 145.112 and 145.113 of the Revised Code. All investment fees and other costs incurred in connection with the exercise of the investment powers shall be paid from the assets of the reserve fund. Except as otherwise provided for in this chapter, all operating expenses of the authority and costs of administering the program shall be paid from the operating fund. The treasurer shall, upon request of the authority, transfer funds from the reserve fund to the operating fund as the authority

determines appropriate to pay those current operating expenses of the authority and costs of administering the program as the authority designates. Any interest or investment income earned on the assets of the operating fund shall be deposited in the operating fund.

(H) In January of each year the authority shall report to each person who received any payments or refunds from the authority during the preceding year information relative to the value of the payments or refunds to assist in determining that person's tax liability.

(I) The authority shall report to the tax commissioner any information, and at the times, as the tax commissioner requires to determine any tax liability that a person may have incurred during the preceding year as a result of having received any payments or refunds from the authority.

(J) All records of the authority indicating the identity of purchasers and beneficiaries of tuition ~~credits~~ units or college savings bonds, the number of tuition ~~credits~~ units purchased, used, or refunded under a tuition payment contract, and the number of college savings bonds purchased, held, or redeemed are not public records within the meaning of section 149.43 of the Revised Code.

(K) The authority and other fiduciaries shall discharge their duties with respect to the funds with care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims; and by diversifying the investments of the assets of the funds so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so.

To facilitate investment of the funds, the authority may establish a partnership, trust, limited liability company, corporation, including a corporation exempt from taxation under the Internal Revenue Code, 100 Stat. 2085, 26 U.S.C. 1, as amended, or any other legal entity authorized to transact business in this state.

(L) In exercising its fiduciary responsibility with respect to the investment of the assets of the funds, it shall be the intent of the authority to give consideration to investments that enhance the general welfare of the state and its citizens where the investments offer quality, return, and safety comparable to other investments currently available to the authority. In fulfilling this intent, equal consideration shall also be given to investments otherwise qualifying under this section that involve minority owned and controlled firms and firms owned and controlled by women, either alone or in joint venture with other firms.

The authority shall adopt, in regular meeting, policies, objectives, or

criteria for the operation of the investment program that include asset allocation targets and ranges, risk factors, asset class benchmarks, time horizons, total return objectives, and performance evaluation guidelines. In adopting policies and criteria for the selection of agents with whom the authority may contract for the administration of the assets of the funds, the authority shall give equal consideration to minority owned and controlled firms, firms owned and controlled by women, and ventures involving minority owned and controlled firms and firms owned and controlled by women that otherwise meet the policies and criteria established by the authority. Amendments and additions to the policies and criteria shall be adopted in regular meeting. The authority shall publish its policies, objectives, and criteria under this provision no less often than annually and shall make copies available to interested parties.

When reporting on the performance of investments, the authority shall comply with the performance presentation standards established by the association for investment management and research.

(M) All investments shall be purchased at current market prices and the evidences of title of the investments shall be placed in the hands of the treasurer of state, who is hereby designated as custodian thereof, or in the hands of the treasurer of state's authorized agent. The treasurer of state or the agent shall collect the principal, dividends, distributions, and interest thereon as they become due and payable and place them when so collected into the custodial funds.

The treasurer of state shall pay for investments purchased by the authority on receipt of written or electronic instructions from the authority or the authority's designated agent authorizing the purchase and pending receipt of the evidence of title of the investment by the treasurer of state or the treasurer of state's authorized agent. The authority may sell investments held by the authority, and the treasurer of state or the treasurer of state's authorized agent shall accept payment from the purchaser and deliver evidence of title of the investment to the purchaser on receipt of written or electronic instructions from the authority or the authority's designated agent authorizing the sale, and pending receipt of the moneys for the investments. The amount received shall be placed in the custodial funds. The authority and the treasurer of state may enter into agreements to establish procedures for the purchase and sale of investments under this division and the custody of the investments.

No purchase or sale of any investment shall be made under this section except as authorized by the authority.

Any statement of financial position distributed by the authority shall

include fair value, as of the statement date, of all investments held by the authority under this section.

Sec. 3334.12. Notwithstanding anything to the contrary in sections 3334.07 and 3334.09 of the Revised Code:

(A) Annually, the Ohio tuition trust authority shall have the actuarial soundness of the Ohio tuition trust fund evaluated by a nationally recognized actuary and shall determine whether additional assets are necessary to defray the obligations of the authority. If, after the authority sets the price for tuition ~~credits~~ units, circumstances arise that the executive director determines necessitate an additional evaluation of the actuarial soundness of the fund, the executive director shall have a nationally recognized actuary conduct the necessary evaluation. If the assets of the fund are insufficient to ensure the actuarial soundness of the fund, the authority shall adjust the price of subsequent purchases of tuition ~~credits~~ units to the extent necessary to help restore the actuarial soundness of the fund. If, at any time, the adjustment is likely, in the opinion of the authority, to diminish the marketability of tuition ~~credits~~ units to an extent that the continued sale of the ~~credits~~ units likely would not restore the actuarial soundness of the fund and external economic factors continue to negatively impact the soundness of the program, the authority may suspend sales, either permanently or temporarily, of tuition ~~credits~~ units. During any suspension, the authority shall continue to service existing college savings program accounts.

(B) Upon termination of the program or liquidation of the Ohio tuition trust fund, the Ohio tuition trust reserve fund, and the Ohio tuition trust operating fund, any remaining assets of the funds after all obligations of the funds have been satisfied pursuant to division (B) of section 3334.11 of the Revised Code shall be transferred to the general revenue fund of the state.

(C) The authority shall prepare and cause to have audited an annual financial report on all financial activity of the Ohio tuition trust authority within ninety days of the end of the fiscal year. The authority shall transmit a copy of the audited financial report to the governor, the president of the senate, the speaker of the house of representatives, and the minority leaders of the senate and the house of representatives. Copies of the audited financial report also shall be made available, upon request, to the persons entering into contracts with the authority and to prospective purchasers of tuition ~~credits~~ units and prospective contributors to variable college savings program accounts.

Sec. 3334.15. (A) The right of a person to a tuition ~~credit~~ unit or a payment under section 3334.09 of the Revised Code pursuant to a tuition

~~credit payment~~ contract, a scholarship program, or a variable college savings program account shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or the insolvency laws, or other process of law.

(B) The right of a person to a tuition ~~credit~~ unit or a payment under section 3334.09 of the Revised Code pursuant to a tuition ~~credit payment~~ contract, a scholarship program, or a variable college savings program account shall not be used as security or collateral for a loan.

Sec. 3334.16. The general assembly hereby finds that the prepaid tuition program providing for the sale of tuition credits units by the Ohio tuition trust authority is an official state function, offered through an agency of this state, which agency receives state appropriations. Therefore, the authority is directed by the state of Ohio to assume it is exempt from federal tax liability.

Sec. 3334.17. (A) The state, any political subdivision of the state, and any organization that is exempt from federal income taxation under section 501 (a) and described in section 501 (c)(3) of the Internal Revenue Code, including the Ohio tuition trust authority if this is authorized under federal tax law, may establish a scholarship program to award scholarships consisting of contributions made to any college savings program for students. Any scholarship program established under this section shall be registered with the authority. The authority shall be notified of the name and address of each scholarship beneficiary under the program, the amounts awarded, and the institution of higher education in which the beneficiary is enrolled. Scholarship beneficiaries shall be selected by the entity establishing the scholarship program, in accordance with criteria established by the entity.

(B) Any person or governmental entity may purchase tuition ~~credits~~ units on behalf of a scholarship program that is or is to be established in accordance with division (A) of this section at the same price as is established for the purchase of ~~credits~~ units for named beneficiaries pursuant to this chapter. Tuition ~~credits~~ units shall have the same value to the beneficiary of a scholarship awarded pursuant to this section as they would have to any other beneficiary pursuant to division (B) of section 3334.09 of the Revised Code.

(C) The entity establishing and maintaining a scholarship program shall specify whether a scholarship beneficiary may receive a refund or payment for the amount awarded under the scholarship program directly from the authority, or whether the amount awarded shall be paid by the authority only to the institution of higher education in which the student is enrolled.

(D) If a scholarship beneficiary does not use the amount awarded within



a length of time specified under the scholarship program, the amount may be awarded to another beneficiary.

Sec. 3334.18. (A) A variable college savings program established by the Ohio tuition trust authority shall include provisions for a contract to be entered into between a contributor and the authority that will authorize the contributor to open an account for a beneficiary and authorize the contributor to substitute a new beneficiary for one originally named in the contract, to the extent permitted by section 529 of the Internal Revenue Code.

(B) The authority shall provide adequate safeguards to prevent total contributions to a variable college savings program account or purchases of tuition ~~credits~~ units, either separately or combined, that are made on behalf of a beneficiary from exceeding the amount necessary to provide for the tuition and other higher education expenses of the beneficiary, consistent with the maximum contributions permitted by section 529 of the Internal Revenue Code. However, in no event shall contributions or purchases exceed the allowable limit for a qualified ~~state~~ tuition program under section 529 of the Internal Revenue Code.

(C)(1) Participation in the variable college savings program does not guarantee that contributions and the investment return on contributions, if any, will be adequate to cover future tuition and other higher education expenses or that a beneficiary will be admitted to or permitted to continue to attend an institution of higher education.

(2) Returns on contributors' investments in the variable college savings program are not guaranteed by the state and the contributors to the variable college savings program assume all investment risk, including the potential loss of principal and liability for penalties such as those levied for noneducational withdrawals.

(3) The state shall have no debt or obligation to any contributor, beneficiary, or any other person as a result of the establishment of the program, and the state assumes no risk or liability for funds invested in the variable college savings program.

(4) Informational materials about the variable college savings program prepared by the authority or its agents and provided to prospective contributors shall state clearly the information set forth in division (C) of this section.

Sec. 3334.19. (A) The Ohio tuition trust authority shall adopt an investment plan that sets forth investment policies and guidelines to be utilized in administering the variable college savings program. Except as provided in section 3334.20 of the Revised Code, the authority shall contract

with one or more insurance companies, banks, or other financial institutions to act as its investment agents and to provide such services as the authority considers appropriate to the investment plan, including:

(1) Purchase, control, and safekeeping of assets;

(2) Record keeping and accounting for individual accounts and for the program as a whole;

(3) Provision of consolidated statements of account.

(B) The authority or its investment agents shall maintain a separate account for the beneficiary of each contract entered into under the variable college savings program. If a beneficiary has more than one such account, the authority or its agents shall track total contributions and earnings and provide a consolidated system of account distributions to institutions of higher education.

(C) The authority or its investment agents may place assets of the program in savings accounts and may purchase fixed or variable life insurance or annuity contracts, securities, evidence of indebtedness, or other investment products pursuant to the investment plan.

(D) Contributors shall not direct the investment of their contributions under the investment plan. The authority shall impose other limits on contributors' investment discretion to the extent required under section 529 of the Internal Revenue Code.

(E) The investment agents with which the authority contracts shall discharge their duties with respect to program funds with the care and diligence that a prudent person familiar with such matters and with the character and aims of the program would use.

(F) The assets of the program shall be preserved, invested, and expended solely for the purposes of this chapter and shall not be loaned or otherwise transferred or used by the state for any other purpose. This section shall not be construed to prohibit the investment agents of the authority from investing, by purchase or otherwise, in bonds, notes, or other obligations of the state or any agency or instrumentality of the state. Unless otherwise specified by the authority, assets of the program shall be expended in the following order of priority:

(1) To make payments on behalf of beneficiaries;

(2) To make refunds upon termination of variable college savings program contracts;

(3) To pay the authority's costs of administering the program;

(4) To pay or cover any other expenditure or disbursement the authority determines necessary or appropriate.

(G) Fees, charges, and other costs imposed or collected by the authority

in connection with the variable college savings program, including any fees or other payments that the authority requires an investment agent to pay to the authority, shall be credited to either the variable operating fund or the index operating fund at the discretion of the authority. ~~The fund shall be~~ These funds are hereby created ~~in the custody of the treasurer of state, but shall not be part of the~~ state treasury. Expenses incurred in the administration of the variable college savings program, as well as other expenses, disbursements, or payments the authority considers appropriate for the benefit of any college savings programs administered by the authority, the state of Ohio and its citizens, shall be paid from the variable operating fund or the index operating fund at the discretion of the authority.

(H) No records of the authority indicating the identity of purchasers, contributors, and beneficiaries under the program or amounts contributed to, earned by, or distributed from program accounts are public records within the meaning of section 149.43 of the Revised Code.

Sec. 3335.02. (A) The government of the Ohio state university shall be vested in a board of ~~eleven fourteen~~ trustees in 2005, and seventeen trustees beginning in 2006, who shall be appointed by the governor, with the advice and consent of the senate. Two of the ~~eleven seventeen~~ trustees shall be students at the Ohio state university, and their selection and terms shall be in accordance with division (B) of this section. Except as provided in division (C) of this section and except for the terms of student members, terms of office shall be for nine years, commencing on the fourteenth day of May and ending on the thirteenth day of May. Each trustee shall hold office from the date of appointment until the end of the term for which the trustee was appointed. Any trustee appointed to fill a vacancy occurring prior to the expiration of the term for which the trustee's predecessor was appointed shall hold office for the remainder of such term. Any trustee shall continue in office subsequent to the expiration date of the trustee's term until the trustee's successor takes office, or until a period of sixty days has elapsed, whichever occurs first. No person who has served a full nine-year term or more than six years of such a term shall be eligible for reappointment until a period of four years has elapsed since the last day of the term for which the person previously served. The trustees shall not receive compensation for their services, but shall be paid their reasonable necessary expenses while engaged in the discharge of their official duties.

(B) The student members of the board of trustees of the Ohio state university have no voting power on the board. Student members shall not be considered as members of the board in determining whether a quorum is present. Student members shall not be entitled to attend executive sessions

of the board. The student members of the board shall be appointed by the governor, with the advice and consent of the senate, from a group of five candidates selected pursuant to a procedure adopted by the university's student governments and approved by the university's board of trustees. The initial term of office of one of the student members shall commence on May 14, 1988 and shall expire on May 13, 1989, and the initial term of office of the other student member shall commence on May 14, 1988 and expire on May 13, 1990. Thereafter, terms of office of student members shall be for two years, each term ending on the same day of the same month of the year as the term it succeeds. In the event a student member cannot fulfill a two-year term, a replacement shall be selected to fill the unexpired term in the same manner used to make the original selection.

(C)(1) The initial terms of office for the three additional trustees appointed in 2005 shall commence on a date in 2005 that is selected by the governor with one term of office expiring on May 13, 2009, one term of office expiring on May 13, 2010, and one term of office expiring on May 13, 2011, as designated by the governor upon appointment. Thereafter terms of office shall be for nine years, as provided in division (A) of this section.

(2) The initial terms of office for the three additional trustees appointed in 2006 shall commence on May 14, 2006, with one term of office expiring on May 13, 2012, one term of office expiring on May 13, 2013, and one term of office expiring on May 13, 2014, as designated by the governor upon appointment. Thereafter terms of office shall be for nine years, as provided in division (A) of this section.

Sec. 3345.10. (A) As used in this section:

(A), "Institution state institution of higher education" means a state university, municipal university, state medical college, community college, technical college, or state community college has the same meaning as in section 3345.011 of the Revised Code.

(B) Each state institution of higher education shall establish competitive bidding procedures for the purchase of printed material and shall award all such contracts for the purchase of printed material in accordance with such those procedures. Notwithstanding any other provision of law, The procedures shall require the institution to evaluate all bids received for all contracts for the purchase of printed material shall be let by an institution to vendors who have manufacturing facilities within this state, except as provided in division (C) of this section.

(C) If the required printed products are not available from a vendor who has manufacturing facilities within this state, the institution shall be permitted to purchase from an out-of-state vendor.

~~(D) No vendor with manufacturing facilities within this state who would execute the printing covered by the proposal shall be prohibited from submitting a proposal for consideration and any such proposal properly submitted shall be considered in accordance with the criteria and procedures established pursuant to divisions (C)(1) and (2) of section 125.09 of the Revised Code for determining whether bidders will produce the printed material at manufacturing facilities within this state or in accordance with the criteria and procedures established pursuant to division (C)(4) or (5) of that section for determining whether bidders are otherwise qualified.~~

An institution shall select, in accordance with the procedures it establishes under this section, a bid from among bidders that fulfill the criteria specified in the applicable divisions of section 125.09 of the Revised Code where sufficient competition can be generated within this state to ensure that compliance with this requirement will not result in paying an excessive price or acquiring a disproportionately inferior product. If there are two or more bids from among those bidders, it shall be deemed that there is sufficient competition to prevent paying an excessive price or acquiring a disproportionately inferior product.

Sec. 3345.19. In the exercise of their respective powers of government conferred by Chapter 3345. of the Revised Code and other pertinent provisions of law, the boards of trustees of Bowling Green state university, Kent state university, Miami university, Ohio university, and the Ohio state university shall observe the following enrollment limitations insofar as the autumn quarter enrollment or any other quarter enrollment on a full-time equivalent basis as defined by the Ohio board of regents is concerned:

Bowling Green central campus	17,000
Kent central campus	22,000
Miami central campus	17,000
Ohio university central campus	22,000
The Ohio state central campus	42,000

Campus student housing facilities shall only be authorized by boards of trustees within these limitations.

Sec. 3345.32. (A) As used in this section:

(1) "State university or college" means the institutions described in section 3345.27 of the Revised Code, the northeastern Ohio universities college of medicine, and the medical university of Ohio at Toledo.

(2) "Resident" has the meaning specified by rule of the Ohio board of regents.

(3) "Statement of selective service status" means a statement certifying one of the following:

(a) That the individual filing the statement has registered with the selective service system in accordance with the "Military Selective Service Act," 62 Stat. 604, 50 U.S.C. App. 453, as amended;

(b) That the individual filing the statement is not required to register with the selective service for one of the following reasons:

(i) The individual is under eighteen or over twenty-six years of age;

(ii) The individual is on active duty with the armed forces of the United States other than for training in a reserve or national guard unit;

(iii) The individual is a nonimmigrant alien lawfully in the United States in accordance with section 101 (a)(15) of the "Immigration and Nationality Act," 8 U.S.C. 1101, as amended;

(iv) The individual is not a citizen of the United States and is a permanent resident of the Trust Territory of the Pacific Islands or the Northern Mariana Islands.

(4) "Institution of higher education" means any eligible institution approved by the United States department of education pursuant to the "Higher Education Act of 1965," 79 Stat. 1219, as amended, or any institution whose students are eligible for financial assistance under any of the programs described by division (E) of this section.

(B) The Ohio board of regents shall, by rule, specify the form of statements of selective service status to be filed in compliance with divisions (C) to (F) of this section. Each statement of selective service status shall contain a section wherein a male student born after December 31, 1959, certifies that the student has registered with the selective service system in accordance with the "Military Selective Service Act," 62 Stat. 604, 50 U.S.C. App. 453, as amended. For those students not required to register with the selective service, as specified in divisions (A)(2)(b)(i) to (iv) of this section, a section shall be provided on the statement of selective service status for the certification of nonregistration and for an explanation of the reason for the exemption. The board of regents may require that such statements be accompanied by documentation specified by rule of the board.

(C) A state university or college that enrolls in any course, class, or program a male student born after December 31, 1959, who has not filed a statement of selective service status with the university or college shall, regardless of the student's residency, charge the student any tuition surcharge charged students who are not residents of this state.

(D) No male born after December 31, 1959, shall be eligible to receive any loan, grant, scholarship, or other financial assistance for educational expenses under section 3315.33, 3333.12, 3333.122, 3333.21, 3333.22, 3333.26, 3333.27, 5910.03, 5910.032, or 5919.34 of the Revised Code

unless that person has filed a statement of selective service status with that person's institution of higher education.

(E) If an institution of higher education receives a statement from an individual certifying that the individual has registered with the selective service system in accordance with the "Military Selective Service Act," 62 Stat. 604, 50 U.S.C. App. 453, as amended or that the individual is exempt from registration for a reason other than that the individual is under eighteen years of age, the institution shall not require the individual to file any further statements. If it receives a statement certifying that the individual is not required to register because the individual is under eighteen years of age, the institution shall require the individual to file a new statement of selective service status each time the individual seeks to enroll for a new academic term or makes application for a new loan or loan guarantee or for any form of financial assistance for educational expenses, until it receives a statement certifying that the individual has registered with the selective service system or is exempt from registration for a reason other than that the individual is under eighteen years of age.

Sec. 3353.01. As used in ~~sections 3353.01 to 3353.05 of the Revised Code~~ this chapter:

(A) "Educational television or radio" means television or radio programs which serve the educational needs of the community and which meet the requirements of the federal communications commission for noncommercial educational television or radio.

(B) "Educational telecommunications network" means a system of connected educational television, radio, or radio reading service facilities and coordinated programs established and operated or controlled by the ~~eTech Ohio educational telecommunications network~~ commission, pursuant to ~~sections 3353.01 to 3353.04 of the Revised Code~~ this chapter.

(C) "Transmission" means the sending out of television, radio, or radio reading service programs, either directly to the public, or to broadcasting stations or services for simultaneous broadcast or rebroadcast.

(D) "Transmission facilities" means structures, equipment, material, and services used in the transmission of educational television, radio, or radio reading service programs.

(E) "Interconnection facilities" means the equipment, material, and services used to link one location to another location or to several locations by means of telephone line, coaxial cable, microwave relays, or other available technologies.

(F) "Broadcasting station" means a properly licensed noncommercial educational television or radio station, appropriately staffed and equipped to

produce programs or lessons and to broadcast programs.

(G) ~~"Production center" means a television, radio, or radio reading service production studio, staffed and equipped with equipment, material, and supplies necessary to produce a program or a lesson for broadcast or for recording on film, video tape, or audio tape.~~

~~(H) "Radio reading service" means a nonprofit organization that disseminates news and other information to blind and physically handicapped persons.~~

~~(H) "Affiliate" means an educational telecommunication entity, including a television or radio broadcasting station or radio reading service.~~

Sec. 3353.02. (A) There is hereby created the eTech Ohio commission as an independent agency to advance education and accelerate the learning of the citizens of this state through technology. The commission shall provide leadership and support in extending the knowledge of the citizens of this state by promoting access to and use of all forms of educational technology, including educational television and radio, radio reading services, broadband networks, videotapes, compact discs, digital video on demand (DVD), and the internet. The commission also shall administer programs to provide financial and other assistance to school districts and other educational institutions for the acquisition and utilization of educational technology.

The commission is a body corporate and politic, an agency of the state performing essential governmental functions of the state.

(B) The commission shall consist of thirteen members, nine of whom shall be voting members. Six of the voting members shall be representatives of the public. Of the representatives of the public, four shall be appointed by the governor with the advice and consent of the senate, one shall be appointed by the speaker of the house of representatives, and one shall be appointed by the president of the senate. The superintendent of public instruction or a designee of the superintendent, the chancellor of the Ohio board of regents or a designee of the chancellor, and the director of administrative services or a designee of the director shall be ex officio voting members. Of the nonvoting members, two shall be members of the house of representatives appointed by the speaker of the house of representatives and two shall be members of the senate appointed by the president of the senate. The members appointed from each chamber shall not be members of the same political party.

(C) Initial terms of office for members appointed by the governor shall be one year for one member, two years for one member, three years for one member, and four years for one member. At the first meeting of the



commission, members appointed by the governor shall draw lots to determine the length of the term each member will serve. Thereafter, terms of office for members appointed by the governor shall be for four years. Terms of office for voting members appointed by the speaker of the house of representatives and the president of the senate shall be for four years. Any member who is a representative of the public may be reappointed by the member's respective appointing authority, but no such member may serve more than two consecutive four-year terms. Such a member may be removed by the member's respective appointing authority for cause.

Any legislative member appointed by the speaker of the house of representatives or the president of the senate who ceases to be a member of the legislative chamber from which the member was appointed shall cease to be a member of the commission. The speaker of the house of representatives and the president of the senate may remove their respective appointments to the commission at any time.

(D) Vacancies among appointed members shall be filled in the manner provided for original appointments. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of that term. Any appointed member shall continue in office subsequent to the expiration of that member's term until the member's successor takes office or until a period of sixty days has elapsed, whichever occurs first.

(E) Members of the commission shall serve without compensation. The members who are representatives of the public shall be reimbursed, pursuant to office of budget and management guidelines, for actual and necessary expenses incurred in the performance of official duties.

(F) The governor shall appoint the chairperson of the commission from among the commission's voting members. The chairperson shall serve a term of two years and may be reappointed. The commission shall elect other officers as necessary from among its voting members and shall prescribe its rules of procedure.

(G) The commission shall establish advisory groups as needed to address topics of interest and to provide guidance to the commission regarding educational technology issues and the technology needs of educators, learners, and the public. Members of each advisory group shall be appointed by the commission and shall include representatives of individuals or organizations with an interest in the topic addressed by the advisory group.

Sec. 3353.03. (A) The eTech Ohio commission shall appoint an executive director, who shall serve at the pleasure of the commission. The

executive director shall have no authority other than that provided by law or delegated to the executive director by the commission. The executive director shall do all of the following:

(1) Direct commission employees in the administration of all programs of the commission;

(2) Provide leadership and support in extending the knowledge of the citizens of this state by promoting equal access to and use of all forms of educational technology, as directed by the commission;

(3) Provide financial and other assistance to school districts and other educational institutions, affiliates, and, if approved by the commission, educational technology organizations for the acquisition and utilization of educational technology;

(4) Implement policies and directives issued by the commission;

(5) Perform other duties authorized by the commission.

(B) The commission shall fix the compensation of the executive director. The executive director shall employ and fix the compensation for such employees as necessary to facilitate the activities and purposes of the commission. The employees shall serve at the pleasure of the executive director.

(C) The employees of the commission shall be placed in the unclassified service.

(D)(1) Except as provided in division (D)(2) of this section, the employees of the commission shall be exempt from Chapter 4117. of the Revised Code and shall not be public employees as defined in section 4117.01 of the Revised Code.

(2) All employees of the commission who transferred to the commission from one of the commission's predecessor agencies upon the commission's creation and, when employed by the predecessor agency were included in a bargaining unit established under Chapter 4117. of the Revised Code, shall continue to be included in that bargaining unit, are public employees as defined in section 4117.01 of the Revised Code, and may collectively bargain with the commission in accordance with that chapter. Otherwise, any employee hired by the commission after the effective date of this section, either to fill vacancies or to fill new positions, shall be exempt from Chapter 4117. of the Revised Code and shall not be public employees as defined in section 4117.10 of the Revised Code.

Sec. 3353.04. (A) The eTech Ohio educational telecommunications network commission may perform any act necessary to carry out the functions of this chapter, including any of the following:

(A) (1) Make grants to institutions and other organizations as prescribed

by the general assembly for the provision of technical assistance, professional development, and other support services to enable school districts, community schools established under Chapter 3314. of the Revised Code, other educational institutions, and affiliates to utilize educational technology:

(2) Establish a reporting system for school districts, community schools, other educational institutions, affiliates, and educational technology organizations that receive financial assistance from the commission. The system may require the reporting of information regarding the manner in which the assistance was expended, the manner in which the equipment or services purchased with the assistance is being utilized, the results or outcome of the utilization, the manner in which the utilization is compatible with the statewide academic standards adopted by the state board of education pursuant to section 3301.079 of the Revised Code, and any other information determined by the commission.

(3) Ensure that, where appropriate, products produced by any entity to which the commission provides financial assistance for use in elementary and secondary education are aligned with the statewide academic standards adopted by the state board pursuant to section 3301.079 of the Revised Code;

(4) Promote accessibility to educational products aligned with the statewide academic standards, adopted by the state board pursuant to section 3301.079 of the Revised Code, for school districts, community schools, and other entities serving grades kindergarten through twelve;

(5) Own ~~and~~ or operate transmission facilities and interconnection facilities, or contract for transmission facilities and interconnection facilities, for an educational television, radio, or radio reading service network;

~~(B)~~(6) Establish standards for interconnection facilities used by the commission in the transmission of educational television, radio, or radio reading service programming by the commission;

~~(C)~~ (7) Enter into agreements with noncommercial educational television or radio broadcasting stations or radio reading services for the transmission to the broadcasting stations or services of identical programs for broadcasting either simultaneously or through the use of transcription discs, video tapes, film, or audio tapes operation of the interconnection;

~~(D)~~(8) Enter into agreements with noncommercial educational television, radio, or radio reading service production centers and with broadcasting stations ~~and~~ or radio reading services for the production and use of educational television, radio, or radio reading service programs to be

transmitted by the educational telecommunications network;

~~(E)(9)~~ Execute contracts and other agreements necessary and desirable to carry out the purposes of sections 3353.01 to 3353.04 of the Revised Code this chapter and other duties prescribed to the commission by law or authorize the executive director of the commission to execute such contracts and agreements on the commission's behalf;

~~(F)~~ Determine programs to be distributed through the Ohio educational telecommunications network;

~~(G)(10)~~ Act as consultant with educational television and educational radio stations and radio reading services toward coordination within the state of the distribution of federal funds that may become available for ~~the development of equipment for~~ educational broadcasting or radio reading services;

~~(H)(11)~~ Make payments to noncommercial Ohio educational television or radio broadcasting stations or radio reading services to sustain the operation of such stations or services, ~~and may consign equipment to them in exchange for services rendered;~~

(12) In consultation with participants in programs administered by the commission, establish guidelines governing purchasing and procurement that facilitate the timely and effective implementation of such programs;

(13) In consultation with participants in programs administered by the commission, consider the efficiency and cost savings of statewide procurement prior to allocating and releasing funds for such programs;

(14) In consultation with participants in programs administered by the commission, establish a systems support network to facilitate the timely implementation of the programs and other projects and activities for which the commission provides assistance.

(B) Chapters 123., 124., 125., and 153. of the Revised Code and sections 9.331, 9.332, and 9.333 of the Revised Code do not apply to contracts, programs, projects, or activities of the commission.

Sec. 3353.06. (A) The affiliates services fund is hereby created in the state treasury. The ~~eTech Ohio educational telecommunications network~~ commission shall deposit any money it receives for services provided to affiliates to the credit of the fund, including:

(1) Reimbursements for services provided to stations;

(2) Charges levied for maintenance of telecommunications, broadcasting, or transmission equipment;

(3) Contract or grant payments from affiliates.

(B) The commission shall use money credited to the affiliates services fund for any commission operating purposes, including:

- (1) The purchase, repair, or maintenance of telecommunications, broadcasting, or transmission equipment;
- (2) The purchase or lease of educational programming;
- (3) The purchase of tape and maintenance of a media library;
- (4) Professional development programs and services;
- (5) Administrative expenses ~~and legal fees~~.

Sec. 3353.07. (A) ~~As used in this section, "broadcasting station" has the same meaning as in section 3353.01 of the Revised Code.~~

~~(B)~~ Ohio government telecommunications shall be funded through the eTech Ohio educational telecommunications network commission and shall be managed by a broadcasting station under a contract. The contract shall not take effect until the program committee of Ohio government telecommunications approves the contract. The broadcasting station shall manage the staff of Ohio government telecommunications.

~~(C)~~~~(B)~~(1) There is hereby created the program committee of Ohio government telecommunications that shall consist of the president of the senate, speaker of the house of representatives, minority leader of the senate, and minority leader of the house of representatives, or their designees. By a vote of a majority of its members, the program committee may add additional members to the committee.

(2) The program committee shall adopt rules that govern the operation of Ohio government telecommunications and the coverage and distribution of official governmental activities by Ohio government telecommunications.

Sec. 3354.25. (A) The provisions of this section prevail over conflicting provisions of this chapter; however, except as provided in this section, the community college district and its board of trustees created by this section shall comply with the provisions of this chapter.

(B)(1) The territory of Warren county is hereby added to the territory of the community college district of Montgomery county, creating the Warren county Montgomery county community college district and replacing the former community college district of Montgomery county. The district created in this section may be known as and operate under the name of the Sinclair community college district.

(2) The community college district created by this section shall be divided into separate taxing subdistricts, one consisting of the territory of Warren county, and another consisting of the territory of Montgomery county.

Taxes for the benefit of the community college district shall be levied and the benefits from the revenues of those taxes shall be apportioned among the subdistricts only in accordance with this section.

(C) The board of trustees of the two-county community college district created by this section shall consist of eleven members.

(1) Nine members of the board of trustees shall be residents of Montgomery county. The initial Montgomery county members shall be the same members of the board of trustees of the former community college district of Montgomery county, as it existed prior to the effective date of this section, whose terms shall expire and whose successors shall be appointed as they would have otherwise under division (B) of section 3354.05 of the Revised Code.

(2) Two members of the board of trustees shall be residents of Warren county, one of whom shall be appointed by the board of county commissioners of Warren county, and one of whom shall be appointed by the governor with the advice and consent of the senate. Each of the initial appointments under division (C)(2) of this section shall be made within ninety days after the effective date of this section. At the time of the initial meeting of the trustees of the community college district created by this section, a drawing among the Warren county appointees shall be held to determine the initial term of each appointee, one trustee to serve for a term ending three years after the expiration date of the Montgomery county trustee's term that is the first to expire after the effective date of this section, and the other trustee to serve for a term ending five years after the expiration date of the Montgomery county trustee's term that is the first to expire after the effective date of this section. Thereafter, the successive terms of the Warren county members of the board of trustees shall be for five years, each term ending on the same day of the same month of the year as did the term which it succeeds. Each trustee shall hold office from the date of the trustee's appointment until the end of the term for which appointed. Any trustee appointed to fill a vacancy occurring prior to the expiration of the term for which the trustee's predecessor was appointed shall hold office for the remainder of that term. Any trustee shall continue in office subsequent to the expiration date of the trustee's term until the trustee's successor takes office, or until a period of sixty days has elapsed, whichever occurs first.

(D) The board of trustees of the community college district created by this section shall continue to comply with division (G) of section 3354.09 of the Revised Code, regarding tuition for students who are residents of Ohio but not of the district, and for students who are nonresidents of Ohio. The tuition rate shall be based on the student's county of residence and shall apply to all Sinclair community college classes in all Sinclair community college locations. Except as provided in division (G)(2) of this section, students who are residents of Warren county shall continue to be charged tuition at the

same rate as Ohio residents who are not residents of the district.

(E)(1) Unless the conditions prescribed in division (F) of this section are satisfied, the trustees from each respective county of the community college district created by this section shall have no vote on any of the following matters pertaining to the other county:

(a) Tax levies;

(b) The expenditure of revenue from tax levies;

(c) Levy-subsidized tuition rates.

(2) As long as either of the conditions prescribed in division (F)(1) or (2) of this section are satisfied, each member of the board of trustees shall have full voting rights on all matters coming before the board.

(3) At all times, on any matter related to community college programming or facilities within one county or the other, both of the following are necessary:

(a) The affirmative vote of a majority of the full membership of the board of trustees;

(b) The affirmative vote of at least fifty per cent of the trustees from the affected county.

(4) If the millage rate of the Warren county tax levy described in division (F) of this section is subsequently reduced by a vote of the electors of Warren county to the extent that it no longer satisfies a condition prescribed in either division (F)(1) or (2) of this section, the voting restrictions prescribed in division (E)(1) of this section again apply to the board effective on the first day of the tax year that begins after the reduction is approved by the electors.

(F) The voting restrictions of division (E)(1) of this section apply until the electors of Warren county approve a tax levy, in accordance with division (G)(3) of this section, equivalent to the tax levy approved by the electors of Montgomery county for the support of the former community college district of Montgomery county prior to the effective date of this section. For this purpose, an equivalent tax levy is a tax levied in Warren county that either:

(1) In the first tax year for which the tax is collected, yields revenue per capita equal to or greater than the yield per capita of levies of the community college district in effect that tax year in Montgomery county, as jointly determined by the county auditors of Montgomery and Warren counties;

(2) In the first tax year for which the tax is collected, imposes a millage rate that is equal to or greater than the effective tax rate of levies of the community college district in effect that tax year in Montgomery county, as

jointly determined by the county auditors of Montgomery and Warren counties.

As used in division (F)(2) of this section, "effective tax rate" means the quotient obtained by dividing the total taxes charged and payable for the taxing subdistrict for a tax year, after the reduction prescribed by section 319.301 of the Revised Code but before the reduction prescribed by section 319.302 or 323.152 of the Revised Code, by the taxable value for the taxing subdistrict for that tax year.

(G)(1) The board of trustees may propose to levy a tax on taxable property in Montgomery county to be voted on by the electors of Montgomery county as provided in division (G)(3) of this section. Any money raised by a tax levied by the former community college district of Montgomery county or a subsequent tax levied in Montgomery county in accordance with division (G)(3) of this section shall be used solely for the benefit of Montgomery county residents attending Sinclair community college in the form of student tuition subsidy, student scholarships, and instructional facilities, equipment and support services located within Montgomery county, shall be deposited into a separate fund from all other revenues of the district, and shall be budgeted separately.

(2) The board of trustees may propose to levy a tax on taxable property in Warren county to be voted on by electors of Warren county as provided in division (G)(3) of this section. Any money raised by the tax shall be used solely for the benefit of Warren county residents attending Sinclair community college in the form of student tuition subsidy, student scholarships, and instructional facilities, equipment and support services located within Warren county, shall be deposited into a separate fund from all other revenues of the district, and shall be budgeted separately. If the tax is approved in accordance with division (G)(3)(c) of this section, the board of trustees may adjust the rate of tuition charged to Warren county residents commensurate with the amount of that tax the board of trustees dedicates for instructional and general services provided to Warren county residents.

(3) For each taxing subdistrict of the community college district created by this section, the board of trustees may propose to levy a tax in accordance with the procedures prescribed in section 3354.12 of the Revised Code, except as provided in divisions (G)(3)(a) to (c) of this section.

(a) Wherein section 3354.12 of the Revised Code the terms "district" and "community college district" are used, those terms shall be construed to mean the appropriate taxing subdistrict described in division (B)(2) of this section, except that the "board of trustees of the community college district" means the board of trustees for the entire community college district as



described in division (C) of this section. That board of trustees may propose separate levies for either of the two taxing subdistricts.

(b) "Tax duplicate," as used in section 3354.12 of the Revised Code, means the tax duplicate of only the appropriate taxing subdistrict and not the tax duplicate of the entire community college district.

(c) The resolution of the board of trustees proposing a tax levy in the Warren county taxing subdistrict is subject to approval of a two-thirds vote of the board of county commissioners of Warren county. If so approved by the board of county commissioners of Warren county, that board shall certify the resolution to the Warren county board of elections, which shall place on the ballot for the electors of Warren county the question of levying the tax proposed in the resolution on all taxable property of the county. If approved by the electors of the county, the tax shall be levied as provided in section 3354.12 of the Revised Code and anticipation notes may be issued by the board of trustees in accordance with that section.

(H)(1) The board of trustees of the community college district created by this section may issue bonds in accordance with section 3354.11 of the Revised Code; however, the board may limit the question of approval of the issue of those bonds to the electors of only one of the two taxing subdistricts described in division (B)(2) of this section, in which case the board also may limit the use of the property or improvements to the residents of that subdistrict.

(2) A resolution of the board of trustees proposing the issuance of bonds for only the Warren county taxing subdistrict is subject to approval of a two-thirds vote of the board of county commissioners of Warren county. If so approved by the board of county commissioners of Warren county, that board shall certify the resolution to the Warren county board of elections which shall place on the ballot for the electors of Warren county the question of issuing bonds as proposed in the resolution.

Sec. 3362.02. The board of trustees of Shawnee state university shall annually elect from their members a ~~chairman~~ chairperson and ~~vice-chairman~~ vice-chairperson; and they may also appoint a secretary of the board, a treasurer, and such other officers of the university as the interests of the university require, who may be members of the board. The treasurer, before entering upon the discharge of ~~his~~ official duties, shall give bond to the state or be insured for the faithful performance of ~~his~~ the treasurer's duties and the proper accounting for all moneys coming into ~~his~~ the treasurer's care. The amount of said bond or insurance shall be determined by the board, but shall not be for a sum less than the estimated amount which may come into the treasurer's sole control at any time, less

any reasonable deductible. Said bond shall be approved by the attorney general.

Sec. 3365.01. As used in ~~sections 3365.01 to 3365.10 of the Revised Code~~ this chapter:

(A) "College" means any state-assisted college or university described in section 3333.041 of the Revised Code, any nonprofit institution holding a certificate of authorization pursuant to Chapter 1713. of the Revised Code, any private institution exempt from regulation under Chapter 3332. of the Revised Code as prescribed in section 3333.046 of the Revised Code, and any institution holding a certificate of registration from the state board of career colleges and schools and program authorization for an associate or bachelor's degree program issued under section 3332.05 of the Revised Code.

(B) "School district," except as specified in division (G) of this section, means any school district to which a student is admitted under section 3313.64, 3313.65, 3313.98, or 3317.08 of the Revised Code and does not include a joint vocational or cooperative education school district.

(C) "Parent" has the same meaning as in section 3313.64 of the Revised Code.

(D) "Participant" means a student enrolled in a college under the post-secondary enrollment options program established by this chapter.

(E) "Secondary grade" means the ninth through twelfth grades.

(F) "School foundation payments" means the amount required to be paid to a school district for a fiscal year under Chapter 3317. of the Revised Code.

(G) "Tuition base" means, with respect to a participant's school district, the greater of the following:

(1) The fiscal year 2005 formula amount defined in ~~division (B) of~~ section 3317.02 of the Revised Code multiplied by the district's fiscal year 2005 cost-of-doing-business factor defined in ~~division (N) of that~~ section 3317.02 of the Revised Code. ~~The~~

(2) The sum of (the current formula amount times the current cost-of-doing-business factor defined in section 3317.02 of the Revised Code) plus the per pupil amount of the base funding supplements specified in divisions (C)(1) to (4) of section 3317.012 of the Revised Code.

The participant's "school district" in the case of a participant enrolled in a community school shall be the school district in which the student is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code.

(H) "Educational program" means enrollment in one or more school

districts, in a nonpublic school, or in a college under division (B) of section 3365.04 of the Revised Code.

(I) "Nonpublic school" means a chartered or nonchartered school for which minimum standards are prescribed by the state board of education pursuant to division (D) of section 3301.07 of the Revised Code.

(J) "School year" means the year beginning on the first day of July and ending on the thirtieth day of June.

(K) "Community school" means any school established pursuant to Chapter 3314. of the Revised Code that includes secondary grades.

(L) "Community school payments" means payments made by the department of education to a community school pursuant to division (D) of section 3314.08 of the Revised Code.

Sec. 3365.02. There is hereby established the post-secondary enrollment options program under which a secondary grade student who is a resident of this state may enroll at a college, on a full- or part-time basis, and complete nonsectarian courses for high school and college credit. The purpose of the program is to provide enriched education opportunities to secondary grade students that are beyond the opportunities offered by the high school in which they are enrolled.

Secondary grade students in a nonpublic school may participate in the post-secondary enrollment options program if the chief administrator of such school notifies the department of education by the first day of April prior to the school year in which the school's students will participate.

The state board of education, after consulting with the board of regents, shall adopt rules governing the program. The rules shall include:

(A) Requirements for school districts, community schools, or participating nonpublic schools to provide information about the program prior to the first day of March of each year to all students enrolled in grades eight through eleven;

(B) A requirement that a student or the student's parent inform the district board of education, the governing authority of a community school, or the nonpublic school administrator by the thirtieth day of March of the student's intent to participate in the program during the following school year. The rule shall provide that any student who fails to notify a district board, the governing authority of a community school, or the nonpublic school administrator by the required date may not participate in the program during the following school year without the written consent of the district superintendent, the governing authority of a community school, or the nonpublic school administrator.

(C) Requirements that school districts and community schools provide

counseling services to students in grades eight through eleven and to their parents before the students participate in the program under this chapter to ensure that students and parents are fully aware of the possible risks and consequences of participation. Counseling information shall include without limitation:

- (1) Program eligibility;
- (2) The process for granting academic credits;
- (3) Financial arrangements for tuition, books, materials, and fees;
- (4) Criteria for any transportation aid;
- (5) Available support services;
- (6) Scheduling;
- (7) The consequences of failing or not completing a course in which the student enrolls and the effect of the grade attained in the course being included in the student's grade point average, if applicable;
- (8) The effect of program participation on the student's ability to complete the district's, community school's, or nonpublic school's graduation requirements;
- (9) The academic and social responsibilities of students and parents under the program;
- (10) Information about and encouragement to use the counseling services of the college in which the student intends to enroll.

(D) A requirement that the student and the student's parent sign a form, provided by the school district or school, stating that they have received the counseling required by division (C) of this section and that they understand the responsibilities they must assume in the program;

(E) The options required by section 3365.04 of the Revised Code;

(F) A requirement that a student may not enroll in any specific college course through the program if the student has taken high school courses in the same subject area as that college course and has failed to attain a cumulative grade point average of at least 3.0 on a 4.0 scale, or the equivalent, in such completed high school courses;

(G) A requirement that a student or the student's parent will reimburse the state for the amount of state funds paid to a college for a course in which the student is enrolled under this chapter if the student does not attain a passing final grade in that course.

Sec. 3365.04. The rules adopted under section 3365.02 of the Revised Code shall provide for students to enroll in courses under either of the following options:

(A) The student may elect at the time of enrollment to ~~receive only college credit for~~ be responsible for payment of all tuition and the cost of all

textbooks, materials, and fees associated with the course. The college shall notify the student about payment of tuition and fees in the customary manner followed by the college, and the student shall be responsible for payment of all tuition and the cost of all textbooks, materials, and fees associated with the course. If A student electing this option also shall elect, at the time of enrollment, whether to receive only college credit or high school credit and college credit for the course.

(1) The student may elect to receive only college credit for the course. Except as provided in section 3365.041 of the Revised Code, if the student successfully completes the course, the college shall award the student full credit for the course, but the board of education, community school governing authority, or nonpublic participating school shall not award the high school credit.

(2) The student may elect to receive both high school credit and college credit for the course. Except as provided in section 3365.041 of the Revised Code, if the student successfully completes the course, the college shall award the student full credit for the course and the board of education, community school governing authority, or nonpublic school shall award the student high school credit.

(B) The student may elect at the time of enrollment for each course to receive both have the college credit and high school credit reimbursed under section 3365.07 of the Revised Code. Except as provided in section 3365.041 of the Revised Code, if the student successfully completes the course, the college shall award the student full credit for the course, the board of education, community school governing authority, or nonpublic school shall award the student high school credit, and the college shall be reimbursed in accordance with section 3365.07 of the Revised Code.

When determining a school district's formula ADM under section 3317.03 of the Revised Code, the time a participant is attending courses under division (A) of this section shall be considered as time the participant is not attending or enrolled in school anywhere, and the time a participant is attending courses under division (B) of this section shall be considered as time the participant is attending or enrolled in the district's schools.

Sec. 3365.041. (A) When a school district superintendent or governing authority of a community school expels a student under division (B) of section 3313.66 of the Revised Code, the district superintendent or board shall send a written notice of the expulsion to any college in which the expelled student is enrolled under section 3365.03 of the Revised Code at the time the expulsion is imposed. The notice shall indicate the date the expulsion is scheduled to expire. The notice also shall indicate whether the

district board of education or community school governing authority has adopted a policy under section 3313.613 of the Revised Code to deny high school credit for post-secondary courses taken during an expulsion. If the expulsion is extended under division (F) of section 3313.66 of the Revised Code, the district superintendent or governing authority shall notify the college of the extension.

(B) A college may withdraw its acceptance under section 3365.03 of the Revised Code of a student who is expelled from school under division (B) of section 3313.66 of the Revised Code. As provided in section 3365.03 of the Revised Code, regardless of whether the college withdraws its acceptance of the student for the college term in which the student is expelled, the student is ineligible to enroll in a college under that section for subsequent college terms during the period of the expulsion, unless the student enrolls in another school district or community school, or participating nonpublic school during that period.

If a college withdraws its acceptance of an expelled student who elected ~~the either~~ option of division (A)(1) or (2) of section 3365.04 of the Revised Code, the college shall refund tuition and fees paid by the student in the same proportion that it refunds tuition and fees to students who voluntarily withdraw from the college at the same time in the term.

If a college withdraws its acceptance of an expelled student who elected the option of division (B) of section 3365.04 of the Revised Code, the school district or community school shall not award high school credit for the college courses in which the student was enrolled at the time the college withdrew its acceptance, and any reimbursement under section 3365.07 of the Revised Code for the student's attendance prior to the withdrawal shall be the same as would be paid for a student who voluntarily withdrew from the college at the same time in the term. If the withdrawal results in the college's receiving no reimbursement, the college may require the student to return or pay for the textbooks and materials it provided the student free of charge under section 3365.08 of the Revised Code.

(C) When a student who elected the option of division (B) of section 3365.04 of the Revised Code is expelled under division (B) of section 3313.66 of the Revised Code from a school district or community school that has adopted a policy under section 3313.613 of the Revised Code, that election is automatically revoked for all college courses in which the student is enrolled during the college term in which the expulsion is imposed. Any reimbursement under section 3365.07 of the Revised Code for the student's attendance prior to the expulsion shall be the same as would be paid for a student who voluntarily withdrew from the college at the same time in the

term. If the revocation results in the college's receiving no reimbursement, the college may require the student to return or pay for the textbooks and materials it provided the student free of charge under section 3365.08 of the Revised Code.

No later than five days after receiving an expulsion notice from the superintendent of a district or the governing authority of a community school that has adopted a policy under section 3313.613 of the Revised Code, the college shall send a written notice to the expelled student that the student's election of division (B) of section 3365.04 of the Revised Code is revoked. If the college elects not to withdraw its acceptance of the student, the student shall pay all applicable tuition and fees for the college courses and shall pay for the textbooks and materials that the college provided under section 3365.08 of the Revised Code.

Sec. 3365.05. High school credit awarded for courses successfully completed under this chapter shall count toward the graduation requirements and subject area requirements of the school district, community school, or nonpublic school. If a course comparable to one a student completed at a college is offered by the district, community school, or nonpublic school, the board or school shall award comparable credit for the course completed at the college. If no comparable course is offered by the district, community school, or nonpublic school, the board or school shall grant an appropriate number of credits in a similar subject area to the student.

If there is a dispute between a school district board or a community school governing authority and a student regarding high school credits granted for a course, the student may appeal the board's or governing authority's decision to the state board of education. The state board's decision regarding any high school credits granted under this ~~division~~ section is final.

Evidence of successful completion of each course and the high school credits awarded by the district, community school, or participating nonpublic school shall be included in the student's record. The record shall indicate that the credits were earned as a participant under this chapter and shall include the name of the college at which the credits were earned. The district board, community school governing authority, or nonpublic school shall determine whether and the manner in which the grade achieved in a course completed at a college under division (A)(2) or (B) of section 3365.04 of the Revised Code will be counted in any cumulative grade point average maintained for the student.

Sec. 3365.08. (A) A college that expects to receive or receives reimbursement under section 3365.07 of the Revised Code shall furnish to a

participant all textbooks and materials directly related to a course taken by the participant under division (B) of section 3365.04 of the Revised Code. No college shall charge such participant for tuition, textbooks, materials, or other fees directly related to any such course.

(B) No student enrolled under this chapter in a course for which credit toward high school graduation is awarded shall receive direct financial aid through any state or federal program.

(C) If a school district provides transportation for resident school students in grades eleven and twelve under section 3327.01 of the Revised Code, a parent of a pupil enrolled in a course under division (A)(2) or (B) of section 3365.04 of the Revised Code may apply to the board of education for full or partial reimbursement for the necessary costs of transporting the student between the secondary school the student attends and the college in which the student is enrolled. Reimbursement may be paid solely from funds received by the district under division (D) of section 3317.022 of the Revised Code. The state board of education shall establish guidelines, based on financial need, under which a district may provide such reimbursement.

(D) If a community school provides or arranges transportation for its pupils in grades nine through twelve under section 3314.091 of the Revised Code, a parent of a pupil of the community school who is enrolled in a course under division (A)(2) or (B) of section 3365.04 of the Revised Code may apply to the governing authority of the community school for full or partial reimbursement of the necessary costs of transporting the student between the community school and the college. The governing authority may pay the reimbursement in accordance with the state board's rules adopted under division (C) of this section solely from funds paid to it under section 3314.091 of the Revised Code.

Sec. 3365.11. If the superintendent of the school district or the chief administrator of the community school or nonpublic school in which the student is enrolled notifies the superintendent of public instruction that the student has not attained a passing final grade in a college course in which the student is enrolled under this chapter, the superintendent of public instruction shall initiate proceedings to seek reimbursement from the student or the student's parent for the amount of state funds calculated for payment to the college on behalf of the student for enrollment in that college course. In seeking reimbursement, the superintendent of public instruction may request that the attorney general bring a civil action in the court of common pleas of the county in which the school district, community school, or nonpublic school is located, if the superintendent of public instruction determines it appropriate to bring such an action.



Upon the collection of any funds from a student or student's parent under this section, the superintendent of public instruction shall credit the amount collected to the school district or community school from which an amount was deducted under division (D) of section 3365.07 of the Revised Code for the course or, if the student is enrolled in a nonpublic school, to the general revenue fund.

Sec. 3375.40. Each board of library trustees appointed pursuant to section 3375.06, 3375.10, 3375.12, 3375.15, 3375.22, or 3375.30 of the Revised Code may do the following:

(A) Hold title to and have the custody of all real and personal property of the free public library under its jurisdiction;

(B) Expend for library purposes, and in the exercise of the power enumerated in this section, all moneys, whether derived from the county library and local government support fund or otherwise, credited to the free public library under its jurisdiction and generally do all things it considers necessary for the establishment, maintenance, and improvement of the free public library under its jurisdiction;

(C) Purchase, lease, construct, remodel, renovate, or otherwise improve, equip, and furnish buildings or parts of buildings and other real property, and purchase, lease, or otherwise acquire motor vehicles and other personal property, necessary for the proper maintenance and operation of the free public library under its jurisdiction, and pay their costs in installments or otherwise. Financing of these costs may be provided through the issuance of notes, through an installment sale, or through a lease-purchase agreement. Any such notes shall be issued pursuant to section 3375.404 of the Revised Code.

(D) Purchase, lease, lease with an option to purchase, or erect buildings or parts of buildings to be used as main libraries, branch libraries, or library stations pursuant to section 3375.41 of the Revised Code;

(E) Establish and maintain a main library, branches, library stations, and traveling library service within the territorial boundaries of the political subdivision or district over which it has jurisdiction of free public library service;

(F) Except as otherwise provided in this division, establish and maintain branches, library stations, and traveling library service in any school district, outside the territorial boundaries of the political subdivision or district over which it has jurisdiction of free public library service, upon application to and approval of the state library board, pursuant to section 3375.05 of the Revised Code. The board of library trustees of any free public library maintaining branches, stations, or traveling library service, outside the

territorial boundaries of the political subdivision or district over which it has jurisdiction of free public library service, on September 4, 1947, may continue to maintain and operate those branches, those stations, and that traveling library service without the approval of the state library board.

(G) Appoint and fix the compensation of all of the employees of the free public library under its jurisdiction, pay the reasonable cost of tuition for any of its employees who enroll in a course of study the board considers essential to the duties of the employee or to the improvement of the employee's performance, and reimburse applicants for employment for any reasonable expenses they incur by appearing for a personal interview;

(H) Make and publish rules for the proper operation and management of the free public library and facilities under its jurisdiction, including rules pertaining to the provision of library services to individuals, corporations, or institutions that are not inhabitants of the county;

(I) Assess uniform fees for the provision of services to patrons of the library, but no fee shall be assessed for the circulation of printed materials held by the library except for the assessment of fines for materials not returned in accordance with the board's rules;

(J) Establish and maintain a museum in connection with and as an adjunct to the free public library under its jurisdiction;

~~(J)~~(K) By the adoption of a resolution, accept any bequest, gift, or endowment upon the conditions connected with the bequest, gift, or endowment. No such bequest, gift, or endowment shall be accepted by the board if its conditions remove any portion of the free public library under the board's jurisdiction from the control of the board or if the conditions, in any manner, limit the free use of the library or any part of it by the residents of the counties in which the library is located.

~~(K)~~(L) At the end of any fiscal year, by a two-thirds vote of its full membership, set aside any unencumbered surplus remaining in the general fund of the free public library under its jurisdiction for any purpose, including creating or increasing a special building and repair fund, or for operating the library or acquiring equipment and supplies;

~~(L)~~(M) Procure and pay all or part of the cost of group term life, hospitalization, surgical, major medical, disability benefit, dental care, eye care, hearing aids, or prescription drug insurance or coverage, or a combination of any of those types of insurance or coverage, whether issued by an insurance company or a health insuring corporation duly licensed by the state, covering its employees, and, in the case of group term life, hospitalization, surgical, major medical, dental care, eye care, hearing aids, or prescription drug insurance or coverage, also covering the dependents and

spouses of its employees, and, in the case of disability benefits, also covering the spouses of its employees.

~~(M)(N)~~ Pay reasonable dues and expenses for the free public library and library trustees in library associations.

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

~~Section~~ **Sec. 3375.48.** ~~The judges of the court of common pleas of any county in which there is a~~ A law library association which furnishes that receives fines and penalties, and moneys arising from forfeited bail, under sections 3375.50 to 3375.53 of the Revised Code shall furnish to all of the members of the ~~Ohio~~ general assembly, the ~~county~~ officers of the county in which the association is located, and the judges of the ~~several~~ courts in ~~the~~ that county admission to its the associations's law library and the use of its books, materials, and equipment free of charge, upon the appointment by the. The association's board of trustees of such association of may appoint a person to act as librarian thereof, or of a person to act as librarian and not more than two additional persons to act as assistant law librarians thereof, of the law library. The board shall fix be responsible for fixing and paying the compensation of such those persons, which shall be paid from the county treasury subject to section 3375.49 of the Revised Code.

~~Sec. 3375.49. For~~ (A) Subject to divisions (B) and (C) of this section, for the use of the law library referred to in section 3375.48 of the Revised Code, the board of county commissioners shall provide, at the expense of the county, suitable rooms with sufficient and suitable bookcases space in the county courthouse or, if there are no suitable rooms in the courthouse, any other suitable rooms at in any other building located in the county seat with sufficient, and suitable bookcases utilities for that space. The

(B)(1) Subject to division (C) of this section, through calendar year 2006, the board of county commissioners shall be responsible for paying the compensation of the librarian and up to two assistant librarians of the law library appointed by the board of trustees of the law library association under section 3375.48 of the Revised Code and the costs of the space in the county courthouse or other building that the board provides for the use of the law library under division (A) of this section, the utilities for that space, and furniture and fixtures for the law library.

(2) In calendar years 2007 through 2010, the board of county commissioners and the board of trustees shall be responsible for paying the compensation of the librarian and up to two assistant librarians appointed under section 3375.48 of the Revised Code and the costs of the space in the

county courthouse or other building that the board of county commissioners provides for the use of the law library under division (A) of this section, the utilities for that space, and furniture and fixtures for the law library as follows:

(a) In calendar year 2007, the board of county commissioners shall pay eighty per cent, and the board of trustees shall pay twenty per cent.

(b) In calendar year 2008, the board of county commissioners shall pay sixty per cent, and the board of trustees shall pay forty per cent.

(c) In calendar year 2009, the board of county commissioners shall pay forty per cent, and the board of trustees shall pay sixty per cent.

(d) In calendar year 2010, the board of county commissioners shall pay twenty per cent, and the board of trustees shall pay eighty per cent.

(3) Beginning in calendar year 2011 and thereafter, the board of trustees shall be responsible for paying the compensation of the librarian and all assistant librarians appointed under section 3375.48 of the Revised Code as well as the costs of the space in the county courthouse or other building that the board of county commissioners provides for the use of the law library under division (A) of this section, the utilities for that space, and the law library's furniture and fixtures.

(C) If the board of trustees of a law library association referred to in section 3375.48 of the Revised Code rents, leases, lease-purchases, or otherwise acquires space for the use of the law library, or constructs, enlarges, renovates, or otherwise modifies buildings or other structures to provide space for the use of the law library, the board of county commissioners of the county in which the association is located has no further obligation under division (A) of this section to provide space in the county courthouse or any other building located in the county seat for the use of the law library and utilities for that space, and has no further obligation under division (B) of this section to make payments for the compensation of the librarian and up to two assistant librarians of the law library appointed under section 3375.48 of the Revised Code and for the costs of space in the county courthouse or an other building for the use of the law library, the utilities for that space, and the law library's furniture and fixtures.

(D) The librarian or person in charge of the law library shall receive and safely keep in these rooms the law library the law reports and other books furnished by the state for use of the court and bar. The board of county commissioners shall heat and light any such rooms. The

(E) The books, computer communications console that is a means of access to a system of computerized legal research, microform materials and

equipment, videotape materials and equipment, audio or visual materials and equipment, other materials and equipment utilized in conducting legal research, ~~and~~ furniture, and fixtures of the law library association that are owned by, and used exclusively in, the law library are exempt from taxation.

Sec. 3375.54. The money that is paid to the board of trustees of a law library association under sections 3375.50 to 3375.53 of the Revised Code shall be expended in the support and operation of the law library association ~~and;~~ in the purchase, lease, or rental of lawbooks, a computer communications console that is a means of access to a system of computerized legal research, microform materials and equipment, videotape materials and equipment, audio or visual materials and equipment, ~~and other services, materials, and equipment that provide legal information or facilitate~~ utilized in conducting legal research, furniture, and fixtures used in the association's law library; and to pay the compensation of any librarian and assistant librarians of the law library appointed under section 3375.48 of the Revised Code.

Sec. 3375.55. ~~Judges of the county court in the county and officers~~ Officers of the townships and municipal corporations ~~therein~~ in a county in which a law library association that receives fines and penalties, and moneys arising from forfeited bail, under sections 3375.50 to 3375.53 of the Revised Code is located shall have the same free use of the books, materials, and equipment of the association's law library ~~receiving moneys under sections 3375.50 to 3375.53, inclusive, of the Revised Code, as general assembly members and the judges and county officers mentioned in section 3375.48 of the Revised Code.~~

Sec. 3381.02. A regional arts and cultural district may be created ~~under section 3381.03 or 3381.04 of the Revised Code~~ for any of the following purposes: making grants to support the operating or capital expenses of arts or cultural organizations located within its district, or acquiring, constructing, equipping, furnishing, repairing, remodeling, renovating, enlarging, improving, or administering artistic or cultural facilities. A regional arts and cultural district is a political subdivision of the state and a body corporate, comprised of the territory of a county, or two or more counties, municipal corporations, townships, or any combination thereof; ~~provided, that if~~ If more than one county is in a regional arts and cultural district, each county shall be contiguous to a county in ~~its~~ the district; ~~and, provided also in the case of a combination of political subdivisions, that~~ each municipal corporation or township shall either be contiguous to a county, municipal corporation, or township in ~~its~~ the regional arts and cultural district, or each municipal corporation or township shall be located

in a county that is contiguous to a county in ~~its~~ the district.

Sec. 3381.04. ~~(A)~~ In lieu of the procedure set forth in section 3381.03 of the Revised Code, any county with a population of five hundred thousand or more ~~may~~, at any time ~~prior to~~ before the creation of a regional arts and cultural district ~~pursuant to under that~~ section 3381.03 of the Revised Code, may create a regional arts and cultural district by adoption of a resolution ~~or ordinance~~ by the board of county commissioners of ~~such that~~ county. Such The resolution shall state all of the following:

~~(A)~~(1) The purposes for the creation of the district;

~~(B)~~(2) That the territory of the district shall be coextensive with the territory of ~~such the~~ county;

~~(C)~~(3) The official name by which the district shall be known;

~~(D)~~(4) The location of the principal office of the district or the manner in which the location shall be selected.

(B) The district provided for in ~~such the~~ resolution ~~or ordinance~~ shall be created upon the adoption of ~~such the~~ resolution ~~or ordinance~~ by the board of county commissioners of ~~such that~~ county. Upon the adoption of ~~such the~~ resolution ~~or ordinance~~, ~~such the~~ county and the municipal corporations and townships contained ~~therein in the county~~ shall not thereafter be a part of any other regional arts and cultural district.

(C) The board of trustees of any regional arts and cultural district formed in accordance with this section shall be comprised of three members appointed by the same persons who comprise such county's board of county commissioners.

Sec. 3381.05. Within sixty days after a regional arts and cultural district has been created ~~under section 3381.03 of the Revised Code~~, the board of trustees of the district shall be appointed as provided in this section.

Members of a board of trustees of a regional arts and cultural district created by the exclusive action of a county shall be appointed by the board of county commissioners of ~~such the~~ county. A board of trustees of a district created by two or more political subdivisions shall consist of ~~such the~~ number of members, and shall be appointed by ~~such the~~ public officers or bodies, as shall be provided in the resolutions or ordinances creating ~~such the~~ district, or any amendments ~~thereto to them~~. All

All members of a board of trustees of a regional arts and cultural district ~~created under section 3381.03 of the Revised Code~~ shall be persons who have broad knowledge and experience in the arts or cultural heritage and shall have other qualifications as are specified in the ~~resolution~~ resolutions or ~~ordinance~~ ordinances creating the district, or any amendments ~~thereto to them~~; provided, that at least two members of the board of trustees shall be

persons who devote a major portion of their time to practicing, performing, or teaching any of the arts or who are professional administrators in any field of the arts or cultural heritage, and the ~~resolution~~ resolutions or ~~ordinance~~ ordinances creating ~~such regional arts and cultural~~ the district shall so provide. All members of the board of trustees also shall be qualified electors in the district's territory. ~~The~~

The appointing authority shall consider for appointment as members of the board of trustees, but need not appoint, ~~such~~ persons ~~as are~~ nominated by area arts councils, as defined in section 757.03 of the Revised Code, located within the district; provided that all ~~such~~ those persons shall meet the qualifications specified in this section and the ~~resolution~~ resolutions or ~~ordinance~~ ordinances creating the district. The ~~resolution~~ resolutions or ~~ordinance~~ ordinances creating the district may, but need not, provide that the members of an area arts council located within the district shall constitute the board of trustees of the district. ~~The~~

The appointing authority ~~may~~, at any time, may remove a ~~trustee~~ member of the board of trustees for misfeasance, nonfeasance, or malfeasance in office.

The initially appointed members of the board of trustees of any regional arts and cultural district ~~created under section 3381.03 of the Revised Code~~ shall serve staggered terms of one, two, and three years. Thereafter, each ~~trustee member~~ shall serve ~~terms~~ a term of three years, except that any person appointed to fill a vacancy shall be appointed to only the unexpired term. Any ~~appointed trustee member~~ is eligible for reappointment, except as otherwise provided in the ~~resolution~~ resolutions or ~~ordinance~~ ordinances creating ~~such~~ the district, or any amendment ~~thereto~~ to them.

Sec. 3381.06. All the power and authority granted to a regional arts and cultural district ~~created under section 3381.03 or 3381.04 of the Revised Code~~ shall be vested in and exercised by its board of trustees, which shall manage and conduct its affairs. The board ~~shall~~, within the limitations of this chapter, shall provide, by rules, the procedure for its actions, the manner of selection of its president, vice-president, executive director, and other officers and employees, their titles, terms of office, compensation, duties, number, and qualifications, and any other lawful subject necessary or desirable to the operation and administration of the district and the exercise of the powers granted to it.

Sec. 3381.07. Upon the creation of a regional arts and cultural district ~~under section 3381.03 or 3381.04 of the Revised Code~~ and upon the qualifying of its board of trustees and the election of a president and a vice-president, the district shall exercise in its own name all the rights,

powers, and duties vested in and conferred upon it by this chapter. A regional arts and cultural district:

- (A) May sue or be sued in its corporate name;
- (B) May make contracts in the exercise of the rights, powers, and duties conferred upon it;
- (C) May adopt and alter a seal and use ~~such~~ that seal by causing it to be impressed, affixed, reproduced, or otherwise used, but failure to affix the seal shall not affect the validity of any instrument;
- (D) May make, adopt, amend, and repeal bylaws for the administration of its affairs and rules for the administration and operation of any artistic or cultural facilities under its control and for the exercise of all of its rights of ownership ~~therein~~ in those facilities, provided, however, that it may not be directly involved in any programmatic activities;
- (E) May make grants, on such terms and conditions as it may deem advisable, to any arts or cultural organization within its district as provided in section 3381.17 of the Revised Code;
- (F) May fix, alter, and collect rentals and other charges for the use of any artistic or cultural facilities under its control, to be determined exclusively by it for the purpose of providing for the payment of the expenses of the district, the acquisition, construction, equipping, improvement, extension, repair, maintenance, renovation, enlargement, administration, and operation of artistic or cultural facilities under its control, and the payment of principal and interest on its obligations, and ~~to fulfill~~ fulfilling the terms of any agreements made with the purchasers or holders of any such obligations, or with any person or political subdivision;
- (G) Shall have jurisdiction, control, possession, and supervision over the use and disposition of all property, rights, licenses, moneys, contracts, accounts, liens, books, records, or other property rights and interests conveyed, delivered, transferred, or assigned to it;
- (H) May acquire, construct, improve, extend, repair, remodel, renovate, furnish, equip, enlarge, lease, or maintain artistic or cultural facilities within its territory as it considers necessary to accomplish the purposes of this chapter, and make charges for the use of artistic or cultural facilities;
- (I) May levy and collect taxes as provided in section 3381.16 of the Revised Code;
- (J) May issue bonds secured by its general credit as provided in section 3381.08 of the Revised Code;
- (K) May hold, encumber, control, acquire by donation, purchase, construct, own, lease as lessee or lessor, use, and sell real and personal property, or any interest or right ~~therein~~ in real or personal property, within



or without its territory;

(L) May employ or retain and fix the compensation of ~~such~~ employees, ~~agent~~ agents, accountants, attorneys, and consultants or advisors ~~as may be~~ necessary or desirable for the accomplishment of its purposes;

(M) May procure insurance against loss to it by reason of damages to its properties resulting from fire, theft, accident, or other casualties or by reason of its liability for any damages to persons or property;

(N) May maintain ~~such~~ funds as it determines necessary or desirable for the efficient performance of its duties;

(O) May procure a policy or policies insuring members of its board of trustees, and its officers, employees, and agents, against liability on account of damages or injury to persons and property resulting from any act or omission of such person in ~~his~~ the person's official capacity or resulting solely out of ~~his~~ the person's service to ~~such~~ the district;

(P) May receive and expend gifts, grants, bequests, or devices, or grants, including, but not limited to, grants of public funds.

Sec. 3381.15. (A) The board of county commissioners of any county, the legislative authority of any municipal corporation, and the board of township trustees of any township, included within a regional arts and cultural district may appropriate annually, from moneys to the credit of the general fund of the county, the municipal corporation, or the township and not otherwise appropriated, that portion of the expense of the district to be paid by ~~such~~ the county, municipal corporation, or township as provided in the resolution creating or enlarging the district adopted under section 3381.03 of the Revised Code, or by any amendment ~~thereto~~ to the resolution.

(B) In addition to the authority granted to a board of county commissioners under division (A) of this section, a board of county commissioners in a county with a population of one million two hundred thousand or more may establish and provide local funding options for the support of arts and cultural organizations operating within the regional arts and cultural district in which the county is included.

Sec. 3383.02. (A) There is hereby created the Ohio cultural facilities commission. The commission shall engage in and provide for the development, performance, and presentation or making available of culture and professional sports and athletics to the public in this state, and the provision of training or education in culture, by the exercise of its powers under this chapter, including the provision, operation, management, and cooperative use of Ohio cultural facilities and Ohio sports facilities. The commission is a body corporate and politic, an agency of state government

and an instrumentality of the state, performing essential governmental functions of this state. The carrying out of the purposes and the exercise by the commission of its powers conferred by this chapter are essential public functions and public purposes of the state and of state government. The commission may, in its own name, sue and be sued, enter into contracts, and perform all the powers and duties given to it by this chapter; however, it does not have and shall not exercise the power of eminent domain.

(B) The commission shall consist of ~~ten~~ twelve members, ~~seven~~ nine of whom shall be voting members and three of whom shall be nonvoting members. The ~~seven~~ nine voting members shall be appointed by the governor, with the advice and consent of the senate, from different geographical regions of the state. In addition, one of the voting members shall represent the state architect. Not more than ~~four~~ five of the members appointed by the governor shall be affiliated with the same political party. The nonvoting members shall be the staff director of the Ohio arts council, a member of the senate appointed by the president of the senate, and a member of the house of representatives appointed by the speaker of the house.

(C) Of the five initial appointments made by the governor, one shall be for a term expiring December 31, 1989, two shall be for terms expiring December 31, 1990, and two shall be for terms expiring December 31, 1991. Of the initial appointments of the sixth and seventh voting members made by the governor, one shall be for a term expiring December 31, 2003, and one shall be for a term expiring December 31, 2004. Of the initial appointments of the eighth and ninth voting members made by the governor, one shall be for a term expiring December 31, 2007, and one shall be for a term expiring December 31, 2008. These voting members shall be appointed within sixty days after the effective date of this amendment. Thereafter, each such term shall be for three years, commencing on the first day of January and ending on the thirty-first day of December. Each appointment by the president of the senate and by the speaker of the house of representatives shall be for the balance of the then legislative biennium. Each member shall hold office from the date of the member's appointment until the end of the term for which the member was appointed. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of such term. Any member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first.

(D) Members of the commission shall serve without compensation.

(E) Organizational meetings of the commission shall be held at the first meeting of each calendar year. At each organizational meeting, the commission shall elect from among its voting members a chairperson, a vice-chairperson, and a secretary-treasurer, who shall serve until the next annual meeting. The commission shall adopt rules pursuant to section 111.15 of the Revised Code for the conduct of its internal business and shall keep a journal of its proceedings.

(F) ~~Four~~ Five voting members of the commission constitute a quorum, and the affirmative vote of ~~four~~ five members is necessary for approval of any action taken by the commission. A vacancy in the membership of the commission does not impair a quorum from exercising all the rights and performing all the duties of the commission. Meetings of the commission may be held anywhere in the state, and shall be held in compliance with section 121.22 of the Revised Code.

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

(H) The commission shall file an annual report of its activities and finances with the governor, director of budget and management, speaker of the house of representatives, president of the senate, and chairpersons of the house and senate finance committees.

(I) There is hereby established in the state treasury the Ohio cultural facilities commission administration fund. All revenues of the commission shall be credited to that fund and to any accounts created in ~~the~~ that fund with the commission's approval. All expenses of the commission, including reimbursement of, or payment to, any other fund or any governmental agency for advances made or services rendered to or on behalf of the commission, shall be paid from ~~the Ohio cultural facilities commission administration~~ that fund as determined by or pursuant to directions of the commission. All investment earnings of ~~the administration~~ that fund shall be credited to ~~the fund~~ it and shall be allocated among any accounts created in the fund in the manner determined by the commission.

(J) Title to all real property and lesser interests in real property acquired by the commission, including leasehold and other interests, pursuant to this chapter shall be taken in the name of the state and shall be held for the use and benefit of the commission. The commission shall not mortgage such real property and interests in real property. Title to other property and interests in it acquired by the commission pursuant to this chapter shall be taken in its name.

Sec. 3383.09. (A) There is hereby created in the state treasury the cultural and sports facilities building fund, which shall consist of proceeds of obligations authorized to pay costs of Ohio cultural facilities and Ohio sports facilities for which appropriations are made by the general assembly. All investment earnings of the fund shall be credited to the fund.

(B) The director of budget and management may transfer, to the Ohio cultural facilities commission administration fund, investment earnings credited, or the premium paid on any bonds issued on behalf of the commission and credited, to the cultural and sports facilities building fund that exceed the amounts required to meet estimated federal arbitrage rebate requirements when requested of the director of budget and management by the chairperson or executive director of the commission.

Sec. 3501.141. (A) The board of elections of any county may contract, purchase, or otherwise procure and pay all or any part of the cost of group insurance policies that may provide benefits for hospitalization, surgical care, major medical care, disability, dental care, eye care, medical care, hearing aids, or prescription drugs, and that may provide sickness and accident insurance, or group life insurance, or a combination of any of the foregoing types of insurance or coverage for the full-time employees of such board and their immediate dependents, whether issued by an insurance company or a health insuring corporation, duly authorized to do business in this state. The authority granted under this division applies only when the board of county commissioners, by resolution, denies coverage described in this division to full-time employees of the board of elections.

(B) The board of elections of any county, with the approval of the board of county commissioners, may procure and pay all or any part of the cost of group hospitalization, surgical, major medical, or sickness and accident insurance or a combination of any of the foregoing types of insurance or coverage for the members appointed to the board of elections under section 3501.06 of the Revised Code and their immediate dependents when each member's term begins, whether issued by an insurance company or a health insuring corporation, duly authorized to do business in this state.

Sec. 3501.17. (A) The expenses of the board of elections shall be paid from the county treasury, in pursuance of appropriations by the board of county commissioners, in the same manner as other county expenses are paid. If the board of county commissioners fails to appropriate an amount sufficient to provide for the necessary and proper expenses of the board of elections pertaining to the conduct of elections, other than expenses for employee compensation and benefits incurred in the conduct of elections, ~~such~~ the board of elections may apply to the court of common pleas within

the county, which shall fix the amount necessary to be appropriated and ~~such the~~ amount shall be appropriated. Payments shall be made upon vouchers of the board of elections certified to by its chairperson or acting chairperson and the director or deputy director, upon warrants of the county auditor. ~~The~~

The board of elections shall not incur any obligation involving the expenditure of money unless there are moneys sufficient in the funds appropriated therefor to meet ~~such obligations~~ the obligation as required in division (D) of section 5705.41 of the Revised Code. ~~Such~~ If the board of elections requests a transfer of funds from one of its appropriation items to another, the board of county commissioners shall adopt a resolution providing for the transfer except as otherwise provided in section 5705.40 of the Revised Code. The expenses of the board of elections shall be apportioned among the county and the various subdivisions as provided in this section, and the amount chargeable to each subdivision shall be withheld by the auditor from the moneys payable thereto at the time of the next tax settlement. At the time of submitting budget estimates in each year, the board of elections shall submit to the taxing authority of each subdivision, upon the request of the subdivision, an estimate of the amount to be withheld ~~therefrom~~ from the subdivision during the next fiscal year.

(B) Except as otherwise provided in division (F) of this section, the entire compensation of the members of the board of elections and of the director, deputy director, and other employees in the board's offices; the expenditures for the rental, furnishing, and equipping of the office of the board and for the necessary office supplies for the use of the board; the expenditures for the acquisition, repair, care, and custody of the polling places, booths, guardrails, and other equipment for polling places; the cost of pollbooks, tally sheets, maps, flags, ballot boxes, and all other permanent records and equipment; the cost of all elections held in and for the state and county; and all other expenses of the board which are not chargeable to a political subdivision in accordance with this section shall be paid in the same manner as other county expenses are paid.

(C) The compensation of judges and clerks of elections; the cost of renting, moving, heating, and lighting polling places and of placing and removing ballot boxes and other fixtures and equipment thereof; the cost of printing and delivering ballots, cards of instructions, and other election supplies; and all other expenses of conducting primaries and elections in the odd-numbered years shall be charged to the subdivisions in and for which such primaries or elections are held. The charge for each primary or general election in odd-numbered years for each subdivision shall be determined in

the following manner: first, the total cost of all chargeable items used in conducting such elections shall be ascertained; second, the total charge shall be divided by the number of precincts participating in such election, in order to fix the cost per precinct; third, the cost per precinct shall be prorated by the board of elections to the subdivisions conducting elections for the nomination or election of offices in such precinct; fourth, the total cost for each subdivision shall be determined by adding the charges prorated to it in each precinct within the subdivision.

(D) The entire cost of special elections held on a day other than the day of a primary or general election, both in odd-numbered or in even-numbered years, shall be charged to the subdivision. Where a special election is held on the same day as a primary or general election in an even-numbered year, the subdivision submitting the special election shall be charged only for the cost of ballots and advertising. Where a special election is held on the same day as a primary or general election in an odd-numbered year, the subdivision submitting the special election shall be charged for the cost of ballots and advertising for such special election, in addition to the charges prorated to such subdivision for the election or nomination of candidates in each precinct within the subdivision, as set forth in the preceding paragraph.

(E) Where a special election is held on the day specified by division (E) of section 3501.01 of the Revised Code for the holding of a primary election, for the purpose of submitting to the voters of the state constitutional amendments proposed by the general assembly, and a subdivision conducts a special election on the same day, the entire cost of the special election shall be divided proportionally between the state and the subdivision based upon a ratio determined by the number of issues placed on the ballot by each, except as otherwise provided in division (G) of this section. Such proportional division of cost shall be made only to the extent funds are available for such purpose from amounts appropriated by the general assembly to the secretary of state. If a primary election is also being conducted in the subdivision, the costs shall be apportioned as otherwise provided in this section.

(F) When a precinct is open during a general, primary, or special election solely for the purpose of submitting to the voters a statewide ballot issue, the state shall bear the entire cost of the election in that precinct and shall reimburse the county for all expenses incurred in opening the precinct.

(G) The state shall bear the entire cost of advertising in newspapers statewide ballot issues, explanations of those issues, and arguments for or against those issues, as required by Section 1g of Article II and Section 1 of Article XVI, Ohio Constitution, and any other section of law and shall

reimburse the counties for all expenses they incur for such advertising.

(H) The cost of renting, heating, and lighting registration places; the cost of the necessary books, forms, and supplies for the conduct of registration; and the cost of printing and posting precinct registration lists shall be charged to the subdivision in which such registration is held.

(I) As used in this section, "statewide ballot issue" means any ballot issue, whether proposed by the general assembly or by initiative or referendum, that is submitted to the voters throughout the state.

Sec. 3513.04. Candidates for party nominations to state, district, county, and municipal offices or positions, for which party nominations are provided by law, and for election as members of party controlling committees shall have their names printed on the official primary ballot by filing a declaration of candidacy and paying the fees specified for the office under divisions (A) and (B) of section 3513.10 of the Revised Code, except that the joint candidates for party nomination to the offices of governor and lieutenant governor shall, for the two of them, file one declaration of candidacy. The joint candidates also shall pay the fees specified for the joint candidates under divisions (A) and (B) of section 3513.10 of the Revised Code.

The secretary of state shall not accept for filing the declaration of candidacy of a candidate for party nomination to the office of governor unless the declaration of candidacy also shows a joint candidate for the same party's nomination to the office of lieutenant governor, shall not accept for filing the declaration of candidacy of a candidate for party nomination to the office of lieutenant governor unless the declaration of candidacy also shows a joint candidate for the same party's nomination to the office of governor, and shall not accept for filing a declaration of candidacy that shows a candidate for party nomination to the office of governor or lieutenant governor who, for the same election, has already filed a declaration of candidacy or a declaration of intent to be a write-in candidate, or has become a candidate by the filling of a vacancy under section 3513.30 of the Revised Code for any other state office or any federal or county office.

No person who seeks party nomination for an office or position at a primary election by declaration of candidacy or by declaration of intent to be a write-in candidate and no person who is a first choice for president of candidates seeking election as delegates and alternates to the national conventions of the different major political parties who are chosen by direct vote of the electors as provided in this chapter shall be permitted to become a candidate by nominating petition or by declaration of intent to be a write-in candidate at the following general election for any office other than the office of member of the state board of education, office of member of a

city, local, or exempted village board of education, office of member of a governing board of an educational service center, or office of township trustee.

Sec. 3513.041. A write-in space shall be provided on the ballot for every office, except in an election for which the board of elections has received no valid declarations of intent to be a write-in candidate under this section. Write-in votes shall not be counted for any candidate who has not filed a declaration of intent to be a write-in candidate pursuant to this section. A qualified person who has filed a declaration of intent may receive write-in votes at either a primary or general election. Any candidate, ~~except one whose candidacy is to be submitted to electors throughout the entire state,~~ shall file a declaration of intent to be a write-in candidate before four p.m. of the fiftieth day preceding the election at which such candidacy is to be considered. If the election is to be determined by electors of a county or a district or subdivision within the county, such declaration shall be filed with the board of elections of that county. If the election is to be determined by electors of a subdivision located in more than one county, such declaration shall be filed with the board of elections of the county in which the major portion of the population of such subdivision is located. If the election is to be determined by electors of a district comprised of more than one county but less than all of the counties of the state, such declaration shall be filed with the board of elections of the most populous county in such district. Any candidate for an office to be voted upon by electors throughout the entire state shall file a declaration of intent to be a write-in candidate with the secretary of state before four p.m. of the fiftieth day preceding the election at which such candidacy is to be considered. In addition, candidates for president and vice-president of the United States shall also file with the secretary of state by said fiftieth day a slate of presidential electors sufficient in number to satisfy the requirements of the United States constitution.

A board of elections shall not accept for filing the declaration of intent to be a write-in candidate of a person seeking to become a candidate if that person, for the same election, has already filed a declaration of candidacy, a declaration of intent to be a write-in candidate, or a nominating petition, or has become a candidate through party nomination at a primary election or by the filling of a vacancy under section 3513.30 or 3513.31 of the Revised Code, for any federal, state, or county office, if the declaration of intent to be a write-in candidate is for a state or county office, or for any municipal or township office, for member of a city, local, or exempted village board of education, or for member of a governing board of an educational service center, if the declaration of intent to be a write-in candidate is for a



municipal or township office, or for member of a city, local, or exempted village board of education, or for member of a governing board of an educational service center.

No person shall file a declaration of intent to be a write-in candidate for the office of governor unless the declaration also shows the intent of another person to be a write-in candidate for the office of lieutenant governor. No person shall file a declaration of intent to be a write-in candidate for the office of lieutenant governor unless the declaration also shows the intent of another person to be a write-in candidate for the office of governor. No person shall file a declaration of intent to be a write-in candidate for the office of governor or lieutenant governor if the person has previously filed a declaration of intent to be a write-in candidate to the office of governor or lieutenant governor at the same primary or general election. A write-in vote for the two candidates who file such a declaration shall be counted as a vote for them as joint candidates for the offices of governor and lieutenant governor.

The secretary of state shall not accept for filing the declaration of intent to be a write-in candidate of a person for the office of governor unless the declaration also shows the intent of another person to be a write-in candidate for the office of lieutenant governor, shall not accept for filing the declaration of intent to be a write-in candidate of a person for the office of lieutenant governor unless the declaration also shows the intent of another person to be a write-in candidate for the office of governor, and shall not accept for filing the declaration of intent to be a write-in candidate of a person to the office of governor or lieutenant governor if that person, for the same election, has already filed a declaration of candidacy, a declaration of intent to be a write-in candidate, or a nominating petition, or has become a candidate through party nomination at a primary election or by the filling of a vacancy under section 3513.30 or 3513.31 of the Revised Code, for any other state office or any federal or county office.

Protests against the candidacy of any person filing a declaration of intent to be a write-in candidate may be filed by any qualified elector who is eligible to vote in the election at which the candidacy is to be considered. The protest shall be in writing and shall be filed not later than four p.m. of the forty-fifth day before the day of the election. The protest shall be filed with the board of elections with which the declaration of intent to be a write-in candidate was filed. Upon the filing of the protest, the board with which it is filed shall promptly fix the time for hearing it and shall proceed in regard to the hearing in the same manner as for hearings set for protests filed under section 3513.05 of the Revised Code. At the time fixed, the

board shall hear the protest and determine the validity or invalidity of the declaration of intent to be a write-in candidate. If the board finds that the candidate is not an elector of the state, district, county, or political subdivision in which the candidate seeks election to office or has not fully complied with the requirements of Title XXXV of the Revised Code in regard to the candidate's candidacy, the candidate's declaration of intent to be a write-in candidate shall be determined to be invalid and shall be rejected; otherwise, it shall be determined to be valid. The determination of the board is final.

The secretary of state shall prescribe the form of the declaration of intent to be a write-in candidate.

Sec. 3513.05. Each person desiring to become a candidate for a party nomination or for election to an office or position to be voted for at a primary election, except persons desiring to become joint candidates for the offices of governor and lieutenant governor and except as otherwise provided in section 3513.051 of the Revised Code, shall, not later than four p.m. of the seventy-fifth day before the day of the primary election, or if the primary election is a presidential primary election, not later than four p.m. of the sixtieth day before the day of the presidential primary election, file a declaration of candidacy and petition and pay the fees required under divisions (A) and (B) of section 3513.10 of the Revised Code. The declaration of candidacy and all separate petition papers shall be filed at the same time as one instrument. When the offices are to be voted for at a primary election, persons desiring to become joint candidates for the offices of governor and lieutenant governor shall, not later than four p.m. of the seventy-fifth day before the day of the primary election, comply with section 3513.04 of the Revised Code. The prospective joint candidates' declaration of candidacy and all separate petition papers of candidacies shall be filed at the same time as one instrument. The secretary of state or a board of elections shall not accept for filing a declaration of candidacy and petition of a person seeking to become a candidate if that person, for the same election, has already filed a declaration of candidacy or a declaration of intent to be a write-in candidate, or has become a candidate by the filling of a vacancy under section 3513.30 of the Revised Code for any federal, state, or county office, if the declaration of candidacy is for a state or county office, or for any municipal or township office, if the declaration of candidacy is for a municipal or township office.

If the declaration of candidacy declares a candidacy which is to be submitted to electors throughout the entire state, the petition, including a petition for joint candidates for the offices of governor and lieutenant

governor, shall be signed by at least one thousand qualified electors who are members of the same political party as the candidate or joint candidates, and the declaration of candidacy and petition shall be filed with the secretary of state; provided that the secretary of state shall not accept or file any such petition appearing on its face to contain signatures of more than three thousand electors.

Except as otherwise provided in this paragraph, if the declaration of candidacy is of one that is to be submitted only to electors within a district, political subdivision, or portion thereof, the petition shall be signed by not less than fifty qualified electors who are members of the same political party as the political party of which the candidate is a member. If the declaration of candidacy is for party nomination as a candidate for member of the legislative authority of a municipal corporation elected by ward, the petition shall be signed by not less than twenty-five qualified electors who are members of the political party of which the candidate is a member.

No such petition, except the petition for a candidacy that is to be submitted to electors throughout the entire state, shall be accepted for filing if it appears to contain on its face signatures of more than three times the minimum number of signatures. When a petition of a candidate has been accepted for filing by a board of elections, the petition shall not be deemed invalid if, upon verification of signatures contained in the petition, the board of elections finds the number of signatures accepted exceeds three times the minimum number of signatures required. A board of elections may discontinue verifying signatures on petitions when the number of verified signatures equals the minimum required number of qualified signatures.

If the declaration of candidacy declares a candidacy for party nomination or for election as a candidate of an intermediate or minor party, the minimum number of signatures on such petition is one-half the minimum number provided in this section, except that, when the candidacy is one for election as a member of the state central committee or the county central committee of a political party, the minimum number shall be the same for an intermediate or minor party as for a major party.

If a declaration of candidacy is one for election as a member of the state central committee or the county central committee of a political party, the petition shall be signed by five qualified electors of the district, county, ward, township, or precinct within which electors may vote for such candidate. The electors signing such petition shall be members of the same political party as the political party of which the candidate is a member.

For purposes of signing or circulating a petition of candidacy for party nomination or election, an elector is considered to be a member of a political

party if the elector voted in that party's primary election within the preceding two calendar years, or if the elector did not vote in any other party's primary election within the preceding two calendar years.

If the declaration of candidacy is of one that is to be submitted only to electors within a county, or within a district or subdivision or part thereof smaller than a county, the petition shall be filed with the board of elections of the county. If the declaration of candidacy is of one that is to be submitted only to electors of a district or subdivision or part thereof that is situated in more than one county, the petition shall be filed with the board of elections of the county within which the major portion of the population thereof, as ascertained by the next preceding federal census, is located.

A petition shall consist of separate petition papers, each of which shall contain signatures of electors of only one county. Petitions or separate petition papers containing signatures of electors of more than one county shall not thereby be declared invalid. In case petitions or separate petition papers containing signatures of electors of more than one county are filed, the board shall determine the county from which the majority of signatures came, and only signatures from such county shall be counted. Signatures from any other county shall be invalid.

Each separate petition paper shall be circulated by one person only, who shall be the candidate or a joint candidate or a member of the same political party as the candidate or joint candidates, and each separate petition paper shall be governed by the rules set forth in section 3501.38 of the Revised Code.

The secretary of state shall promptly transmit to each board such separate petition papers of each petition accompanying a declaration of candidacy filed with the secretary of state as purport to contain signatures of electors of the county of such board. The board of the most populous county of a district shall promptly transmit to each board within such district such separate petition papers of each petition accompanying a declaration of candidacy filed with it as purport to contain signatures of electors of the county of each such board. The board of a county within which the major portion of the population of a subdivision, situated in more than one county, is located, shall promptly transmit to the board of each other county within which a portion of such subdivision is located such separate petition papers of each petition accompanying a declaration of candidacy filed with it as purport to contain signatures of electors of the portion of such subdivision in the county of each such board.

All petition papers so transmitted to a board and all petitions accompanying declarations of candidacy filed with ~~such a~~ a board shall, under

proper regulations, be open to public inspection until four p.m. of the seventieth day before the day of the next primary election, or if that next primary election is a presidential primary election, the fifty-fifth day before that presidential primary election. Each board shall, not later than the sixty-eighth day before the day of ~~such~~ that primary election, or if the primary election is a presidential primary election, not later than the fifty-third day before such presidential primary election, examine and determine the validity or invalidity of the signatures on the petition papers so transmitted to or filed with it and shall return to the secretary of state all petition papers transmitted to it by the secretary of state, together with its certification of its determination as to the validity or invalidity of signatures thereon, and shall return to each other board all petition papers transmitted to it by such board, together with its certification of its determination as to the validity or invalidity of the signatures thereon. All other matters affecting the validity or invalidity of such petition papers shall be determined by the secretary of state or the board with whom such petition papers were filed.

Protests against the candidacy of any person filing a declaration of candidacy for party nomination or for election to an office or position, as provided in this section, may be filed by any qualified elector who is a member of the same political party as the candidate and who is eligible to vote at the primary election for the candidate whose declaration of candidacy the elector objects to, or by the controlling committee of ~~such~~ that political party. ~~Such~~ The protest ~~must~~ shall be in writing, and ~~must~~ shall be filed not later than four p.m. of the sixty-fourth day before the day of the primary election, or if the primary election is a presidential primary election, not later than four p.m. of the forty-ninth day before the day of the presidential primary election. ~~Such~~ The protest shall be filed with the election officials with whom the declaration of candidacy and petition was filed. Upon the filing of ~~such~~ the protest, the election officials with whom it is filed shall promptly fix the time for hearing it, and shall forthwith mail notice of the filing of ~~such~~ the protest and the time fixed for hearing to the person whose candidacy is so protested. They shall also forthwith mail notice of the time fixed for such hearing to the person who filed the protest. At the time fixed, such election officials shall hear the protest and determine the validity or invalidity of the declaration of candidacy and petition. If they find that such candidate is not an elector of the state, district, county, or political subdivision in which the candidate seeks a party nomination or election to an office or position, or has not fully complied with this chapter, the candidate's declaration of candidacy and petition shall be determined to

be invalid and shall be rejected; otherwise, it shall be determined to be valid. ~~Such~~ That determination shall be final.

A protest against the candidacy of any persons filing a declaration of candidacy for joint party nomination to the offices of governor and lieutenant governor shall be filed, heard, and determined in the same manner as a protest against the candidacy of any person filing a declaration of candidacy singly.

The secretary of state shall, on the sixtieth day before the day of a primary election, or if the primary election is a presidential primary election, on the forty-fifth day before the day of the presidential primary election, certify to each board in the state the forms of the official ballots to be used at ~~such~~ the primary election, together with the names of the candidates to be printed ~~thereon~~ on the ballots whose nomination or election is to be determined by electors throughout the entire state and who filed valid declarations of candidacy and petitions.

The board of the most populous county in a district comprised of more than one county but less than all of the counties of the state shall, on the sixtieth day before the day of a primary election, or if the primary election is a presidential primary election, on the forty-fifth day before the day of a presidential primary election, certify to the board of each county in the district the names of the candidates to be printed on the official ballots to be used at ~~such~~ the primary election, whose nomination or election is to be determined only by electors within ~~such~~ the district and who filed valid declarations of candidacy and petitions.

The board of a county within which the major portion of the population of a subdivision smaller than the county and situated in more than one county is located shall, on the sixtieth day before the day of a primary election, or if the primary election is a presidential primary election, on the forty-fifth day before the day of a presidential primary election, certify to the board of each county in which a portion of ~~such~~ that subdivision is located the names of the candidates to be printed on the official ballots to be used at ~~such~~ the primary election, whose nomination or election is to be determined only by electors within ~~such~~ that subdivision and who filed valid declarations of candidacy and petitions.

Sec. 3513.052. (A) No person shall seek nomination or election to any of the following offices or positions at the same election by filing a declaration of candidacy and petition, a declaration of intent to be a write-in candidate, or a nominating petition, or by becoming a candidate through party nomination in a primary election, or by the filling of a vacancy under section 3513.30 or 3513.31 of the Revised Code:

- (1) Two or more state offices;
- (2) Two or more county offices;
- (3) A state office and a county office;
- (4) A federal office and a state or county office;

(5) Any combination of two or more municipal or township offices, positions as a member of a city, local, or exempted village board of education, or positions as a member of a governing board of an educational service center.

(B) The secretary of state or a board of elections shall not accept for filing a declaration of candidacy and petition, a declaration of intent to be a write-in candidate, or a nominating petition of a person seeking to become a candidate if that person, for the same election, has already filed a declaration of candidacy, a declaration of intent to be a write-in candidate, or a nominating petition, or has become a candidate through party nomination at a primary election or by the filling of a vacancy under section 3513.30 or 3513.31 of the Revised Code for:

(1) Any federal, state, or county office, if the declaration of candidacy, declaration of intent to be a write-in candidate, or nominating petition is for a state or county office;

(2) Any municipal or township office, or for member of a city, local, or exempted village board of education, or for member of a governing board of an educational service center, if the declaration of candidacy, declaration of intent to be a write-in candidate, or nominating petition is for a municipal or township office, or for member of a city, local, or exempted village board of education, or for member of a governing board of an educational service center.

(C)(1) If the secretary of state determines, before the day of the primary election, that a person is seeking nomination to more than one office at that election in violation of division (A) of this section, the secretary of state shall do one of the following:

(a) If each office or the district for each office for which the person is seeking nomination is wholly within a single county and none of those offices is a federal office, the secretary of state shall notify the board of elections of that county. The board then shall determine the date on which the person first sought to become a candidate for each of those offices by filing a declaration of candidacy or a declaration of intent to be a write-in candidate or by the filling of a vacancy under section 3513.30 of the Revised Code. The board shall vote promptly to disqualify that person as a candidate for each office for which the person sought to become a candidate after the date on which the person first sought to become a candidate for any

of those offices. If the board determines that the person sought to become a candidate for more than one of those offices on the same date, the board shall vote promptly to disqualify that person as a candidate for each office that would be listed on the ballot below the highest office for which that person seeks nomination, according to the ballot order prescribed under section 3505.03 of the Revised Code.

(b) If one or more of the offices for which the person is seeking nomination is a state office or an office with a district larger than a single county and none of the offices for which the person is seeking nomination is a federal office, the secretary of state shall determine the date on which the person first sought to become a candidate for each of those offices by filing a declaration of candidacy or a declaration of intent to be a write-in candidate or by the filling of a vacancy under section 3513.30 of the Revised Code. The secretary of state shall order the board of elections of each county in which the person is seeking to appear on the ballot to disqualify that person as a candidate for each office for which the person sought to become a candidate after the date on which the person first sought to become a candidate for any of those offices. If the secretary of state determines that the person sought to become a candidate for more than one of those offices on the same date, the secretary of state shall order the board of elections of each county in which the person is seeking to appear on the ballot to disqualify that person as a candidate for each office that would be listed on the ballot below the highest office for which that person seeks nomination, according to the ballot order prescribed under section 3505.03 of the Revised Code. Each board of elections so notified shall vote promptly to disqualify the person as a candidate in accordance with the order of the secretary of state.

(c) If each office or the district for each office for which the person is seeking nomination is wholly within a single county and any of those offices is a federal office, the secretary of state shall notify the board of elections of that county. The board then shall vote promptly to disqualify that person as a candidate for each office that is not a federal office.

(d) If one or more of the offices for which the person is seeking nomination is a state office and any of the offices for which the person is seeking nomination is a federal office, the secretary of state shall order the board of elections of each county in which the person is seeking to appear on the ballot to disqualify that person as a candidate for each office that is not a federal office. Each board of elections so notified shall vote promptly to disqualify the person as a candidate in accordance with the order of the secretary of state.



(2) If a board of elections determines, before the day of the primary election, that a person is seeking nomination to more than one office at that election in violation of division (A) of this section, the board shall do one of the following:

(a) If each office or the district for each office for which the person is seeking nomination is wholly within that county and none of those offices is a federal office, the board shall determine the date on which the person first sought to become a candidate for each of those offices by filing a declaration of candidacy or a declaration of intent to be a write-in candidate or by the filling of a vacancy under section 3513.30 of the Revised Code. The board shall vote promptly to disqualify that person as a candidate for each office for which the person sought to become a candidate after the date on which the person first sought to become a candidate for any of those offices. If the board determines that the person sought to become a candidate for more than one of those offices on the same date, the board shall vote promptly to disqualify that person as a candidate for each office that would be listed on the ballot below the highest office for which that person seeks nomination, according to the ballot order prescribed under section 3505.03 of the Revised Code.

(b) If one or more of the offices for which the person is seeking nomination is a state office or an office with a district larger than a single county and none of the offices for which the person is seeking nomination is a federal office, the board shall notify the secretary of state. The secretary of state then shall determine the date on which the person first sought to become a candidate for each of those offices by filing a declaration of candidacy or a declaration of intent to be a write-in candidate or by the filling of a vacancy under section 3513.30 of the Revised Code. The secretary of state shall order the board of elections of each county in which the person is seeking to appear on the ballot to disqualify that person as a candidate for each office for which the person sought to become a candidate after the date on which the person first sought to become a candidate for any of those offices. If the secretary of state determines that the person sought to become a candidate for more than one of those offices on the same date, the secretary of state shall order the board of elections of each county in which the person is seeking to appear on the ballot to disqualify that person as a candidate for each office that would be listed on the ballot below the highest office for which that person seeks nomination, according to the ballot order prescribed under section 3505.03 of the Revised Code. Each board of elections so notified shall vote promptly to disqualify the person as a candidate in accordance with the order of the secretary of state.

(c) If each office or the district for each office for which the person is seeking nomination is wholly within a single county and any of those offices is a federal office, the board shall vote promptly to disqualify that person as a candidate for each office that is not a federal office.

(d) If one or more of the offices for which the person is seeking nomination is a state office and any of the offices for which the person is seeking nomination is a federal office, the board shall notify the secretary of state. The secretary of state then shall order the board of elections of each county in which the person is seeking to appear on the ballot to disqualify that person as a candidate for each office that is not a federal office. Each board of elections so notified shall vote promptly to disqualify the person as a candidate in accordance with the order of the secretary of state.

(D)(1) If the secretary of state determines, after the day of the primary election and before the day of the general election, that a person is seeking election to more than one office at that election in violation of division (A) of this section, the secretary of state shall do one of the following:

(a) If each office or the district for each office for which the person is seeking election is wholly within a single county and none of those offices is a federal office, the secretary of state shall notify the board of elections of that county. The board then shall determine the offices for which the person seeks to appear as a candidate on the ballot. The board shall vote promptly to disqualify that person as a candidate for each office that would be listed on the ballot below the highest office for which that person seeks election, according to the ballot order prescribed under section 3505.03 of the Revised Code. If the person sought nomination at a primary election and has not yet been issued a certificate of nomination, the board shall not issue that certificate for that person for any office that would be listed on the ballot below the highest office for which that person seeks election, according to the ballot order prescribed under section 3505.03 of the Revised Code.

(b) If one or more of the offices for which the person is seeking election is a state office or an office with a district larger than a single county and none of the offices for which the person is seeking election is a federal office, the secretary of state shall promptly investigate and determine the offices for which the person seeks to appear as a candidate on the ballot. The secretary of state shall order the board of elections of each county in which the person is seeking to appear on the ballot to disqualify that person as a candidate for each office that would be listed on the ballot below the highest office for which that person seeks election, according to the ballot order prescribed under section 3505.03 of the Revised Code. Each board of elections so notified shall vote promptly to disqualify the person as a

candidate in accordance with the order of the secretary of state. If the person sought nomination at a primary election and has not yet been issued a certificate of nomination, the board shall not issue that certificate for that person for any office that would be listed on the ballot below the highest office for which that person seeks election, according to the ballot order prescribed under section 3505.03 of the Revised Code.

(c) If each office or the district for each office for which the person is seeking election is wholly within a single county and any of those offices is a federal office, the secretary of state shall notify the board of elections of that county. The board then shall vote promptly to disqualify that person as a candidate for each office that is not a federal office. If the person sought nomination at a primary election and has not yet been issued a certificate of nomination, the board shall not issue that certificate for that person for any office that is not a federal office.

(d) If one or more of the offices for which the person is seeking election is a state office and any of the offices for which the person is seeking election is a federal office, the secretary of state shall order the board of elections of each county in which the person is seeking to appear on the ballot to disqualify that person as a candidate for each office that is not a federal office. Each board of elections so notified shall vote promptly to disqualify the person as a candidate in accordance with the order of the secretary of state. If the person sought nomination at a primary election and has not yet been issued a certificate of nomination, the board shall not issue that certificate for that person for any office that is not a federal office.

(2) If a board of elections determines, after the day of the primary election and before the day of the general election, that a person is seeking election to more than one office at that election in violation of division (A) of this section, the board of elections shall do one of the following:

(a) If each office or the district for each office for which the person is seeking election is wholly within that county and none of those offices is a federal office, the board shall determine the offices for which the person seeks to appear as a candidate on the ballot. The board shall vote promptly to disqualify that person as a candidate for each office that would be listed on the ballot below the highest office for which that person seeks election, according to the ballot order prescribed under section 3505.03 of the Revised Code. If the person sought nomination at a primary election and has not yet been issued a certificate of nomination, the board shall not issue that certificate for that person for any office that would be listed on the ballot below the highest office for which that person seeks election, according to the ballot order prescribed under section 3505.03 of the Revised Code.

(b) If one or more of the offices for which the person is seeking election is a state office or an office with a district larger than a single county and none of the offices for which the person is seeking election is a federal office, the board shall notify the secretary of state. The secretary of state promptly shall investigate and determine the offices for which the person seeks to appear as a candidate on the ballot. The secretary of state shall order the board of elections of each county in which the person is seeking to appear on the ballot to disqualify that person as a candidate for each office that would be listed on the ballot below the highest office for which that person seeks election, according to the ballot order prescribed under section 3505.03 of the Revised Code. Each board of elections so notified shall vote promptly to disqualify the person as a candidate in accordance with the order of the secretary of state. If the person sought nomination at a primary election and has not yet been issued a certificate of nomination, the board shall not issue that certificate for that person for any office that would be listed on the ballot below the highest office for which that person seeks election, according to the ballot order prescribed under section 3505.03 of the Revised Code.

(c) If each office or the district for each office for which the person is seeking election is wholly within that county and any of those offices is a federal office, the board shall vote promptly to disqualify that person as a candidate for each office that is not a federal office. If the person sought nomination at a primary election and has not yet been issued a certificate of nomination, the board shall not issue that certificate for that person for any office that is not a federal office.

(d) If one or more of the offices for which the person is seeking election is a state office and any of the offices for which the person is seeking election is a federal office, the board shall notify the secretary of state. The secretary of state shall order the board of elections of each county in which the person is seeking to appear on the ballot to disqualify that person as a candidate for each office that is not a federal office. Each board of elections so notified shall vote promptly to disqualify the person as a candidate in accordance with the order of the secretary of state. If the person sought nomination at a primary election and has not yet been issued a certificate of nomination, the board shall not issue that certificate for that person for any office that is not a federal office.

(E) When a person is disqualified as a candidate under division (C) or (D) of this section, that person's name shall not appear on the ballots for any office for which that person has been disqualified as a candidate. If the ballots have already been prepared, the board of elections shall remove the

name of the disqualified candidate from the ballots to the extent practicable in the time remaining before the election and according to the directions of the secretary of state. If the name is not removed from the ballots before the day of the election, the votes for the disqualified candidate are void and shall not be counted.

(F) Any vacancy created by the disqualification of a person as a candidate under division (C) or (D) of this section may be filled in the manner provided for in sections 3513.30 and 3513.31 of the Revised Code.

(G) Nothing in this section or section 3513.04, 3513.041, 3513.05, 3513.251, 3513.253, 3513.254, 3513.255, 3513.257, 3513.259, or 3513.261 of the Revised Code prohibits, and the secretary of state or a board of elections shall not disqualify, a person from being a candidate for an office, if that person timely withdraws as a candidate for any offices specified in division (A) of this section for which that person first sought to become a candidate by filing a declaration of candidacy and petition, a declaration of intent to be a write-in candidate, or a nominating petition, by party nomination in a primary election, or by the filling of a vacancy under section 3513.30 or 3513.31 of the Revised Code.

(H) As used in this section:

(1) "State office" means the offices of governor, lieutenant governor, secretary of state, auditor of state, treasurer of state, attorney general, member of the state board of education, member of the general assembly, chief justice of the supreme court, and justice of the supreme court.

(2) "Timely withdraws" means either of the following:

(a) Withdrawing as a candidate before the applicable deadline for filing a declaration of candidacy, declaration of intent to be a write-in candidate, or nominating petition for the subsequent office for which the person is seeking to become a candidate at the same election;

(b) Withdrawing as a candidate before the applicable deadline for the filling of a vacancy under section 3513.30 or 3513.31 of the Revised Code, if the person is seeking to become a candidate for a subsequent office at the same election under either of those sections.

Sec. 3513.257. Each person desiring to become an independent candidate for an office for which candidates may be nominated at a primary election, except persons desiring to become independent joint candidates for the offices of governor and lieutenant governor and for the offices of president and vice-president of the United States, shall file no later than four p.m. of the day before the day of the primary election immediately preceding the general election at which such candidacy is to be voted for by the voters, a statement of candidacy and nominating petition as provided in

section 3513.261 of the Revised Code. Persons desiring to become independent joint candidates for the offices of governor and lieutenant governor shall file, not later than four p.m. of the day before the day of the primary election, one statement of candidacy and one nominating petition for the two of them. Persons desiring to become independent joint candidates for the offices of president and vice-president of the United States shall file, not later than four p.m. of the seventy-fifth day before the day of the general election at which the president and vice-president are to be elected, one statement of candidacy and one nominating petition for the two of them. The prospective independent joint candidates' statement of candidacy shall be filed with the nominating petition as one instrument.

The statement of candidacy and separate petition papers of each candidate or pair of joint candidates shall be filed at the same time as one instrument.

The nominating petition shall contain signatures of qualified electors of the district, political subdivision, or portion of a political subdivision in which the candidacy is to be voted on in an amount to be determined as follows:

(A) If the candidacy is to be voted on by electors throughout the entire state, the nominating petition, including the nominating petition of independent joint candidates for the offices of governor and lieutenant governor, shall be signed by no less than five thousand qualified electors, provided that no petition shall be accepted for filing if it purports to contain more than fifteen thousand signatures.

(B) If the candidacy is to be voted on by electors in any district, political subdivision, or part thereof in which less than five thousand electors voted for the office of governor at the most recent election for that office, the nominating petition shall contain signatures of not less than twenty-five qualified electors of the district, political subdivision, or part thereof, or a number of qualified signatures equal to at least five per cent of that vote, if this number is less than twenty-five.

(C) If the candidacy is to be voted on by electors in any district, political subdivision, or part thereof in which five thousand or more electors voted for the office of governor at the most recent election for that office, the nominating petition shall contain a number of signatures equal to at least one per cent of those electors.

All nominating petitions of candidates for offices to be voted on by electors throughout the entire state shall be filed in the office of the secretary of state. No nominating petition for the offices of president and vice-president of the United States shall be accepted for filing unless there is

submitted to the secretary of state, at the time of filing the petition, a slate of presidential electors sufficient in number to satisfy the requirement of the United States Constitution. The secretary of state shall not accept for filing the statement of candidacy of a person who desires to be an independent candidate for the office of governor unless it also shows the joint candidacy of a person who desires to be an independent candidate for the office of lieutenant governor, shall not accept for filing the statement of candidacy of a person who desires to be an independent candidate for the office of lieutenant governor unless it also shows the joint candidacy of a person who desires to be an independent candidate for the office of governor, and shall not accept for filing the statement of candidacy of a person who desires to be an independent candidate to the office of governor or lieutenant governor who, for the same election, has already filed a declaration of candidacy, a declaration of intent to be a write-in candidate, or a statement of candidacy, or has become a candidate by the filling of a vacancy under section 3513.30 of the Revised Code for any other state office or any federal or county office.

Nominating petitions of candidates for offices to be voted on by electors within a district or political subdivision comprised of more than one county but less than all counties of the state shall be filed with the boards of elections of that county or part of a county within the district or political subdivision which had a population greater than that of any other county or part of a county within the district or political subdivision according to the last federal decennial census.

Nominating petitions for offices to be voted on by electors within a county or district smaller than a county shall be filed with the board of elections for such county.

No petition other than the petition of a candidate whose candidacy is to be considered by electors throughout the entire state shall be accepted for filing if it appears on its face to contain more than three times the minimum required number of signatures. A board of elections shall not accept for filing a nominating petition of a person seeking to become a candidate if that person, for the same election, has already filed a declaration of candidacy, a declaration of intent to be a write-in candidate, or a nominating petition, or has become a candidate by the filling of a vacancy under section 3513.30 of the Revised Code for any federal, state, or county office, if the nominating petition is for a state or county office, or for any municipal or township office, for member of a city, local, or exempted village board of education, or for member of a governing board of an educational service center, if the nominating petition is for a municipal or township office, or for member of

a city, local, or exempted village board of education, or for member of a governing board of an educational service center. When a petition of a candidate has been accepted for filing by a board of elections, the petition shall not be deemed invalid if, upon verification of signatures contained in the petition, the board of elections finds the number of signatures accepted exceeds three times the minimum number of signatures required. A board of elections may discontinue verifying signatures when the number of verified signatures on a petition equals the minimum required number of qualified signatures.

Any nonjudicial candidate who files a nominating petition may request, at the time of filing, that the candidate be designated on the ballot as a nonparty candidate or as an other-party candidate, or may request that the candidate's name be placed on the ballot without any designation. Any such candidate who fails to request a designation either as a nonparty candidate or as an other-party candidate shall have the candidate's name placed on the ballot without any designation.

The purpose of establishing a filing deadline for independent candidates prior to the primary election immediately preceding the general election at which the candidacy is to be voted on by the voters is to recognize that the state has a substantial and compelling interest in protecting its electoral process by encouraging political stability, ensuring that the winner of the election will represent a majority of the community, providing the electorate with an understandable ballot, and enhancing voter education, thus fostering informed and educated expressions of the popular will in a general election. The filing deadline for independent candidates required in this section prevents splintered parties and unrestrained factionalism, avoids political fragmentation, and maintains the integrity of the ballot. The deadline, one day prior to the primary election, is the least drastic or restrictive means of protecting these state interests. The general assembly finds that the filing deadline for independent candidates in primary elections required in this section is reasonably related to the state's purpose of ensuring fair and honest elections while leaving unimpaired the political, voting, and associational rights secured by the first and fourteenth amendments to the United States Constitution.

Sec. 3513.259. Nominations of candidates for the office of member of the state board of education shall be made only by nominating petition. The nominating petition of a candidate for the office of member of the state board of education shall be signed by not less than one hundred qualified electors.

No such nominating petition shall be accepted for filing if it appears on



its face to contain signatures aggregating in number more than three times the minimum number of signatures required by this section. A board of elections shall not accept for filing a nominating petition of a person if that person, for the same election, has already filed a declaration of candidacy, a declaration of intent to be a write-in candidate, or a nominating petition, or has become a candidate through party nomination at a primary election or by the filling of a vacancy under section 3513.30 or 3513.31 of the Revised Code, to be a candidate for any other state office or any federal or county office. When a petition of a candidate has been accepted for filing by a board of elections, the petition shall not be deemed invalid if, upon verification of signatures contained in the petition, the board of elections finds the number of signatures accepted exceeds three times the minimum number of signatures required. A board of elections may discontinue verifying signatures when the number of verified signatures equals the minimum required number of signatures. Such petition shall be filed with the board of elections of the most populous county in such district not later than four p.m. of the seventy-fifth day before the day of the general election at which state board of education members are elected.

Each nominating petition shall be signed by qualified electors residing in the district in which the candidate designated therein would be a candidate for election to the office of member of the state board of education. Each candidate shall be a qualified elector residing in the district in which the candidate seeks election to such office.

As the word "district" is used in this section, it refers to a district created under section 3301.01 of the Revised Code.

Sec. 3513.261. A nominating petition may consist of one or more separate petition papers, each of which shall be substantially in the form prescribed in this section. If the petition consists of more than one separate petition paper, the statement of candidacy of the candidate or joint candidates named need be signed by the candidate or joint candidates on only one of such separate petition papers, but the statement of candidacy so signed shall be copied on each other separate petition paper before the signatures of electors are placed on it. Each nominating petition containing signatures of electors of more than one county shall consist of separate petition papers each of which shall contain signatures of electors of only one county; provided that petitions containing signatures of electors of more than one county shall not thereby be declared invalid. In case petitions containing signatures of electors of more than one county are filed, the board of elections shall determine the county from which the majority of the signatures came, and only signatures from this county shall be counted.

Signatures from any other county shall be invalid.

All signatures on nominating petitions shall be written in ink or indelible pencil.

At the time of filing a nominating petition, the candidate designated in the nominating petition, and joint candidates for governor and lieutenant governor, shall pay to the election officials with whom it is filed the fees specified for the office under divisions (A) and (B) of section 3513.10 of the Revised Code. The fees shall be disposed of by those election officials in the manner that is provided in section 3513.10 of the Revised Code for the disposition of other fees, and in no case shall a fee required under that section be returned to a candidate.

Candidates or joint candidates whose names are written on the ballot, and who are elected, shall pay the same fees under section 3513.10 of the Revised Code that candidates who file nominating petitions pay. Payment of these fees shall be a condition precedent to the granting of their certificates of election.

Each nominating petition shall contain a statement of candidacy that shall be signed by the candidate or joint candidates named in it. Such statement of candidacy shall contain a declaration made under penalty of election falsification that the candidate desires to be a candidate for the office named in it, and that the candidate is an elector qualified to vote for the office the candidate seeks.

The form of the nominating petition and statement of candidacy shall be substantially as follows:

**"STATEMENT OF CANDIDACY**

I, ..... (Name of candidate), the undersigned, hereby declare under penalty of election falsification that my voting residence is in ..... Precinct of the ..... (Township) or (Ward and City, or Village) in the county of ..... Ohio; that my post-office address is ..... (Street and Number, if any, or Rural Route and Number) of the ..... (City, Village, or post office) of ....., Ohio; and that I am a qualified elector in the precinct in which my voting residence is located. I hereby declare that I desire to be a candidate for election to the office of ..... in the ..... (State, District, County, City, Village, Township, or School District) for the ..... (Full term or unexpired term ending .....) at the General Election to be held on the ..... day of ....., ....

I further declare that I am an elector qualified to vote for the office I seek. Dated this ..... day of ....., ....

.....

(Signature of candidate)

WHOEVER COMMITS ELECTION FALSIFICATION IS GUILTY OF A FELONY OF THE FIFTH DEGREE.

I, ....., hereby constitute the persons named below a committee to represent me:

Name

Residence

.....  
.....  
.....  
.....  
.....

NOMINATING PETITION

We, the undersigned, qualified electors of the state of Ohio, whose voting residence is in the County, City, Village, Ward, Township or Precinct set opposite our names, hereby nominate ..... as a candidate for election to the office of ..... in the ..... (State, District, County, City, Village, Township, or School District) for the ..... (Full term or unexpired term ending ..... ) to be voted for at the general election next hereafter to be held, and certify that this person is, in our opinion, well qualified to perform the duties of the office or position to which the person desires to be elected.

---

Street	
Address	
or R.F.D.	
(Must use	
address on	City,
file with	Village
the board of	or
Signature elections)	Township Ward Precinct County
	Date of Signing

---

.....  
.....  
.....

....., declares under penalty of election falsification that such person is a qualified elector of the state of Ohio and resides at the address appearing below such person's signature hereto; that such person is the circulator of the foregoing petition paper containing ..... signatures; that such person witnessed the affixing of every signature; that all signers

were to the best of such person's knowledge and belief qualified to sign; and that every signature is to the best of such person's knowledge and belief the signature of the person whose signature it purports to be.

.....  
(Signature of circulator)

.....  
(Address)

.....  
(If petition is for a statewide  
candidate, the name and address  
of person employing circulator  
to circulate petition, if any)

**WHOEVER COMMITS ELECTION FALSIFICATION IS GUILTY OF A FELONY OF THE FIFTH DEGREE."**

The secretary of state shall prescribe a form of nominating petition for a group of candidates for the office of member of a board of education, township office, and offices of municipal corporations of under two thousand population.

The secretary of state shall prescribe a form of statement of candidacy and nominating petition, which shall be substantially similar to the form of statement of candidacy and nominating petition set forth in this section, that will be suitable for joint candidates for the offices of governor and lieutenant governor.

If such petition nominates a candidate whose election is to be determined by the electors of a county or a district or subdivision within the county, it shall be filed with the board of such county. If the petition nominates a candidate whose election is to be determined by the voters of a subdivision located in more than one county, it shall be filed with the board of the county in which the major portion of the population of such subdivision is located.

If the petition nominates a candidate whose election is to be determined by the electors of a district comprised of more than one county but less than all of the counties of the state, it shall be filed with the board of elections of the most populous county in such district. If the petition nominates a candidate whose election is to be determined by the electors of the state at large, it shall be filed with the secretary of state.

The secretary of state or a board of elections shall not accept for filing a nominating petition of a person seeking to become a candidate if that person, for the same election, has already filed a declaration of candidacy, a declaration of intent to be a write-in candidate, or a nominating petition, or

has become a candidate through party nomination at a primary election or by the filling of a vacancy under section 3513.30 or 3513.31 of the Revised Code for any federal, state, or county office, if the nominating petition is for a state or county office, or for any municipal or township office, for member of a city, local, or exempted village board of education, or for member of a governing board of an educational service center, if the nominating petition is for a municipal or township office, or for member of a city, local, or exempted village board of education, or for member of a governing board of an educational service center.

Sec. 3517.13. (A)(1) No campaign committee of a statewide candidate shall fail to file a complete and accurate statement required under division (A)(1) of section 3517.10 of the Revised Code.

(2) No campaign committee of a statewide candidate shall fail to file a complete and accurate monthly statement, and no campaign committee of a statewide candidate or a candidate for the office of chief justice or justice of the supreme court shall fail to file a complete and accurate two-business-day statement, as required under section 3517.10 of the Revised Code.

As used in this division, "statewide candidate" has the same meaning as in division (F)(2) of section 3517.10 of the Revised Code.

(B) No campaign committee shall fail to file a complete and accurate statement required under division (A)(1) of section 3517.10 of the Revised Code.

(C) No campaign committee shall fail to file a complete and accurate statement required under division (A)(2) of section 3517.10 of the Revised Code.

(D) No campaign committee shall fail to file a complete and accurate statement required under division (A)(3) or (4) of section 3517.10 of the Revised Code.

(E) No person other than a campaign committee shall knowingly fail to file a statement required under section 3517.10 or 3517.107 of the Revised Code.

(F) No person shall make cash contributions to any person totaling more than one hundred dollars in each primary, special, or general election.

(G)(1) No person shall knowingly conceal or misrepresent contributions given or received, expenditures made, or any other information required to be reported by a provision in sections 3517.08 to 3517.13 and 3517.17 of the Revised Code.

(2)(a) No person shall make a contribution to a campaign committee, political action committee, political contributing entity, legislative campaign fund, political party, or person making disbursements to pay the direct costs

of producing or airing electioneering communications in the name of another person.

(b) A person does not make a contribution in the name of another when either of the following applies:

(i) An individual makes a contribution from a partnership or other unincorporated business account, if the contribution is reported by listing both the name of the partnership or other unincorporated business and the name of the partner or owner making the contribution as required under division (I) of section 3517.10 of the Revised Code.

(ii) A person makes a contribution in that person's spouse's name or in both of their names.

(H) No person within this state, publishing a newspaper or other periodical, shall charge a campaign committee for political advertising a rate in excess of the rate such person would charge if the campaign committee were a general rate advertiser whose advertising was directed to promoting its business within the same area as that encompassed by the particular office that the candidate of the campaign committee is seeking. The rate shall take into account the amount of space used, as well as the type of advertising copy submitted by or on behalf of the campaign committee. All discount privileges otherwise offered by a newspaper or periodical to general rate advertisers shall be available upon equal terms to all campaign committees.

No person within this state, operating a radio or television station or network of stations in this state, shall charge a campaign committee for political broadcasts a rate that exceeds:

(1) During the forty-five days preceding the date of a primary election and during the sixty days preceding the date of a general or special election in which the candidate of the campaign committee is seeking office, the lowest unit charge of the station for the same class and amount of time for the same period;

(2) At any other time, the charges made for comparable use of that station by its other users.

(I) Subject to divisions (K), (L), (M), and (N) of this section, no agency or department of this state or any political subdivision shall award any contract, other than one let by competitive bidding or a contract incidental to such contract or which is by force account, for the purchase of goods costing more than five hundred dollars or services costing more than five hundred dollars to any individual, partnership, association, including, without limitation, a professional association organized under Chapter 1785. of the Revised Code, estate, or trust if the individual has made or the individual's

spouse has made, or any partner, shareholder, administrator, executor, or trustee or the spouse of any of them has made, as an individual, within the two previous calendar years, one or more contributions totaling in excess of one thousand dollars to the holder of the public office having ultimate responsibility for the award of the contract or to the public officer's campaign committee.

(J) Subject to divisions (K), (L), (M), and (N) of this section, no agency or department of this state or any political subdivision shall award any contract, other than one let by competitive bidding or a contract incidental to such contract or which is by force account, for the purchase of goods costing more than five hundred dollars or services costing more than five hundred dollars to a corporation or business trust, except a professional association organized under Chapter 1785. of the Revised Code, if an owner of more than twenty per cent of the corporation or business trust or the spouse of that person has made, as an individual, within the two previous calendar years, taking into consideration only owners for all of that period, one or more contributions totaling in excess of one thousand dollars to the holder of a public office having ultimate responsibility for the award of the contract or to the public officer's campaign committee.

(K) For purposes of divisions (I) and (J) of this section, if a public officer who is responsible for the award of a contract is appointed by the governor, whether or not the appointment is subject to the advice and consent of the senate, excluding members of boards, commissions, committees, authorities, councils, boards of trustees, task forces, and other such entities appointed by the governor, the office of the governor is considered to have ultimate responsibility for the award of the contract.

(L) For purposes of divisions (I) and (J) of this section, if a public officer who is responsible for the award of a contract is appointed by the elected chief executive officer of a municipal corporation, or appointed by the elected chief executive officer of a county operating under an alternative form of county government or county charter, excluding members of boards, commissions, committees, authorities, councils, boards of trustees, task forces, and other such entities appointed by the chief executive officer, the office of the chief executive officer is considered to have ultimate responsibility for the award of the contract.

(M)(1) Divisions (I) and (J) of this section do not apply to contracts awarded by the board of commissioners of the sinking fund, municipal legislative authorities, boards of education, boards of county commissioners, boards of township trustees, or other boards, commissions, committees, authorities, councils, boards of trustees, task forces, and other such entities

created by law, by the supreme court or courts of appeals, by county courts consisting of more than one judge, courts of common pleas consisting of more than one judge, or municipal courts consisting of more than one judge, or by a division of any court if the division consists of more than one judge. This division shall apply to the specified entity only if the members of the entity act collectively in the award of a contract for goods or services.

(2) Divisions (I) and (J) of this section do not apply to actions of the controlling board.

(N)(1) Divisions (I) and (J) of this section apply to contributions made to the holder of a public office having ultimate responsibility for the award of a contract, or to the public officer's campaign committee, during the time the person holds the office and during any time such person was a candidate for the office. Those divisions do not apply to contributions made to, or to the campaign committee of, a candidate for or holder of the office other than the holder of the office at the time of the award of the contract.

(2) Divisions (I) and (J) of this section do not apply to contributions of a partner, shareholder, administrator, executor, trustee, or owner of more than twenty per cent of a corporation or business trust made before the person held any of those positions or after the person ceased to hold any of those positions in the partnership, association, estate, trust, corporation, or business trust whose eligibility to be awarded a contract is being determined, nor to contributions of the person's spouse made before the person held any of those positions, after the person ceased to hold any of those positions, before the two were married, after the granting of a decree of divorce, dissolution of marriage, or annulment, or after the granting of an order in an action brought solely for legal separation. Those divisions do not apply to contributions of the spouse of an individual whose eligibility to be awarded a contract is being determined made before the two were married, after the granting of a decree of divorce, dissolution of marriage, or annulment, or after the granting of an order in an action brought solely for legal separation.

(O) No beneficiary of a campaign fund or other person shall convert for personal use, and no person shall knowingly give to a beneficiary of a campaign fund or any other person, for the beneficiary's or any other person's personal use, anything of value from the beneficiary's campaign fund, including, without limitation, payments to a beneficiary for services the beneficiary personally performs, except as reimbursement for any of the following:

(1) Legitimate and verifiable prior campaign expenses incurred by the beneficiary;



(2) Legitimate and verifiable ordinary and necessary prior expenses incurred by the beneficiary in connection with duties as the holder of a public office, including, without limitation, expenses incurred through participation in nonpartisan or bipartisan events if the participation of the holder of a public office would normally be expected;

(3) Legitimate and verifiable ordinary and necessary prior expenses incurred by the beneficiary while doing any of the following:

(a) Engaging in activities in support of or opposition to a candidate other than the beneficiary, political party, or ballot issue;

(b) Raising funds for a political party, political action committee, political contributing entity, legislative campaign fund, campaign committee, or other candidate;

(c) Participating in the activities of a political party, political action committee, political contributing entity, legislative campaign fund, or campaign committee;

(d) Attending a political party convention or other political meeting.

For purposes of this division, an expense is incurred whenever a beneficiary has either made payment or is obligated to make payment, as by the use of a credit card or other credit procedure or by the use of goods or services received on account.

(P) No beneficiary of a campaign fund shall knowingly accept, and no person shall knowingly give to the beneficiary of a campaign fund, reimbursement for an expense under division (O) of this section to the extent that the expense previously was reimbursed or paid from another source of funds. If an expense is reimbursed under division (O) of this section and is later paid or reimbursed, wholly or in part, from another source of funds, the beneficiary shall repay the reimbursement received under division (O) of this section to the extent of the payment made or reimbursement received from the other source.

(Q) No candidate or public official or employee shall accept for personal or business use anything of value from a political party, political action committee, political contributing entity, legislative campaign fund, or campaign committee other than the candidate's or public official's or employee's own campaign committee, and no person shall knowingly give to a candidate or public official or employee anything of value from a political party, political action committee, political contributing entity, legislative campaign fund, or such a campaign committee, except for the following:

(1) Reimbursement for legitimate and verifiable ordinary and necessary prior expenses not otherwise prohibited by law incurred by the candidate or

public official or employee while engaged in any legitimate activity of the political party, political action committee, political contributing entity, legislative campaign fund, or such campaign committee. Without limitation, reimbursable expenses under this division include those incurred while doing any of the following:

(a) Engaging in activities in support of or opposition to another candidate, political party, or ballot issue;

(b) Raising funds for a political party, legislative campaign fund, campaign committee, or another candidate;

(c) Attending a political party convention or other political meeting.

(2) Compensation not otherwise prohibited by law for actual and valuable personal services rendered under a written contract to the political party, political action committee, political contributing entity, legislative campaign fund, or such campaign committee for any legitimate activity of the political party, political action committee, political contributing entity, legislative campaign fund, or such campaign committee.

Reimbursable expenses under this division do not include, and it is a violation of this division for a candidate or public official or employee to accept, or for any person to knowingly give to a candidate or public official or employee from a political party, political action committee, political contributing entity, legislative campaign fund, or campaign committee other than the candidate's or public official's or employee's own campaign committee, anything of value for activities primarily related to the candidate's or public official's or employee's own campaign for election, except for contributions to the candidate's or public official's or employee's campaign committee.

For purposes of this division, an expense is incurred whenever a candidate or public official or employee has either made payment or is obligated to make payment, as by the use of a credit card or other credit procedure, or by the use of goods or services on account.

(R)(1) Division (O) or (P) of this section does not prohibit a campaign committee from making direct advance or post payment from contributions to vendors for goods and services for which reimbursement is permitted under division (O) of this section, except that no campaign committee shall pay its candidate or other beneficiary for services personally performed by the candidate or other beneficiary.

(2) If any expense that may be reimbursed under division (O), (P), or (Q) of this section is part of other expenses that may not be paid or reimbursed, the separation of the two types of expenses for the purpose of allocating for payment or reimbursement those expenses that may be paid or

reimbursed may be by any reasonable accounting method, considering all of the surrounding circumstances.

(3) For purposes of divisions (O), (P), and (Q) of this section, mileage allowance at a rate not greater than that allowed by the internal revenue service at the time the travel occurs may be paid instead of reimbursement for actual travel expenses allowable.

(S)(1) As used in division (S) of this section:

(a) "State elective office" has the same meaning as in section 3517.092 of the Revised Code.

(b) "Federal office" means a federal office as defined in the Federal Election Campaign Act.

(c) "Federal campaign committee" means a principal campaign committee or authorized committee as defined in the Federal Election Campaign Act.

(2) No person who is a candidate for state elective office and who previously sought nomination or election to a federal office shall transfer any funds or assets from that person's federal campaign committee for nomination or election to the federal office to that person's campaign committee as a candidate for state elective office.

(3) No campaign committee of a person who is a candidate for state elective office and who previously sought nomination or election to a federal office shall accept any funds or assets from that person's federal campaign committee for that person's nomination or election to the federal office.

(T)(1) Except as otherwise provided in division (B)(6)(c) of section 3517.102 of the Revised Code, a state or county political party shall not disburse moneys from any account other than a state candidate fund to make contributions to any of the following:

(a) A state candidate fund;

(b) A legislative campaign fund;

(c) A campaign committee of a candidate for the office of governor, lieutenant governor, secretary of state, auditor of state, treasurer of state, attorney general, member of the state board of education, or member of the general assembly.

(2) No state candidate fund, legislative campaign fund, or campaign committee of a candidate for any office described in division (T)(1)(c) of this section shall knowingly accept a contribution in violation of division (T)(1) of this section.

(U) No person shall fail to file the statement required under section 3517.12 of the Revised Code.

(V) No campaign committee shall fail to file a statement required under division (K)(3) of section 3517.10 of the Revised Code.

(W)(1) No foreign national shall, directly or indirectly through any other person or entity, make a contribution, expenditure, or independent expenditure or promise, either expressly or implicitly, to make a contribution, expenditure, or independent expenditure in support of or opposition to a candidate for any elective office in this state, including an office of a political party.

(2) No candidate, campaign committee, political action committee, political contributing entity, legislative campaign fund, state candidate fund, political party, or separate segregated fund shall solicit or accept a contribution, expenditure, or independent expenditure from a foreign national. The secretary of state may direct any candidate, committee, entity, fund, or party that accepts a contribution, expenditure, or independent expenditure in violation of this division to return the contribution, expenditure, or independent expenditure or, if it is not possible to return the contribution, expenditure, or independent expenditure, then to return instead the value of it, to the contributor.

(3) As used in division (W) of this section, "foreign national" has the same meaning as in section 441e(b) of the Federal Election Campaign Act.

(X)(1) No state or county political party shall transfer any moneys from its restricted fund to any account of the political party into which contributions may be made or from which contributions or expenditures may be made.

(2)(a) No state or county political party shall deposit a contribution or contributions that it receives into its restricted fund.

(b) No state or county political party shall make a contribution or an expenditure from its restricted fund.

(3)(a) No corporation or labor organization shall make a gift or gifts from the corporation's or labor organization's money or property aggregating more than ten thousand dollars to any one state or county political party for the party's restricted fund in a calendar year.

(b) No state or county political party shall accept a gift or gifts for the party's restricted fund aggregating more than ten thousand dollars from any one corporation or labor organization in a calendar year.

(4) No state or county political party shall transfer any moneys in the party's restricted fund to any other state or county political party.

(5) No state or county political party shall knowingly fail to file a statement required under section 3517.1012 of the Revised Code.

(Y) The administrator of workers' compensation and the employees of

the bureau of workers' compensation shall not conduct any business with or award any contract, other than one awarded by competitive bidding, for the purchase of goods costing more than five hundred dollars or services costing more than five hundred dollars to any individual, partnership, association, including, without limitation, a professional association organized under Chapter 1785. of the Revised Code, estate, or trust, if the individual has made, or the individual's spouse has made, or any partner, shareholder, administrator, executor, or trustee, or the spouses of any of those individuals has made, as an individual, within the two previous calendar years, one or more contributions totaling in excess of one thousand dollars to the campaign committee of the governor or lieutenant governor or to the campaign committee of any candidate for the office of governor or lieutenant governor.

(Z) The administrator of workers' compensation and the employees of the bureau of workers' compensation shall not conduct business with or award any contract, other than one awarded by competitive bidding, for the purchase of goods costing more than five hundred dollars or services costing more than five hundred dollars to a corporation or business trust, except a professional association organized under Chapter 1785. of the Revised Code, if an owner of more than twenty per cent of the corporation or business trust, or the spouse of the owner, has made, as an individual, within the two previous calendar years, taking into consideration only owners for all of such period, one or more contributions totaling in excess of one thousand dollars to the campaign committee of the governor or lieutenant governor or to the campaign committee of any candidate for the office of governor or lieutenant governor.

Sec. 3517.151. (A) On and after January 1, 1996, complaints with respect to acts or failures to act under the sections listed in division (A) of section 3517.153 of the Revised Code shall be filed with the Ohio elections commission created under section 3517.152 of the Revised Code.

(B)(1) If a complaint filed with the Ohio elections commission created under section 3517.152 of the Revised Code alleges an act or failure to act that occurred before August 24, 1995, and the commission imposes a fine, sections 3517.99 and 3517.991 of the Revised Code, and not sections 3517.992 and 3517.993 of the Revised Code, shall apply.

(2) If a complaint filed with the Ohio elections commission created under section 3517.152 of the Revised Code alleges an act or failure to act that is a violation of section 3517.13 of the Revised Code, former divisions (A) to (R) of that section apply to the act or failure to act if it occurred before August 24, 1995, former divisions (A) to (U) of that section apply to

the act or failure to act if it occurs on or after August 24, 1995, but before July 13, 1998, former divisions (A) to (V) of that section apply to the act or failure to act if it occurs on or after July 13, 1998, but before December 22, 1999, former divisions (A) to (W) of that section apply to the act or failure to act if it occurs on or after December 22, 1999, but before ~~the effective date of this amendment~~ March 31, 2005, and ~~former~~ former divisions (A) to (X) of that section apply to the act or failure to act if it occurs on or after ~~the effective date of this amendment~~ March 31, 2005, and divisions (A) to (Z) of that section apply to the act or failure to act if it occurs on or after the effective date of this amendment.

(C) The Ohio elections commission created under section 3517.14 of the Revised Code is abolished at the close of business on December 31, 1995.

Sec. 3701.023. (A) The department of health shall review applications for eligibility for the program for medically handicapped children that are submitted to the department by city and general health districts and physician providers approved in accordance with division (C) of this section. The department shall determine whether the applicants meet the medical and financial eligibility requirements established by the public health council pursuant to division (A)(1) of section 3701.021 of the Revised Code, and by the department in the manual of operational procedures and guidelines for the program for medically handicapped children developed pursuant to division (B) of that section. Referrals of potentially eligible children for the program may be submitted to the department on behalf of the child by parents, guardians, public health nurses, or any other interested person. The department of health may designate other agencies to refer applicants to the department of health.

(B) In accordance with the procedures established in rules adopted under division (A)(4) of section 3701.021 of the Revised Code, the department of health shall authorize a provider or providers to provide to any Ohio resident under twenty-one years of age, without charge to the resident or the resident's family and without restriction as to the economic status of the resident or the resident's family, diagnostic services necessary to determine whether the resident ~~suffers from~~ has a medically handicapping or potentially medically handicapping condition.

(C) The department of health shall review the applications of health professionals, hospitals, medical equipment suppliers, and other individuals, groups, or agencies that apply to become providers. The department shall enter into a written agreement with each applicant who is determined, pursuant to the requirements set forth in rules adopted under division (A)(2) of section 3701.021 of the Revised Code, to be eligible to be a provider in

accordance with the provider agreement required by the medical assistance program established under section 5111.01 of the Revised Code. No provider shall charge a medically handicapped child or the child's parent or guardian for services authorized by the department under division (B) or (D) of this section.

The department, in accordance with rules adopted under division (A)(3) of section 3701.021 of the Revised Code, may disqualify any provider from further participation in the program for violating any requirement set forth in rules adopted under division (A)(2) of that section. The disqualification shall not take effect until a written notice, specifying the requirement violated and describing the nature of the violation, has been delivered to the provider and the department has afforded the provider an opportunity to appeal the disqualification under division (H) of this section.

(D) The department of health shall evaluate applications from city and general health districts and approved physician providers for authorization to provide treatment services, service coordination, and related goods to children determined to be eligible for the program for medically handicapped children pursuant to division (A) of this section. The department shall authorize necessary treatment services, service coordination, and related goods for each eligible child in accordance with an individual plan of treatment for the child. As an alternative, the department may authorize payment of health insurance premiums on behalf of eligible children when the department determines, in accordance with criteria set forth in rules adopted under division (A)(9) of section 3701.021 of the Revised Code, that payment of the premiums is cost-effective.

(E) The department of health shall pay, from appropriations to the department, any necessary expenses, including but not limited to, expenses for diagnosis, treatment, service coordination, supportive services, transportation, and accessories and their upkeep, provided to medically handicapped children, provided that the provision of the goods or services is authorized by the department under division (B) or (D) of this section. Money appropriated to the department of health may also be expended for reasonable administrative costs incurred by the program. The department of health also may purchase liability insurance covering the provision of services under the program for medically handicapped children by physicians and other health care professionals.

Payments made to providers by the department of health pursuant to this division for inpatient hospital care, outpatient care, and all other medical assistance furnished by hospitals to eligible recipients ~~shall be in accordance with methods established by rules of the public health council. Until such~~

~~rules are adopted, the department of health shall make payments to hospitals in accordance with reasonable cost principles for reimbursement under the medicare program established under Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C.A. 1395, as amended. Payments to providers for goods or services other than inpatient or outpatient hospital care shall be made in accordance with rules adopted by the public health council pursuant to division (A) of section 3701.021 of the Revised Code.~~

The departments of health and job and family services shall jointly implement procedures to ensure that duplicate payments are not made under the program for medically handicapped children and the medical assistance program established under section 5111.01 of the Revised Code and to identify and recover duplicate payments.

(F)(4) At the time of applying for participation in the program for medically handicapped children, a medically handicapped child or the child's parent or guardian shall disclose the identity of any third party against whom the child or the child's parent or guardian has or may have a right of recovery for goods and services provided under division (B) or (D) of this section. ~~Except as provided in division (F)(2) of this section, the~~ The department of health shall require a medically handicapped child who receives services from the program or the child's parent or guardian to apply for all third-party benefits for which the child may be eligible and require the child, parent, or guardian to apply all third-party benefits received to the amount determined under division (E) of this section as the amount payable for goods and services authorized under division (B) or (D) of this section. The department is the payer of last resort and shall pay for authorized goods or services, up to the amount determined under division (E) of this section for the authorized goods or services, only to the extent that payment for the authorized goods or services is not made through third-party benefits. When a third party fails to act on an application or claim for benefits by a medically handicapped child or the child's parent or guardian, the department shall pay for the goods or services only after ninety days have elapsed since the date the child, parents, or guardians made an application or claim for all third-party benefits, ~~except as provided in division (F)(2) of this section.~~ Third-party benefits received shall be applied to the amount determined under division (E) of this section. Third-party payments for goods and services not authorized under division (B) or (D) of this section shall not be applied to payment amounts determined under division (E) of this section. Payment made by the department shall be considered payment in full of the amount determined under division (E) of this section. Medicaid payments for persons eligible for the medical assistance program established



under section 5111.01 of the Revised Code shall be considered payment in full of the amount determined under division (E) of this section.

~~(2) A medically handicapped child or the parent or guardian of such a child is not required to apply for assistance under the medical assistance program established under section 5111.01 of the Revised Code as a condition for eligibility under the program for medically handicapped children if applying for or receiving assistance under the medical assistance program violates a religious belief of the child, parent, or guardian and a tenet of the child's, parent's, or guardian's religion.~~

(G) The department of health shall administer a program to provide services to Ohio residents who are twenty-one or more years of age who ~~are suffering from~~ have cystic fibrosis and who meet the eligibility requirements established by the rules of the public health council pursuant to division (A)(7) of section 3701.021 of the Revised Code, subject to all provisions of this section, but not subject to section 3701.024 of the Revised Code.

(H) The department of health shall provide for appeals, in accordance with rules adopted under section 3701.021 of the Revised Code, of denials of applications for the program for medically handicapped children under division (A) or (D) of this section, disqualification of providers, or amounts paid under division (E) of this section. Appeals under this division are not subject to Chapter 119. of the Revised Code.

The department may designate ombudspersons to assist medically handicapped children or their parents or guardians, upon the request of the children, parents, or guardians, in filing appeals under this division and to serve as children's, parents', or guardians' advocates in matters pertaining to the administration of the program for medically handicapped children and eligibility for program services. The ombudspersons shall receive no compensation but shall be reimbursed by the department, in accordance with rules of the office of budget and management, for their actual and necessary travel expenses incurred in the performance of their duties.

(I) The department of health, and city and general health districts providing service coordination pursuant to division (A)(2) of section 3701.024 of the Revised Code, shall provide service coordination in accordance with the standards set forth in the rules adopted under section 3701.021 of the Revised Code, without charge, and without restriction as to economic status.

Sec. 3701.073. (A) The department of health is hereby designated as the state agency responsible for administering the medicare rural hospital flexibility program, as established in 42 U.S.C. 1395i-4, as amended.

(B) The director of health shall designate as a critical access hospital a

hospital registered as an acute care hospital with the department under section 3701.07 of the Revised Code if the hospital meets the following requirements:

(1) Has not more than twenty-five acute care and swing beds in use at any time for the furnishing of extended care or acute care inpatient services;

(2) Has a length of stay not more than ninety-six hours per patient, on an annual average basis;

(3) Provides inpatient, outpatient, emergency, laboratory, radiology, and twenty-four hour emergency care services;

(4) Has network agreements in place for patient referral and transfer, a communication system for telemetry systems, electronic sharing of patient data, provision for emergency and non-emergency transportation, and assures credentialing and quality assurance;

(5) Was certified as a critical access hospital by the centers for medicare and medicaid services between January 1, 2001, and December 31, 2005, or is located in a rural area as identified below:

(a) An area within an Ohio metropolitan area designated as a rural area by the United States department of health and human services, office of rural health policy, in accordance with 42 C.F.R. 412.103 regarding rural urban commuting area codes four through ten in effect on the effective date of this section;

(b) A non-metropolitan county as designated in United States office of management and budget bulletin no. 93-17, June 30, 1993, and its attachments;

(c) A rural zip code within a metropolitan county as designated in United States office of management and budget bulletin no. 93-17, June 30, 1993, and its attachments.

Sec. 3701.146. (A) In taking actions regarding tuberculosis, the director of health has all of the following duties and powers:

~~(1) The director shall make payments to boards of county commissioners in accordance with section 339.77 of the Revised Code.~~

~~(2)~~ The director shall maintain registries of hospitals, clinics, physicians, or other care providers to whom the director shall refer persons who make inquiries to the department of health regarding possible exposure to tuberculosis.

~~(3)~~(2) The director shall engage in tuberculosis surveillance activities, including the collection and analysis of epidemiological information relative to the frequency of tuberculosis infection, demographic and geographic distribution of tuberculosis cases, and trends pertaining to tuberculosis.

~~(4)~~(3) The director shall maintain a tuberculosis registry to record the

incidence of tuberculosis in this state.

~~(5)~~(4) The director may appoint physicians to serve as tuberculosis consultants for geographic regions of the state specified by the director. Each tuberculosis consultant shall act in accordance with rules the director establishes and shall be responsible for advising and assisting physicians and other health care practitioners who participate in tuberculosis control activities and for reviewing medical records pertaining to the treatment provided to individuals with tuberculosis.

(B)(1) The public health council shall adopt rules establishing standards for the following:

- (a) Performing tuberculosis screenings;
- (b) Performing examinations of individuals who have been exposed to tuberculosis and individuals who are suspected of having tuberculosis;
- (c) Providing treatment to individuals with tuberculosis;
- (d) Preventing individuals with communicable tuberculosis from infecting other individuals;
- (e) Performing laboratory tests for tuberculosis and studies of the resistance of tuberculosis to one or more drugs;
- (f) Selecting laboratories that provide in a timely fashion the results of a laboratory test for tuberculosis. The standards shall include a requirement that first consideration be given to laboratories located in this state.

(2) Rules adopted pursuant to this section shall be adopted in accordance with Chapter 119. of the Revised Code and may be consistent with any recommendations or guidelines on tuberculosis issued by the United States centers for disease control and prevention or by the American thoracic society. The rules shall apply to county or district tuberculosis control units, physicians who examine and treat individuals for tuberculosis, and laboratories that perform tests for tuberculosis.

Sec. 3701.65. (A) There is hereby created in the state treasury the "choose life" fund. The fund shall consist of the contributions that are paid to the registrar of motor vehicles by applicants who voluntarily elect to obtain "choose life" license plates pursuant to section 4503.91 of the Revised Code and any money returned to the fund under division (E)(1)(d) of this section. All investment earnings of the fund shall be credited to the fund.

(B)(1) At least annually, the director of health shall distribute the money in the fund to any private, nonprofit organization that is eligible to receive funds under this section and that applies for funding under division (C) of this section.

(2) The director shall distribute the funds based on the county in which

the organization applying for funding is located and in proportion to the number of "choose life" license plates issued during the preceding year to vehicles registered in each county. Within each county, eligible organizations that apply for funding shall share equally in the funds available for distribution to organizations located within that county.

(C) Any organization seeking funds under this section annually shall apply for distribution of the funds. The director shall develop an application form and may determine the schedule and procedures that an organization shall follow when annually applying for funds. The application shall inform the applicant of the conditions for receiving and using funds under division (E) of this section. The application shall require evidence that the organization meets all of the following requirements:

- (1) Is a private, nonprofit organization;
- (2) Is committed to counseling pregnant women about the option of adoption;
- (3) Provides services within the state to pregnant women who are planning to place their children for adoption, including counseling and meeting the material needs of the women;
- (4) Does not charge women for any services received;
- (5) Is not involved or associated with any abortion activities, including counseling for or referrals to abortion clinics, providing medical abortion-related procedures, or pro-abortion advertising;
- (6) Does not discriminate in its provision of any services on the basis of race, religion, color, age, marital status, national origin, handicap, gender, or age.

(D) The director shall not distribute funds to an organization that does not provide verifiable evidence of the requirements specified in the application under division (C) of this section and shall not provide additional funds to any organization that fails to comply with division (E) of this section in regard to its previous receipt of funds under this section.

(E)(1) An organization receiving funds under this section shall do all of the following:

- (a) Use not more than sixty per cent of the funds distributed to it for the material needs of pregnant women who are planning to place their children for adoption or for infants awaiting placement with adoptive parents, including clothing, housing, medical care, food, utilities, and transportation;
- (b) Use not more than forty per cent of the funds distributed to it for counseling, training, or advertising;
- (c) Not use any of the funds distributed to it for administrative expenses, legal expenses, or capital expenditures;

(d) Annually return to the fund created under division (A) of this section any unused money that exceeds ten per cent of the money distributed to the organization.

(2) The organization annually shall submit to the director an audited financial statement verifying its compliance with division (E)(1) of this section.

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

It is not the intent of the general assembly that the department create a new position within the department to implement and administer this section. It is the intent of the general assembly that the implementation and administration of this section be accomplished by existing department personnel.

Sec. 3702.141. (A) As used in this section;

(1) "~~existing~~ Existing health care facility" has means a health care facility that is licensed or otherwise approved to practice in this state, in accordance with applicable law, is staffed and equipped to provide health care services, and actively provides health services or has not been actively providing health services for less than twelve consecutive months.

(2) "Health care facility" and "health service" have the same meaning meanings as in section 3702.51 of the Revised Code.

(B) Section 3702.14 of the Revised Code shall not be construed to require any existing health care facility that is conducting an activity specified in section 3702.11 of the Revised Code, which activity was initiated on or before March 20, 1997, to alter, upgrade, or otherwise improve the structure or fixtures of the facility in order to comply with any rule adopted under section 3702.11 of the Revised Code relating to that activity, unless one of the following applies:

(1) The facility initiates a construction, renovation, or reconstruction project that involves a capital expenditure of at least fifty thousand dollars, not including expenditures for equipment or staffing or operational costs, and that directly involves the area in which the existing service is conducted.

(2) The facility initiates another activity specified in section 3702.11 of the Revised Code.

(3) The facility initiates a service level designation change for obstetric and newborn care.

(4) The facility proposes to add a cardiac catheterization laboratory to an existing cardiac catheterization service.

(5) The facility proposes to add an open-heart operating room to an existing open-heart surgery service.

(6) The director of health determines, by clear and convincing evidence, that failure to comply with the rule would create an imminent risk to the health and welfare of any patient.

(C) If division (B)(4) or (5) of this section applies, any alteration, upgrade, or other improvement required shall apply only to the proposed addition to the existing service if the cost of the addition is less than the capital expenditure threshold set forth in division (B)(1) of this section.

(D) No person or government entity shall divide or otherwise segment a construction, renovation, or reconstruction project in order to evade application of the capital expenditure threshold set forth in division (B)(1) of this section.

Sec. 3702.51. As used in sections 3702.51 to 3702.62 of the Revised Code:

(A) "Applicant" means any person that submits an application for a certificate of need and who is designated in the application as the applicant.

(B) "Person" means any individual, corporation, business trust, estate, firm, partnership, association, joint stock company, insurance company, government unit, or other entity.

(C) "Certificate of need" means a written approval granted by the director of health to an applicant to authorize conducting a reviewable activity.

(D) "Health service area" means a geographic region designated by the director of health under section 3702.58 of the Revised Code.

(E) "Health service" means a clinically related service, such as a diagnostic, treatment, rehabilitative, or preventive service.

(F) "Health service agency" means an agency designated to serve a health service area in accordance with section 3702.58 of the Revised Code.

(G) "Health care facility" means:

(1) A hospital registered under section 3701.07 of the Revised Code;

(2) A nursing home licensed under section 3721.02 of the Revised Code, or by a political subdivision certified under section 3721.09 of the Revised Code;

(3) A county home or a county nursing home as defined in section 5155.31 of the Revised Code that is certified under Title XVIII or XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended;

(4) A freestanding dialysis center;

(5) A freestanding inpatient rehabilitation facility;

(6) An ambulatory surgical facility;

(7) A freestanding cardiac catheterization facility;

- (8) A freestanding birthing center;
- (9) A freestanding or mobile diagnostic imaging center;
- (10) A freestanding radiation therapy center.

A health care facility does not include the offices of private physicians and dentists whether for individual or group practice, residential facilities licensed under section 5123.19 of the Revised Code, ~~or habilitation centers certified by the director of mental retardation and developmental disabilities under section 5123.041 of the Revised Code~~, or an institution for the sick that is operated exclusively for patients who use spiritual means for healing and for whom the acceptance of medical care is inconsistent with their religious beliefs, accredited by a national accrediting organization, exempt from federal income taxation under section 501 of the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C.A. 1, as amended, and providing twenty-four hour nursing care pursuant to the exemption in division (E) of section 4723.32 of the Revised Code from the licensing requirements of Chapter 4723. of the Revised Code.

(H) "Medical equipment" means a single unit of medical equipment or a single system of components with related functions that is used to provide health services.

(I) "Third-party payer" means a health insuring corporation licensed under Chapter 1751. of the Revised Code, a health maintenance organization as defined in division (K) of this section, an insurance company that issues sickness and accident insurance in conformity with Chapter 3923. of the Revised Code, a state-financed health insurance program under Chapter 3701., 4123., or 5111. of the Revised Code, or any self-insurance plan.

(J) "Government unit" means the state and any county, municipal corporation, township, or other political subdivision of the state, or any department, division, board, or other agency of the state or a political subdivision.

(K) "Health maintenance organization" means a public or private organization organized under the law of any state that is qualified under section 1310(d) of Title XIII of the "Public Health Service Act," 87 Stat. 931 (1973), 42 U.S.C. 300e-9.

(L) "Existing health care facility" means a either of the following:

(1) A health care facility that is licensed or otherwise approved authorized to practice operate in this state; in accordance with applicable law, is staffed and equipped to provide health care services, and is actively provides providing health services or has not been actively providing health services for less than twelve consecutive months;

(2) A health care facility that is licensed or has beds registered under section 3701.07 of the Revised Code as skilled nursing beds or long-term care beds and has provided services for at least three hundred sixty-five consecutive days within the twenty-four months immediately preceding the date a certificate of need application is filed with the director of health.

(M) "State" means the state of Ohio, including, but not limited to, the general assembly, the supreme court, the offices of all elected state officers, and all departments, boards, offices, commissions, agencies, institutions, and other instrumentalities of the state of Ohio. "State" does not include political subdivisions.

(N) "Political subdivision" means a municipal corporation, township, county, school district, and all other bodies corporate and politic responsible for governmental activities only in geographic areas smaller than that of the state to which the sovereign immunity of the state attaches.

(O) "Affected person" means:

(1) An applicant for a certificate of need, including an applicant whose application was reviewed comparatively with the application in question;

(2) The person that requested the reviewability ruling in question;

(3) Any person that resides or regularly uses health care facilities within the geographic area served or to be served by the health care services that would be provided under the certificate of need or reviewability ruling in question;

(4) Any health care facility that is located in the health service area where the health care services would be provided under the certificate of need or reviewability ruling in question;

(5) Third-party payers that reimburse health care facilities for services in the health service area where the health care services would be provided under the certificate of need or reviewability ruling in question;

(6) Any other person who testified at a public hearing held under division (B) of section 3702.52 of the Revised Code or submitted written comments in the course of review of the certificate of need application in question.

(P) "Osteopathic hospital" means a hospital registered under section 3701.07 of the Revised Code that advocates osteopathic principles and the practice and perpetuation of osteopathic medicine by doing any of the following:

(1) Maintaining a department or service of osteopathic medicine or a committee on the utilization of osteopathic principles and methods, under the supervision of an osteopathic physician;

(2) Maintaining an active medical staff, the majority of which is



comprised of osteopathic physicians;

(3) Maintaining a medical staff executive committee that has osteopathic physicians as a majority of its members.

(Q) "Ambulatory surgical facility" has the same meaning as in section 3702.30 of the Revised Code.

(R) Except as otherwise provided in division (T) of this section, and until the termination date specified in section 3702.511 of the Revised Code, "reviewable activity" means any of the following:

(1) The addition by any person of any of the following health services, regardless of the amount of operating costs or capital expenditures:

(a) A heart, heart-lung, lung, liver, kidney, bowel, pancreas, or bone marrow transplantation service, a stem cell harvesting and reinfusion service, or a service for transplantation of any other organ unless transplantation of the organ is designated by public health council rule not to be a reviewable activity;

(b) A cardiac catheterization service;

(c) An open-heart surgery service;

(d) Any new, experimental medical technology that is designated by rule of the public health council.

(2) The acceptance of high-risk patients, as defined in rules adopted under section 3702.57 of the Revised Code, by any cardiac catheterization service that was initiated without a certificate of need pursuant to division (R)(3)(b) of the version of this section in effect immediately prior to April 20, 1995;

(3)(a) The establishment, development, or construction of a new health care facility other than a new long-term care facility or a new hospital;

(b) The establishment, development, or construction of a new hospital or the relocation of an existing hospital;

(c) The relocation of hospital beds, other than long-term care, perinatal, or pediatric intensive care beds, into or out of a rural area.

(4)(a) The replacement of an existing hospital;

(b) The replacement of an existing hospital obstetric or newborn care unit or freestanding birthing center.

(5)(a) The renovation of a hospital that involves a capital expenditure, obligated on or after ~~the effective date of this amendment~~ June 30, 1995, of five million dollars or more, not including expenditures for equipment, staffing, or operational costs. For purposes of division (R)(5)(a) of this section, a capital expenditure is obligated:

(i) When a contract enforceable under Ohio law is entered into for the construction, acquisition, lease, or financing of a capital asset;

(ii) When the governing body of a hospital takes formal action to commit its own funds for a construction project undertaken by the hospital as its own contractor;

(iii) In the case of donated property, on the date the gift is completed under applicable Ohio law.

(b) The renovation of a hospital obstetric or newborn care unit or freestanding birthing center that involves a capital expenditure of five million dollars or more, not including expenditures for equipment, staffing, or operational costs.

(6) Any change in the health care services, bed capacity, or site, or any other failure to conduct the reviewable activity in substantial accordance with the approved application for which a certificate of need was granted, if the change is made prior to the date the activity for which the certificate was issued ceases to be a reviewable activity;

(7) Any of the following changes in perinatal bed capacity or pediatric intensive care bed capacity:

(a) An increase in bed capacity;

(b) A change in service or service-level designation of newborn care beds or obstetric beds in a hospital or freestanding birthing center, other than a change of service that is provided within the service-level designation of newborn care or obstetric beds as registered by the department of health;

(c) A relocation of perinatal or pediatric intensive care beds from one physical facility or site to another, excluding the relocation of beds within a hospital or freestanding birthing center or the relocation of beds among buildings of a hospital or freestanding birthing center at the same site.

(8) The expenditure of more than one hundred ten per cent of the maximum expenditure specified in a certificate of need;

(9) Any transfer of a certificate of need issued prior to April 20, 1995, from the person to whom it was issued to another person before the project that constitutes a reviewable activity is completed, any agreement that contemplates the transfer of a certificate of need issued prior to that date upon completion of the project, and any transfer of the controlling interest in an entity that holds a certificate of need issued prior to that date. However, the transfer of a certificate of need issued prior to that date or agreement to transfer such a certificate of need from the person to whom the certificate of need was issued to an affiliated or related person does not constitute a reviewable transfer of a certificate of need for the purposes of this division, unless the transfer results in a change in the person that holds the ultimate controlling interest in the certificate of need.

(10)(a) The acquisition by any person of any of the following medical

equipment, regardless of the amount of operating costs or capital expenditure:

- (i) A cobalt radiation therapy unit;
- (ii) A linear accelerator;
- (iii) A gamma knife unit.

(b) The acquisition by any person of medical equipment with a cost of two million dollars or more. The cost of acquiring medical equipment includes the sum of the following:

- (i) The greater of its fair market value or the cost of its lease or purchase;
- (ii) The cost of installation and any other activities essential to the acquisition of the equipment and its placement into service.

(11) The addition of another cardiac catheterization laboratory to an existing cardiac catheterization service.

(S) Except as provided in division (T) of this section, "reviewable activity" also means any of the following activities, none of which are subject to a termination date:

(1) The establishment, development, or construction of a new long-term care facility;

(2) The replacement of an existing long-term care facility;

(3) The renovation of a long-term care facility that involves a capital expenditure of two million dollars or more, not including expenditures for equipment, staffing, or operational costs;

(4) Any of the following changes in long-term care bed capacity:

(a) An increase in bed capacity;

(b) A relocation of beds from one physical facility or site to another, excluding the relocation of beds within a long-term care facility or among buildings of a long-term care facility at the same site;

(c) A recategorization of hospital beds registered under section 3701.07 of the Revised Code from another registration category to skilled nursing beds or long-term care beds.

(5) Any change in the health services, bed capacity, or site, or any other failure to conduct the reviewable activity in substantial accordance with the approved application for which a certificate of need concerning long-term care beds was granted, if the change is made within five years after the implementation of the reviewable activity for which the certificate was granted;

(6) The expenditure of more than one hundred ten per cent of the maximum expenditure specified in a certificate of need concerning long-term care beds;

(7) Any transfer of a certificate of need that concerns long-term care beds and was issued prior to April 20, 1995, from the person to whom it was issued to another person before the project that constitutes a reviewable activity is completed, any agreement that contemplates the transfer of such a certificate of need upon completion of the project, and any transfer of the controlling interest in an entity that holds such a certificate of need. However, the transfer of a certificate of need that concerns long-term care beds and was issued prior to April 20, 1995, or agreement to transfer such a certificate of need from the person to whom the certificate was issued to an affiliated or related person does not constitute a reviewable transfer of a certificate of need for purposes of this division, unless the transfer results in a change in the person that holds the ultimate controlling interest in the certificate of need.

(T) "Reviewable activity" does not include any of the following activities:

- (1) Acquisition of computer hardware or software;
- (2) Acquisition of a telephone system;
- (3) Construction or acquisition of parking facilities;
- (4) Correction of cited deficiencies that are in violation of federal, state, or local fire, building, or safety laws and rules and that constitute an imminent threat to public health or safety;
- (5) Acquisition of an existing health care facility that does not involve a change in the number of the beds, by service, or in the number or type of health services;
- (6) Correction of cited deficiencies identified by accreditation surveys of the joint commission on accreditation of healthcare organizations or of the American osteopathic association;
- (7) Acquisition of medical equipment to replace the same or similar equipment for which a certificate of need has been issued if the replaced equipment is removed from service;
- (8) Mergers, consolidations, or other corporate reorganizations of health care facilities that do not involve a change in the number of beds, by service, or in the number or type of health services;
- (9) Construction, repair, or renovation of bathroom facilities;
- (10) Construction of laundry facilities, waste disposal facilities, dietary department projects, heating and air conditioning projects, administrative offices, and portions of medical office buildings used exclusively for physician services;
- (11) Acquisition of medical equipment to conduct research required by the United States food and drug administration or clinical trials sponsored

by the national institute of health. Use of medical equipment that was acquired without a certificate of need under division (T)(11) of this section and for which premarket approval has been granted by the United States food and drug administration to provide services for which patients or reimbursement entities will be charged shall be a reviewable activity.

(12) Removal of asbestos from a health care facility.

Only that portion of a project that meets the requirements of division (T) of this section is not a reviewable activity.

(U) "Small rural hospital" means a hospital that is located within a rural area, has fewer than one hundred beds, and to which fewer than four thousand persons were admitted during the most recent calendar year.

(V) "Children's hospital" means any of the following:

(1) A hospital registered under section 3701.07 of the Revised Code that provides general pediatric medical and surgical care, and in which at least seventy-five per cent of annual inpatient discharges for the preceding two calendar years were individuals less than eighteen years of age;

(2) A distinct portion of a hospital registered under section 3701.07 of the Revised Code that provides general pediatric medical and surgical care, has a total of at least one hundred fifty registered pediatric special care and pediatric acute care beds, and in which at least seventy-five per cent of annual inpatient discharges for the preceding two calendar years were individuals less than eighteen years of age;

(3) A distinct portion of a hospital, if the hospital is registered under section 3701.07 of the Revised Code as a children's hospital and the children's hospital meets all the requirements of division (V)(1) of this section.

(W) "Long-term care facility" means any of the following:

(1) A nursing home licensed under section 3721.02 of the Revised Code or by a political subdivision certified under section 3721.09 of the Revised Code;

(2) The portion of any facility, including a county home or county nursing home, that is certified as a skilled nursing facility or a nursing facility under Title XVIII or XIX of the "Social Security Act";

(3) The portion of any hospital that contains beds registered under section 3701.07 of the Revised Code as skilled nursing beds or long-term care beds.

(X) "Long-term care bed" means a bed in a long-term care facility.

(Y) "Perinatal bed" means a bed in a hospital that is registered under section 3701.07 of the Revised Code as a newborn care bed or obstetric bed, or a bed in a freestanding birthing center.

(Z) "Freestanding birthing center" means any facility in which deliveries routinely occur, regardless of whether the facility is located on the campus of another health care facility, and which is not licensed under Chapter 3711. of the Revised Code as a level one, two, or three maternity unit or a limited maternity unit.

(AA)(1) "Reviewability ruling" means a ruling issued by the director of health under division (A) of section 3702.52 of the Revised Code as to whether a particular proposed project is or is not a reviewable activity.

(2) "Nonreviewability ruling" means a ruling issued under that division that a particular proposed project is not a reviewable activity.

(BB)(1) "Metropolitan statistical area" means an area of this state designated a metropolitan statistical area or primary metropolitan statistical area in United States office of management and budget bulletin No. 93-17, June 30, 1993, and its attachments.

(2) "Rural area" means any area of this state not located within a metropolitan statistical area.

Sec. 3702.68. (A) Notwithstanding sections 3702.51 to 3702.62 of the Revised Code, this section applies to the review of certificate of need applications during the period beginning July 1, 1993, and ending June 30, ~~2005~~ 2007.

As used in this section, "existing health care facility" has the same meaning as in section 3702.51 of the Revised Code.

(B)(1) Except as provided in division (B)(2) of this section, the director of health shall neither grant nor deny any application for a certificate of need submitted prior to July 1, 1993, if the application was for any of the following and the director had not issued a written decision concerning the application prior to that date:

(a) Approval of beds in a new health care facility or an increase of beds in an existing health care facility, if the beds are proposed to be licensed as nursing home beds under Chapter 3721. of the Revised Code;

(b) Approval of beds in a new county home or new county nursing home as defined in section 5155.31 of the Revised Code, or an increase of beds in an existing county home or existing county nursing home, if the beds are proposed to be certified as skilled nursing facility beds under Title XVIII or nursing facility beds under Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended;

(c) Recategorization of hospital beds as described in section 3702.522 of the Revised Code, an increase of hospital beds registered pursuant to section 3701.07 of the Revised Code as long-term care beds or skilled nursing facility beds, or a recategorization of hospital beds that would result in an

increase of beds registered pursuant to that section as long-term care beds or skilled nursing facility beds.

On July 1, 1993, the director shall return each such application to the applicant and, notwithstanding section 3702.52 of the Revised Code regarding the uses of the certificate of need fund, shall refund to the applicant the application fee paid under that section. Applications returned under division (B)(1) of this section may be resubmitted in accordance with section 3702.52 of the Revised Code no sooner than July 1, ~~2005~~ 2007.

(2) The director shall continue to review and shall issue a decision regarding any application submitted prior to July 1, 1993, to increase beds for either of the purposes described in division (B)(1)(a) or (b) of this section if the proposed increase in beds is attributable solely to a replacement or relocation of existing beds within the same county. The director shall authorize under such an application no additional beds beyond those being replaced or relocated.

(C)(1) Except as provided in division (C)(2) of this section, the director, during the period beginning July 1, 1993, and ending June 30, ~~2005~~ 2007, shall not accept for review under section 3702.52 of the Revised Code any application for a certificate of need for any of the purposes described in divisions (B)(1)(a) to (c) of this section.

(2)(a) The director shall accept for review any application for either of the purposes described in division (B)(1)(a) or (b) of this section if the proposed increase in beds is attributable solely to a replacement or relocation of existing beds from an existing health care facility within the same county. The director shall authorize under such an application no additional beds beyond those being replaced or relocated. ~~The~~

The director shall not approve an application for a certificate of need for addition of long-term care beds to an existing health care facility by relocation of beds or for the development of a new health care facility by relocation of beds unless all of the following conditions are met:

(i) The existing health care facility to which the beds are being relocated has no life safety code waivers, no state fire code violations, and no state building code violations;

(ii) During the sixty month period preceding the filing of the application, no notice of proposed revocation of the facility's license was issued under section 3721.03 of the Revised Code to the operator of the existing facility to which the beds are being relocated or to any health care facility owned or operated by the applicant or any principal participant in the same corporation or other business;

(iii) Neither the existing health care facility to which the beds are being

relocated nor any health care facility owned or operated by the applicant or any principal participant in the same corporation or other business has had a long-standing pattern of violations of this chapter or deficiencies that caused one or more residents physical, emotional, mental, or psychosocial harm.

(b) The director also shall accept for review any application that seeks certificate of need approval for existing the conversion of infirmity beds located in an to long-term care beds if the infirmity that is meets all of the following conditions:

(i) Is operated exclusively by a religious order, provides;

(ii) Provides care exclusively to members of religious orders who take vows of celibacy and live by virtue of their vows within the orders as if related, ~~and was;~~

(iii) Was providing care exclusively to members of such a religious order on January 1, 1994.

(D) The director shall issue a decision regarding any case remanded by a court as the result of a decision issued by the director prior to July 1, 1993, to grant, deny, or withdraw a certificate of need for any of the purposes described in divisions (B)(1)(a) to (c) of this section.

(E) The director shall not project the need for beds listed in division (B)(1) of this section for the period beginning July 1, 1993, and ending June 30, ~~2005~~ 2007.

This section is an interim section effective until July 1, ~~2005~~ 2007.

Sec. 3702.71. As used in sections 3702.71 to 3702.81 of the Revised Code:

(A) "Primary care physician" means an individual who is authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery and is board certified or board eligible in a primary care specialty.

(B) "Primary care service" means professional comprehensive personal health services, which may include health education and disease prevention, treatment of uncomplicated health problems, diagnosis of chronic health problems, ~~and~~ overall management of health care services for an individual or a family, and the services of a psychiatrist. "Primary care service" also includes providing the initial contact for health care services and making referrals for secondary and tertiary care and for continuity of health care services.

(C) "Primary care specialty" means general internal medicine, pediatrics, obstetrics and gynecology, psychiatry, or family practice.

Sec. 3702.74. (A) A primary care physician who has signed a letter of intent under section 3702.73 of the Revised Code, the director of health, and



the Ohio board of regents may enter into a contract for the physician's participation in the physician loan repayment program. A lending institution may also be a party to the contract.

(B) The contract shall include all of the following obligations:

(1) The primary care physician agrees to provide primary care services in the health resource shortage area identified in the letter of intent for at least two years or one year per twenty thousand dollars of repayment agreed to under division (B)(3) of this section, whichever is greater;

(2) When providing primary care services in the health resource shortage area, the primary care physician agrees to do all of the following:

(a) Provide primary care services for a minimum of forty hours per week;

(b) Provide primary care services without regard to a patient's ability to pay;

(c) Meet the conditions prescribed by the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, and the department of job and family services for participation in the medical assistance program established under Chapter 5111. of the Revised Code and enter into a contract with the department to provide primary care services to recipients of the medical assistance program;

~~(d) Meet the conditions established by the department of job and family services for participation in the disability medical assistance program established under Chapter 5115. of the Revised Code and enter into a contract with the department to provide primary care services to recipients of disability medical assistance.~~

(3) The Ohio board of regents agrees, as provided in section 3702.75 of the Revised Code, to repay, so long as the primary care physician performs the service obligation agreed to under division (B)(1) of this section, all or part of the principal and interest of a government or other educational loan taken by the primary care physician for expenses described in section 3702.75 of the Revised Code;

(4) The primary care physician agrees to pay the board the following as damages if the physician fails to complete the service obligation agreed to under division (B)(1) of this section:

(a) If the failure occurs during the first two years of the service obligation, three times the total amount the board has agreed to repay under division (B)(3) of this section;

(b) If the failure occurs after the first two years of the service obligation, three times the amount the board is still obligated to repay under division (B)(3) of this section.

(C) The contract may include any other terms agreed upon by the parties, including an assignment to the Ohio board of regents of the physician's duty to pay the principal and interest of a government or other educational loan taken by the physician for expenses described in section 3702.75 of the Revised Code. If the board assumes the physician's duty to pay a loan, the contract shall set forth the total amount of principal and interest to be paid, an amortization schedule, and the amount of each payment to be made under the schedule.

Sec. 3702.83. The department of health shall administer a program, to be known as the J-1 visa waiver program, for recruiting physicians who received graduate medical education or training in the United States but are not citizens of the United States to serve in areas of the state designated by the United States secretary of health and human services as health professional shortage areas under the "Public Health Service Act," 88 Stat. 682 (1944), 42 U.S.C. 254(e), as amended. Under the program, the department of health shall accept and review applications for placement of persons seeking to remain in the United States pursuant to the "Immigration and Nationality Act," 66 Stat. 163 (1952), 8 U.S.C. 1182(J)(1) and 1184(l), as amended, by obtaining a waiver of the federal requirement that they return to their home countries for a minimum of two years after completing the graduate medical education or training for which they were admitted to the United States. The department shall administer the program in accordance with the "Immigration and Nationality Act" and the regulations adopted under it.

For each application accepted for review under this section, the department shall charge a fee of three thousand five hundred seventy-one dollars. The fee is nonrefundable. All fees collected shall be deposited into the state treasury to the credit of general operations fund created in section 3701.83 of the Revised Code.

Sec. 3703.01. (A) The division of industrial compliance in the department of commerce shall:

(1) Inspect all nonresidential buildings within the meaning of section 3781.06 of the Revised Code;

(2) Condemn all unsanitary or defective plumbing that is found in connection with those places;

(3) Order changes in plumbing necessary to insure the safety of the public health.

(B)(1) The division of industrial compliance and boards of health of city and general health districts shall not inspect plumbing or collect fees for inspecting plumbing in particular types of buildings in any municipal

corporation that has been certified by the board of building standards under section 3781.10 of the Revised Code to exercise enforcement authority for plumbing in such types of buildings.

(2) The division shall not inspect plumbing or collect fees for inspecting plumbing in particular types of buildings in any health district that has employed one or more approved plumbing inspectors to enforce Chapters 3781. and 3791. of the Revised Code and the rules adopted pursuant to those chapters relating to plumbing in such types of buildings.

(3) A municipal corporation does not have jurisdiction to inspect plumbing or collect fees for the inspection of plumbing in types of buildings for which it has not been certified by the board of building standards under section 3781.10 of the Revised Code to exercise enforcement authority.

(4) A board of health of a health district does not have jurisdiction to inspect plumbing or collect fees for the inspection of plumbing in types of buildings for which it does not have an approved plumbing inspector.

(C) The superintendent of industrial compliance shall adopt rules prescribing minimum qualifications based on education, training, experience, or demonstrated ability, which the ~~director~~ superintendent shall use in approving certifying or recertifying plumbing inspectors to do plumbing inspections for health districts and for continuing education of plumbing inspectors. Such minimum qualifications shall be related to the types of buildings for which a person seeks approval.

(D) The superintendent may enter into reciprocal registration, licensure, or certification agreements with other states and other agencies of this state relative to plumbing inspectors if both of the following apply:

(1) The requirements for registration, licensure, or certification of plumbing inspectors under the laws of the other state or laws administered by the other agency are substantially equal to the requirements the superintendent adopts under division (C) of this section for certifying plumbing inspectors.

(2) The other state or agency extends similar reciprocity to persons certified under this chapter.

(E) The superintendent may select and contract with one or more persons to do all of the following regarding examinations for certification of plumbing inspectors:

(1) Prepare, administer, score, and maintain the confidentiality of the examination;

(2) Maintain responsibility for all expenses required to comply with division (E)(1) of this section;

(3) Charge each applicant a fee for administering the examination in an

amount the superintendent authorizes;

(4) Design the examination for certification of plumbing inspectors to determine an applicant's competence to inspect plumbing.

(F) Standards and methods prescribed in local plumbing regulations shall not be less than those prescribed in Chapters 3781. and 3791. of the Revised Code and the rules adopted pursuant to those chapters.

~~(E)~~(G) Notwithstanding any other provision of this section, the division shall make a plumbing inspection of any building or other place that there is reason to believe is in a condition to be a menace to the public health.

Sec. 3703.03. In the administration of sections 3703.01 to 3703.09 of the Revised Code, the division of industrial compliance ~~in the department of commerce~~ shall enforce rules governing plumbing adopted by the board of building standards under authority of sections 3781.10 and 3781.11 of the Revised Code, and register those persons engaged in or at the plumbing business.

Plans and specifications for all plumbing to be installed in or for buildings coming within such sections shall be submitted to and approved by the division before the contract for plumbing is let.

Sec. 3703.04. The ~~director~~ superintendent of ~~commerce~~ industrial compliance shall appoint such number of plumbing inspectors as is required. The inspectors shall be practical plumbers with at least seven years' experience, and skilled and well-trained in matters pertaining to sanitary regulations concerning plumbing work.

~~No plumbing inspector employed by the department and assigned to the enforcement of this chapter shall be engaged or interested in the plumbing business or the sale of any plumbing supplies, nor shall the inspector act as agent, directly or indirectly, for any person so engaged.~~

Sec. 3703.05. Plumbing inspectors employed by the ~~department~~ division of ~~commerce~~ industrial compliance assigned to the enforcement of sections 3703.01 to 3703.09 of the Revised Code; may, between sunrise and sunset, enter any building where there is good and sufficient reason to believe that the sanitary condition of the premises endangers the public health, for the purpose of making an inspection to ascertain the condition of the premises.

Sec. 3703.06. When any building is found to be in a sanitary condition or when changes which are ordered, under authority of this chapter, in the plumbing, drainage, or ventilation have been made, and after a thorough inspection and approval by the ~~division~~ superintendent of industrial compliance ~~in the department of commerce~~, the ~~division~~ superintendent shall issue a certificate ~~signed by the superintendent of the division of industrial compliance~~, which ~~must~~ shall be posted in a conspicuous place for

the benefit of the public at large. Upon notification by the superintendent, the certificate shall be revoked for any violation of those sections.

Sec. 3703.07. No plumbing work shall be done in any building or place coming within the jurisdiction of the ~~department~~ division of ~~commerce~~ industrial compliance, except in cases of repairs or leaks in existing plumbing, until a permit has been issued by the ~~department~~ division.

Before granting such permit, an application shall be made by the owner of the property or by the person, firm, or corporation which is to do the work. The application shall be made on a form prepared by the ~~department~~ division for the purpose, and each application shall be accompanied by a fee of twenty-seven dollars, and an additional fee of seven dollars for each trap, vented fixture, appliance, or device. Each application also shall be accompanied by a plan approval fee of eighteen dollars for work containing one through twenty fixtures; thirty-six dollars for work containing twenty-one through forty fixtures; and fifty-four dollars for work containing forty-one or more fixtures.

Whenever a reinspection is made necessary by the failure of the applicant or plumbing contractor to have the work ready for inspection when so reported, or by reason of faulty or improper installation, the person shall pay a fee of forty-five dollars for each reinspection.

All fees collected pursuant to this section shall be paid into the state treasury to the credit of the industrial compliance operating fund created in section 121.084 of the Revised Code.

The ~~director~~ superintendent of ~~commerce~~ industrial compliance, by rule adopted in accordance with Chapter 119. of the Revised Code, may increase the fees required by this section and may establish fees to pay the costs of the division to fulfill its duties established by this chapter, including, but not limited to, fees for administering a program for continuing education for, and certifying and recertifying plumbing inspectors. The fees shall bear some reasonable relationship to the cost of administering and enforcing the provisions of this chapter.

Sec. 3703.08. Any owner, agent, or manager, of a building in which an inspection is made by the ~~department~~ division of ~~commerce~~ industrial compliance, a board of health of a health district, or a certified department of building inspection of a municipal corporation; shall have the entire system of drainage and ventilation repaired, as the ~~department of commerce~~ division, board of health, or department of building inspection directs by its order. After due notice to repair such work is given, the owner, agent, or manager shall notify the public authority that issued the order when the work is ready for its inspection. No person shall fail to have the work ready

for inspection at the time specified in the notice.

Sec. 3703.10. All prosecutions and proceedings by the ~~department~~ division of commerce industrial compliance for the violation of sections 3703.01 to 3703.09 of the Revised Code, or for the violation of any of the orders or rules of the ~~department~~ division under those sections, shall be instituted by the ~~director~~ superintendent of commerce industrial compliance. All fines or judgments collected by the ~~department~~ division shall be paid into the state treasury to the credit of the industrial compliance operating fund created by section 121.084 of the Revised Code.

The ~~director~~ superintendent, the board of health of a general or city health district, or any person charged with enforcing the rules of the ~~department~~ division adopted under sections 3703.01 to 3703.09 of the Revised Code may petition the court of common pleas for injunctive or other appropriate relief requiring any person violating a rule adopted or order issued by the ~~director~~ superintendent under those sections to comply with the rule or order. The court of common pleas of the county in which the offense is alleged to be occurring may grant injunctive or other appropriate relief.

The superintendent may do all of the following:

(A) Deny an applicant certification as a plumbing inspector;

(B) Suspend or revoke the certification of a plumbing inspector;

(C) Examine any certified plumbing inspector under oath;

(D) Examine the records and books of any certified plumbing inspector if the superintendent finds the material to be examined relevant to a determination described in division (A), (B), or (C) of this section.

Sec. 3703.99. Whoever violates sections 3703.01 to 3703.09 of the Revised Code, or any rule the ~~department~~ division of commerce industrial compliance is required to enforce under such sections, shall be fined not less than ten nor more than one hundred dollars or imprisoned for not less than ten nor more than ninety days, or both. No person shall be imprisoned under this section for the first offense, and the prosecution always shall be as for a first offense unless the affidavit upon which the prosecution is instituted contains the allegation that the offense is a second or repeated offense.

Sec. 3704.035. There is hereby created in the state treasury the clean air fund. Except as otherwise provided in division (K) of section 3745.11 of the Revised Code, all moneys collected under divisions (C), (D), (F), (G), (H), (I), and (J) of that section and under section 3745.111 of the Revised Code, and any gifts, grants, or contributions received by the director of environmental protection for the purposes of the fund, shall be credited to the fund. The director shall expend moneys from the fund exclusively to pay

the cost of administering and enforcing the laws of this state pertaining to the prevention, control, and abatement of air pollution and rules adopted and terms and conditions of permits, variances, and orders issued under those laws, except that the director shall not expend moneys credited to the fund for the administration and enforcement of motor vehicle inspection and maintenance programs and requirements under sections 3704.14, 3704.141, 3704.16, 3704.161, and 3704.162, and 3704.17 of the Revised Code.

Specifically, the director shall expend all moneys credited to the fund from fees assessed under section 3745.11 of the Revised Code pursuant to the Title V permit program established under section 3704.036 of the Revised Code, and from any gifts, grants, or contributions received for the purposes of that program, solely to administer and enforce that program pursuant to the federal Clean Air Act, this chapter, and rules adopted under it, except as costs relating to enforcement are limited by the federal Clean Air Act. The director shall establish separate and distinct accounting for all such moneys.

The director shall report biennially to the general assembly the amounts of fees and other moneys credited to the fund under this section and the amounts expended from it for each of the various air pollution control programs.

Sec. 3704.14. (A) The director of environmental protection shall continue to implement an enhanced motor vehicle inspection and maintenance program for a period of two years beginning on January 1, 2006, and ending on December 31, 2007, in counties in which a motor vehicle inspection and maintenance program is federally mandated. The program shall be substantially similar to the enhanced program implemented in those counties under a contract that is scheduled to expire on December 31, 2005. The program, at a minimum, shall do all of the following:

(1) Comply with the federal Clean Air Act;

(2) Provide for the extension of a contract for a period of two years, beginning on January 1, 2006, and ending on December 31, 2007, with the contractor who conducted the enhanced motor vehicle inspection and maintenance program in those federally mandated counties pursuant to a contract entered into under former section 3704.14 of the Revised Code as that section existed prior to its repeal and reenactment by Am. Sub. H.B. 66 of the 126th General Assembly;

(3) Provide for the issuance of inspection certificates;

(4) Provide for a new car exemption for motor vehicles four years old or newer and provide that a new motor vehicle is exempt for four years regardless of whether legal title to the motor vehicle is transferred during

that period.

(B) The director shall not implement a motor vehicle inspection and maintenance program in any county other than a county in which a motor vehicle inspection and maintenance program is federally mandated.

(C) The director shall adopt rules in accordance with Chapter 119. of the Revised Code that the director determines are necessary to implement this section. The director may continue to implement and enforce rules pertaining to the enhanced motor vehicle inspection and maintenance program previously implemented under former section 3704.14 of the Revised Code as that section existed prior to its repeal and reenactment by Am. Sub. H.B. 66 of the 126th general assembly, provided that the rules do not conflict with this section.

(D) There is hereby created in the state treasury the motor vehicle inspection and maintenance fund, which shall consist of money received by the director from any fees for inspections that are established in rules adopted under this section. The director shall use money in the fund solely for the implementation, supervision, administration, operation, and enforcement of the enhanced motor vehicle inspection and maintenance program established under this section.

(E) The enhanced motor vehicle inspection and maintenance program established under this section expires on December 31, 2007, and shall not be continued beyond that date unless otherwise federally mandated.

Sec. 3704.143. (A) As used in this section, "contract" means a contract entered into by the state under former section 3704.14 of the Revised Code, as that section existed prior to its repeal and reenactment by Am. Sub. H.B. 66 of the 126th General Assembly, with a private contractor for the purpose of conducting emissions inspections under a motor vehicle inspection and maintenance program.

~~(B) Notwithstanding division (D)(5) of~~ Except as authorized in section 3704.14 of the Revised Code, ~~the director of administrative services or as that section was reenacted by Am. Sub. H.B. 66 of the 126th General Assembly,~~ the director of environmental protection, ~~as applicable,~~ shall not renew any contract that is in existence on September 5, 2001. Further, ~~except as authorized in that section,~~ the director of ~~administrative services or the director of environmental protection, as applicable,~~ shall not enter into a new contract upon the expiration or termination of any contract that is in existence on September 5, 2001, or enter into any new contract for the implementation of a motor vehicle inspection and maintenance program in a county in which such a program is not operating on that date.

~~(C) Notwithstanding~~ Except as authorized in section 3704.14 of the



~~Revised Code or any other section of the Revised Code that requires emissions inspections to be conducted or proof of such inspections to be provided, as that section was reenacted by Am. Sub. H.B. 66 of the 126th General Assembly,~~ upon the expiration or termination of all contracts that are in existence on September 5, 2001, the director of environmental protection shall terminate all motor vehicle inspection and maintenance programs in this state and shall not implement a new motor vehicle inspection and maintenance program unless ~~this section is repealed and~~ such a program is authorized by the general assembly.

(D) ~~Notwithstanding section 3704.14 of the Revised Code or any other section of the Revised Code that requires emissions inspections to be conducted or proof of such inspections to be provided, if~~ If the general assembly authorizes any program for the inspection of motor vehicle emissions under division (C) of this section after all contracts for a motor vehicle inspection and maintenance program that are in existence on September 5, 2001, terminate or expire, a motor vehicle, the legal title to which has never been transferred by a manufacturer, distributor, or dealer to an ultimate purchaser as defined in section 4517.01 of the Revised Code, shall be exempt from any emissions inspections that are required under such a program for a period of ~~five~~ not less than four years commencing on the date when the first certificate of title to the vehicle was issued on behalf of the ultimate purchaser under Chapter 4503. of the Revised Code. A motor vehicle that is exempt from any emissions inspections ~~for a period of five years~~ under this division shall remain exempt during that ~~five-year~~ period regardless of whether legal title to the motor vehicle is transferred during that period.

Sec. 3704.144. Gifts, grants, and contributions for the purpose of adding pollution control equipment to diesel-powered school buses, including contributions that are made pursuant to the settlement of an administrative action or civil action that is brought at the request of the director of environmental protection pursuant to Chapter 3704., 3714., 3734., 6109., or 6111. of the Revised Code, shall be credited to the clean diesel school bus fund, which is hereby created in the state treasury. The director shall use money credited to the fund to make grants to school districts in the state for the purpose of adding pollution control equipment to diesel-powered school buses and to pay the environmental protection agency's costs incurred in administering this section. In addition, the director may use money credited to the fund to make grants to school districts for the purpose of maintaining pollution control equipment that is installed on diesel-powered school buses and to pay the additional cost incurred by a school district for using

ultra-low sulfur diesel fuel instead of diesel fuel for the operation of diesel-powered school buses.

In making grants under this section, the director shall give priority to school districts that are located in a county that is designated as nonattainment by the United States environmental protection agency for the fine particulate national ambient air quality standard under the federal Clean Air Act. In addition, the director may give a higher priority to a school district that employs additional measures that reduce air pollution from the district's school bus fleet.

The director shall adopt rules establishing procedures and requirements that are necessary to implement this section, including procedures and requirements governing applications for grants.

Sec. 3704.99. (A) Whoever recklessly violates division (A), (B), (C), (D), (E), (F), (G), or (I) of section 3704.05 or division (B)(5) of section 3704.16 of the Revised Code shall be fined not more than twenty-five thousand dollars or imprisoned not more than one year, or both, for each violation. Each day the violation continues after a conviction for a violation is a separate offense.

(B) Whoever knowingly violates division (H), (J), or (K) of section 3704.05 of the Revised Code shall be fined not more than ten thousand dollars for each day of each such violation.

(C) Whoever violates section 3704.15 ~~or division (B)(1) or (2) or (C)(1) or (2) of section 3704.17~~ of the Revised Code is guilty of a misdemeanor of the first degree.

(D) Whoever violates division (B)(2) or knowingly violates division (C)(1) of section 3704.16 of the Revised Code is guilty of a minor misdemeanor.

(E) Whoever violates division (B)(1) or (3) or knowingly violates division (C)(2) or (3) of section 3704.16 of the Revised Code shall be fined not less than five hundred nor more than twenty-five hundred dollars for each day of each violation.

(F) Whoever recklessly violates division (B)(4) of section 3704.16 of the Revised Code shall be fined not more than twenty-five thousand dollars or imprisoned not more than one year, or both, for each violation. Each day the violation continues after a conviction for a violation is a separate offense.

(G) The sentencing court, in addition to the penalty provided in divisions (D), (E), and (F) of this section, shall order the offender to restore within thirty days any emission control system that was tampered with in connection with the violation or to provide proof that the motor vehicle

whose emission control system was tampered with has been dismantled or destroyed. The court may extend that deadline for good cause shown. If the offender does not take the corrective action ordered under this division, each day that the violation continues is a separate offense. Violation of a court order entered under this division is punishable as contempt under Chapter 2705. of the Revised Code.

Sec. 3705.24. (A)(1) The public health council shall, in accordance with section 111.15 of the Revised Code, adopt rules prescribing fees for the following services provided by the state office of vital statistics:

- (a) Except as provided in division (A)(4) of this section:
  - (i) A certified copy of a vital record or a certification of birth;
  - (ii) A search by the office of vital statistics of its files and records pursuant to a request for information, regardless of whether a copy of a record is provided;
  - (iii) A copy of a record provided pursuant to a request;
- (b) Replacement of a birth certificate following an adoption, legitimation, paternity determination or acknowledgement, or court order;
- (c) Filing of a delayed registration of a vital record;
- (d) Amendment of a vital record that is requested later than one year after the filing date of the vital record;
- (e) Any other documents or services for which the public health council considers the charging of a fee appropriate.

(2) Fees prescribed under division (A)(1)(a) of this section shall not be less than seven dollars.

(3) Fees prescribed under division (A)(1) of this section shall be collected in addition to any ~~fee~~ fees required by ~~section~~ sections 3109.14 and 3705.242 of the Revised Code.

(4) Fees prescribed under division (A) of this section shall not apply to certifications issued under division (H) of this section or copies provided under section 3705.241 of the Revised Code.

(B) In addition to the fees prescribed under division (A) of this section or section 3709.09 of the Revised Code, the office of vital statistics or the board of health of a city or general health district shall charge a five-dollar fee for each certified copy of a vital record and each certification of birth. This fee shall be deposited in the general operations fund created under section 3701.83 of the Revised Code and be used solely toward the modernization and automation of the system of vital records in this state. A board of health shall forward all fees collected under this division to the department of health not later than thirty days after the end of each calendar quarter.

(C) Except as otherwise provided in division (H) of this section, and except as provided in section 3705.241 of the Revised Code, fees collected by the director of health under sections 3705.01 to 3705.29 of the Revised Code shall be paid into the state treasury to the credit of the general operations fund created by section 3701.83 of the Revised Code. Except as provided in division (B) of this section, money generated by the fees shall be used only for administration and enforcement of this chapter and the rules adopted under it. Amounts submitted to the department of health for copies of vital records or services in excess of the fees imposed by this section shall be dealt with as follows:

(1) An overpayment of two dollars or less shall be retained by the department and deposited in the state treasury to the credit of the general operations fund created by section 3701.83 of the Revised Code.

(2) An overpayment in excess of two dollars shall be returned to the person who made the overpayment.

(D) If a local registrar is a salaried employee of a city or a general health district, any fees the local registrar receives pursuant to section 3705.23 of the Revised Code shall be paid into the general fund of the city or the health fund of the general health district.

Each local registrar of vital statistics, or each health district where the local registrar is a salaried employee of the district, shall be entitled to a fee for each birth, fetal death, death, or military service certificate properly and completely made out and registered with the local registrar or district and correctly copied and forwarded to the office of vital statistics in accordance with the population of the primary registration district at the last federal census. The fee for each birth, fetal death, death, or military service certificate shall be:

(1) In primary registration districts of over two hundred fifty thousand, twenty cents;

(2) In primary registration districts of over one hundred twenty-five thousand and less than two hundred fifty thousand, sixty cents;

(3) In primary registration districts of over fifty thousand and less than one hundred twenty-five thousand, eighty cents;

(4) In primary registration districts of less than fifty thousand, one dollar.

(E) The director of health shall annually certify to the county treasurers of the several counties the number of birth, fetal death, death, and military service certificates registered from their respective counties with the names of the local registrars and the amounts due each registrar and health district at the rates fixed in this section. Such amounts shall be paid by the treasurer

of the county in which the registration districts are located. No fees shall be charged or collected by registrars except as provided by this chapter and section 3109.14 of the Revised Code.

(F) A probate judge shall be paid a fee of fifteen cents for each certified abstract of marriage prepared and forwarded by the probate judge to the department of health pursuant to section 3705.21 of the Revised Code. The fee shall be in addition to the fee paid for a marriage license and shall be paid by the applicants for the license.

(G) The clerk of a court of common pleas shall be paid a fee of one dollar for each certificate of divorce, dissolution, and annulment of marriage prepared and forwarded by the clerk to the department pursuant to section 3705.21 of the Revised Code. The fee for the certified abstract of divorce, dissolution, or annulment of marriage shall be added to the court costs allowed in these cases.

(H) The fee for an heirloom certification of birth issued pursuant to division (B)(2) of section 3705.23 of the Revised Code shall be an amount prescribed by rule by the director of health plus any fee required by section 3109.14 of the Revised Code. In setting the amount of the fee, the director shall establish a surcharge in addition to an amount necessary to offset the expense of processing heirloom certifications of birth. The fee prescribed by the director of health pursuant to this division shall be deposited into the state treasury to the credit of the heirloom certification of birth fund which is hereby created. Money credited to the fund shall be used by the office of vital statistics to offset the expense of processing heirloom certifications of birth. However, the money collected for the surcharge, subject to the approval of the controlling board, shall be used for the purposes specified by the family and children first council pursuant to section 121.37 of the Revised Code.

Sec. 3705.242. (A)(1) The director of health, a person authorized by the director, a local commissioner of health, or a local registrar of vital statistics shall charge and collect a fee of one dollar and fifty cents for each certified copy of a birth record, each certification of birth, and each copy of a death record. The fee is in addition to the fee imposed by section 3705.24 or any other section of the Revised Code. A local commissioner of health or local registrar of vital statistics may retain an amount of each additional fee collected, not to exceed three per cent of the amount of the additional fee, to be used for costs directly related to the collection of the fee and the forwarding of the fee to the treasurer of state.

(2) On the filing of a divorce decree under section 3105.10 or a decree of dissolution under section 3105.65 of the Revised Code, a court of

common pleas shall charge and collect a fee of five dollars and fifty cents. The fee is in addition to any other court costs or fees. The county clerk of courts may retain an amount of each additional fee collected, not to exceed three per cent of the amount of the additional fee, to be used for costs directly related to the collection of the fee and the forwarding of the fee to the treasurer of state.

(B) The additional fees collected, but not retained, under this section during each month shall be forwarded not later than the tenth day of the immediately following month to the treasurer of state, who shall deposit the fees in the state treasury to the credit of the family violence prevention fund, which is hereby created. A person or government entity that fails to forward the fees in a timely manner, as determined by the treasurer of state, shall forward to the treasurer of state, in addition to the fees, a penalty equal to ten per cent of the fees.

The treasurer of state shall invest the moneys in the fund. All earnings resulting from investment of the fund shall be credited to the fund, except that actual administration costs incurred by the treasurer of state in administering the fund may be deducted from the earnings resulting from investments. The amount that may be deducted shall not exceed three per cent of the total amount of fees credited to the fund in each fiscal year. The balance of the investment earnings shall be credited to the fund.

(C) The director of public safety shall use money credited to the fund to provide grants to family violence shelters in Ohio.

Sec. 3712.03. (A) In accordance with Chapter 119. of the Revised Code, the public health council shall adopt, and may amend and rescind, rules:

(1) Providing for the licensing of persons or public agencies providing hospice care programs within this state by the department of health and for the suspension and revocation of licenses;

(2) Establishing a license fee and license renewal fee not to exceed three hundred dollars. The fees shall cover the three-year period during which an existing license is valid as provided in division (B) of section 3712.04 of the Revised Code.

(3) Establishing an inspection fee not to exceed one thousand seven hundred fifty dollars;

(4) Establishing requirements for hospice care program facilities and services;

(4)(5) Providing for a waiver of the requirement for the provision of physical, occupational, or speech or language therapy contained in division (A)(2) of section 3712.01 of the Revised Code when the requirement would create a hardship because such therapy is not readily available in the

geographic area served by the provider of a hospice care program;

~~(5)~~(6) Providing for the granting of licenses to provide hospice care programs to persons and public agencies that are accredited or certified to provide such programs by an entity whose standards for accreditation or certification equal or exceed those provided for licensure under this chapter and rules adopted under it; and

~~(6)~~(7) Establishing interpretive guidelines for each rule.

(B) Subject to the approval of the controlling board, the public health council may establish fees in excess of the amounts provided by sections 3712.01 and 3712.03 to 3712.06 of the Revised Code, provided that the fees do not exceed those amounts by greater than fifty per cent.

(C) The department of health shall:

(1) Grant, suspend, and revoke licenses for hospice care programs in accordance with this chapter and rules adopted under it;

(2) Make such inspections as are necessary to determine whether hospice care program facilities and services meet the requirements of this chapter and rules adopted under it; and

(3) Implement and enforce this chapter and rules adopted under it.

Sec. 3714.07. (A)(1) For the purpose of assisting boards of health and the environmental protection agency in administering and enforcing this chapter and rules adopted under it, there is hereby levied on the disposal of construction and demolition debris at a construction and demolition debris facility that is licensed under this chapter or at a solid waste facility that is licensed under Chapter 3734. of the Revised Code a fee of thirty cents per cubic yard or sixty cents per ton, as applicable.

(2) The owner or operator of a construction and demolition debris facility or a solid waste facility shall determine if cubic yards or tons will be used as the unit of measurement. In estimating the fee based on cubic yards, the owner or operator shall utilize either the maximum cubic yard capacity of the container, or the hauling volume of the vehicle, that transports the construction and demolition debris to the facility or the cubic yards actually logged for disposal by the owner or operator in accordance with rules adopted under section 3714.02 of the Revised Code. If basing the fee on tonnage, the owner or operator shall use certified scales to determine the tonnage of construction and demolition debris that is transported to the facility for disposal.

(3) The owner or operator of a construction and demolition debris facility or a solid waste facility shall collect the fee levied under division (A) of this section as a trustee for the health district having jurisdiction over the facility, if that district is on the approved list under section 3714.09 of the

Revised Code, or for the state. The owner or operator shall prepare and file with the appropriate board of health or the director of environmental protection monthly returns indicating the total volume or weight, as applicable, of construction and demolition debris received for disposal at the facility and the total amount of money required to be collected on the construction and demolition debris disposed of during that month. Not later than thirty days after the last day of the month to which the return applies, the owner or operator shall mail to the board of health or the director the return for that month together with the money required to be collected on the construction and demolition debris disposed of during that month. The owner or operator may request, in writing, an extension of not more than thirty days after the last day of the month to which the return applies. A request for extension may be denied. If the owner or operator submits the money late, the owner or operator shall pay a penalty of ten per cent of the amount of the money due for each month that it is late.

(4) Of the money that is collected from a construction and demolition debris facility or a solid waste facility on a per cubic yard or per ton basis under this section, a board of health shall transmit three cents per cubic yard or six cents per ton, as applicable, to the director not later than forty-five days after the receipt of the money. The money retained by a board of health under this section shall be paid into a special fund, which is hereby created in each health district, and used solely to administer and enforce this chapter and rules adopted under it.

The director shall transmit all money received from the boards of health of health districts under this section and all money from the disposal fee collected by the director under this section to the treasurer of state to be credited to the construction and demolition debris facility oversight fund, which is hereby created in the state treasury. The fund shall be administered by the director, and money credited to the fund shall be used exclusively for the administration and enforcement of this chapter and rules adopted under it.

(B) The board of health of a health district or the director may enter into an agreement with the owner or operator of a construction and demolition debris facility or a solid waste facility for the quarterly payment of the money collected from the disposal fee. The board of health shall notify the director of any such agreement. Not later than forty-five days after receipt of the quarterly payment, the board of health shall transmit the amount established in division (A)~~(5)~~(4) of this section to the director. The money retained by the board of health shall be deposited in the special fund of the district as required under that division. Upon receipt of the money from a



board of health, the director shall transmit the money to the treasurer of state to be credited to the construction and demolition debris facility oversight fund.

(C) If a construction and demolition debris facility or a solid waste facility is located within the territorial boundaries of a municipal corporation or the unincorporated area of a township, the municipal corporation or township may appropriate up to four cents per cubic yard or up to eight cents per ton of the disposal fee required to be paid by the facility under division (A) of this section for the same purposes that a municipal corporation or township may levy a fee under division (C) of section 3734.57 of the Revised Code.

The legislative authority of the municipal corporation or township may appropriate the money from the fee by enacting an ordinance or adopting a resolution establishing the amount of the fee to be appropriated. Upon doing so, the legislative authority shall mail a certified copy of the ordinance or resolution to the board of health of the health district in which the construction and demolition debris facility or the solid waste facility is located or, if the facility is located in a health district that is not on the approved list under section 3714.09 of the Revised Code, to the director. Upon receipt of the copy of the ordinance or resolution and not later than forty-five days after receipt of money collected from the fee, the board or the director, as applicable, shall transmit to the treasurer or other appropriate officer of the municipal corporation or clerk of the township that portion of the money collected from the disposal fee by the owner or operator of the facility that is required by the ordinance or resolution to be paid to that municipal corporation or township.

Money received by the treasurer or other appropriate officer of a municipal corporation under this division shall be paid into the general fund of the municipal corporation. Money received by the clerk of a township under this division shall be paid into the general fund of the township. The treasurer or other officer of the municipal corporation or the clerk of the township, as appropriate, shall maintain separate records of the money received under this division.

The legislative authority of a municipal corporation or township may cease collecting money under this division by repealing the ordinance or resolution that was enacted or adopted under this division.

(D) The board of county commissioners of a county in which a construction and demolition debris facility or a solid waste facility is located may appropriate up to three cents per cubic yard or up to six cents per ton of the disposal fee required to be paid by the facility under division (A) of this

section for the same purposes that a solid waste management district may levy a fee under division (B) of section 3734.57 of the Revised Code.

The board of county commissioners may appropriate the money from the fee by adopting a resolution establishing the amount of the fee to be appropriated. Upon doing so, the board of county commissioners shall mail a certified copy of the resolution to the board of health of the health district in which the construction and demolition debris facility or the solid waste facility is located or, if the facility is located in a health district that is not on the approved list under section 3714.09 of the Revised Code, to the director. Upon receipt of the copy of the resolution and not later than forty-five days after receipt of money collected from the fee, the board of health or the director, as applicable, shall transmit to the treasurer of the county that portion of the money collected from the disposal fee by the owner or operator of the facility that is required by the resolution to be paid to that county.

Money received by a county treasurer under this division shall be paid into the general fund of the county. The county treasurer shall maintain separate records of the money received under this division.

A board of county commissioners may cease collecting money under this division by repealing the resolution that was adopted under this division.

(E)(1) This section does not apply to the disposal of construction and demolition debris at a solid waste facility that is licensed under Chapter 3734. of the Revised Code if there is no construction and demolition debris facility licensed under this chapter within ~~forty~~ thirty-five miles of the solid waste facility as determined by a facility's property boundaries.

(2) This section does not apply to the disposal of construction and demolition debris at a solid waste facility that is licensed under Chapter 3734. of the Revised Code if the owner or operator of the facility chooses to collect fees on the disposal of the construction and demolition debris that are identical to the fees that are collected under Chapters 343. and 3734. of the Revised Code on the disposal of solid wastes at that facility.

(3) This section does not apply to the disposal of source separated materials that are exclusively composed of reinforced or nonreinforced concrete, asphalt, clay tile, building or paving brick, or building or paving stone at a construction and demolition debris facility that is licensed under this chapter when either of the following applies:

(a) The materials are placed within the limits of construction and demolition debris placement at the facility as specified in the license issued to the facility under section 3714.06 of the Revised Code, are not placed

within the unloading zone of the facility, and are used as a fire prevention measure in accordance with rules adopted by the director under section 3714.02 of the Revised Code.

(b) The materials are not placed within the unloading zone of the facility or within the limits of construction and demolition debris placement at the facility as specified in the license issued to the facility under section 3714.06 of the Revised Code, but are used as fill material, either alone or in conjunction with clean soil, sand, gravel, or other clean aggregates, in legitimate fill operations for construction purposes at the facility or to bring the facility up to a consistent grade.

Sec. 3714.073. (A) In addition to the fee levied under division (A)(1) of section 3714.07 of the Revised Code, beginning July 1, 2005, there is hereby levied on the disposal of construction and demolition debris at a construction and demolition debris facility that is licensed under this chapter or at a solid waste facility that is licensed under Chapter 3734. of the Revised Code the following fees:

(1) A fee of twelve and one-half cents per cubic yard or twenty-five cents per ton, as applicable, the proceeds of which shall be deposited in the state treasury to the credit of the soil and water conservation district assistance fund created in section 1515.14 of the Revised Code;

(2) A fee of thirty seven and one-half cents per cubic yard or seventy-five cents per ton, as applicable, the proceeds of which shall be deposited in the state treasury to the credit of the recycling and litter prevention fund created in section 1502.02 of the Revised Code.

(B) The owner or operator of a construction and demolition debris facility or a solid waste facility, as a trustee of the state, shall collect the fees levied under this section and remit the money from the fees in the manner that is established in divisions (A)(2) and (3) of section 3714.07 of the Revised Code for the fee that is levied under division (A)(1) of that section.

(C) The money that is collected from a construction and demolition debris facility or a solid waste facility and remitted to a board of health or the director of environmental protection, as applicable, pursuant to this section shall be transmitted by the board or director to the treasurer of state to be credited to the soil and water conservation district assistance fund or the recycling and litter prevention fund, as applicable.

(D) This section does not apply to the disposal of construction and demolition debris at a solid waste facility that is licensed under Chapter 3734. of the Revised Code if the owner or operator of the facility chooses to collect fees on the disposal of the construction and demolition debris that are identical to the fees that are collected under Chapters 343. and 3734. of the

Revised Code on the disposal of solid wastes at that facility.

(E) This section does not apply to the disposal of source separated materials that are exclusively composed of reinforced or nonreinforced concrete, asphalt, clay tile, building or paving brick, or building or paving stone at a construction and demolition debris facility that is licensed under this chapter when either of the following applies:

(1) The materials are placed within the limits of construction and demolition debris placement at the facility as specified in the license issued to the facility under section 3714.06 of the Revised Code, are not placed within the unloading zone of the facility, and are used as a fire prevention measure in accordance with rules adopted by the director under section 3714.02 of the Revised Code.

(2) The materials are not placed within the unloading zone of the facility or within the limits of construction and demolition debris placement at the facility as specified in the license issued to the facility under section 3714.06 of the Revised Code, but are used as fill material, either alone or in conjunction with clean soil, sand, gravel, or other clean aggregates, in legitimate fill operations for construction purposes at the facility or to bring the facility up to a consistent grade.

Sec. 3715.04. (A) As used in this section:

(1) "Certificate of health and freesale" means a document issued by the director of agriculture that certifies to states and countries receiving products that the products have been produced and warehoused in this state under sanitary conditions at a food processing establishment or at a place of business of a manufacturer of over-the-counter drugs or cosmetics, as applicable, that has been inspected by the department of agriculture. Other names of documents that are synonymous with "certificate of health and freesale" include, but are not limited to, "sanitary certificate of health and freesale"; "certificate of origin"; "certificate of freesale"; "certificate of health and origin"; "certificate of freesale, sanitary and purity"; and "certificate of freesale, health and origin."

(2) "Food processing establishment" has the same meaning as in section 3715.021 of the Revised Code.

(B) Upon the request of a food processing establishment, manufacturer of over-the-counter drugs, or manufacturer of cosmetics, the director may issue a certificate of health and freesale after determining that conditions at the establishment or place of business of the manufacturer, as applicable, have been found to be sanitary through an inspection conducted pursuant to this chapter. For each certificate issued, the director shall charge the establishment or manufacturer a fee in the amount of twenty dollars. The

director shall deposit all fees collected under this section to the credit of the food safety fund created in section 915.24 of the Revised Code.

Sec. 3721.01. (A) As used in sections 3721.01 to 3721.09 and 3721.99 of the Revised Code:

(1)(a) "Home" means an institution, residence, or facility that provides, for a period of more than twenty-four hours, whether for a consideration or not, accommodations to three or more unrelated individuals who are dependent upon the services of others, including a nursing home, residential care facility, home for the aging, and a veterans' home operated under Chapter 5907. of the Revised Code.

(b) "Home" also means both of the following:

(i) Any facility that a person, as defined in section 3702.51 of the Revised Code, proposes for certification as a skilled nursing facility or nursing facility under Title XVIII or XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, and for which a certificate of need, other than a certificate to recategorize hospital beds as described in section 3702.522 of the Revised Code or division (R)(7)(d) of the version of section 3702.51 of the Revised Code in effect immediately prior to April 20, 1995, has been granted to the person under sections 3702.51 to 3702.62 of the Revised Code after August 5, 1989;

(ii) A county home or district home that is or has been licensed as a residential care facility.

(c) "Home" does not mean any of the following:

(i) Except as provided in division (A)(1)(b) of this section, a public hospital or hospital as defined in section 3701.01 or 5122.01 of the Revised Code;

(ii) A residential facility for mentally ill persons as defined under section 5119.22 of the Revised Code;

(iii) A residential facility as defined in section 5123.19 of the Revised Code;

(iv) ~~A habilitation center as defined in section 5123.041 of the Revised Code;~~

~~(v)~~ A community alternative home as defined in section 3724.01 of the Revised Code;

~~(vi)~~(v) An adult care facility as defined in section 3722.01 of the Revised Code;

~~(vii)~~(vi) An alcohol or drug addiction program as defined in section 3793.01 of the Revised Code;

~~(viii)~~(vii) A facility licensed to provide methadone treatment under section 3793.11 of the Revised Code;

~~(ix)~~(viii) A facility providing services under contract with the department of mental retardation and developmental disabilities under section 5123.18 of the Revised Code;

~~(x)~~(ix) A facility operated by a hospice care program licensed under section 3712.04 of the Revised Code that is used exclusively for care of hospice patients;

~~(xi)~~(x) A facility, infirmary, or other entity that is operated by a religious order, provides care exclusively to members of religious orders who take vows of celibacy and live by virtue of their vows within the orders as if related, and does not participate in the medicare program established under Title XVIII of the "Social Security Act" or the medical assistance program established under Chapter 5111. of the Revised Code and Title XIX of the "Social Security Act," if on January 1, 1994, the facility, infirmary, or entity was providing care exclusively to members of the religious order;

~~(xii)~~(xi) A county home or district home that has never been licensed as a residential care facility.

(2) "Unrelated individual" means one who is not related to the owner or operator of a home or to the spouse of the owner or operator as a parent, grandparent, child, grandchild, brother, sister, niece, nephew, aunt, uncle, or as the child of an aunt or uncle.

(3) "Mental impairment" does not mean mental illness as defined in section 5122.01 of the Revised Code or mental retardation as defined in section 5123.01 of the Revised Code.

(4) "Skilled nursing care" means procedures that require technical skills and knowledge beyond those the untrained person possesses and that are commonly employed in providing for the physical, mental, and emotional needs of the ill or otherwise incapacitated. "Skilled nursing care" includes, but is not limited to, the following:

(a) Irrigations, catheterizations, application of dressings, and supervision of special diets;

(b) Objective observation of changes in the patient's condition as a means of analyzing and determining the nursing care required and the need for further medical diagnosis and treatment;

(c) Special procedures contributing to rehabilitation;

(d) Administration of medication by any method ordered by a physician, such as hypodermically, rectally, or orally, including observation of the patient after receipt of the medication;

(e) Carrying out other treatments prescribed by the physician that involve a similar level of complexity and skill in administration.

(5)(a) "Personal care services" means services including, but not limited to, the following:

- (i) Assisting residents with activities of daily living;
- (ii) Assisting residents with self-administration of medication, in accordance with rules adopted under section 3721.04 of the Revised Code;
- (iii) Preparing special diets, other than complex therapeutic diets, for residents pursuant to the instructions of a physician or a licensed dietitian, in accordance with rules adopted under section 3721.04 of the Revised Code.

(b) "Personal care services" does not include "skilled nursing care" as defined in division (A)(4) of this section. A facility need not provide more than one of the services listed in division (A)(5)(a) of this section to be considered to be providing personal care services.

(6) "Nursing home" means a home used for the reception and care of individuals who by reason of illness or physical or mental impairment require skilled nursing care and of individuals who require personal care services but not skilled nursing care. A nursing home is licensed to provide personal care services and skilled nursing care.

(7) "Residential care facility" means a home that provides either of the following:

(a) Accommodations for seventeen or more unrelated individuals and supervision and personal care services for three or more of those individuals who are dependent on the services of others by reason of age or physical or mental impairment;

(b) Accommodations for three or more unrelated individuals, supervision and personal care services for at least three of those individuals who are dependent on the services of others by reason of age or physical or mental impairment, and, to at least one of those individuals, any of the skilled nursing care authorized by section 3721.011 of the Revised Code.

(8) "Home for the aging" means a home that provides services as a residential care facility and a nursing home, except that the home provides its services only to individuals who are dependent on the services of others by reason of both age and physical or mental impairment.

The part or unit of a home for the aging that provides services only as a residential care facility is licensed as a residential care facility. The part or unit that may provide skilled nursing care beyond the extent authorized by section 3721.011 of the Revised Code is licensed as a nursing home.

(9) "County home" and "district home" mean a county home or district home operated under Chapter 5155. of the Revised Code.

(B) The public health council may further classify homes. For the purposes of this chapter, any residence, institution, hotel, congregate

housing project, or similar facility that meets the definition of a home under this section is such a home regardless of how the facility holds itself out to the public.

(C) For purposes of this chapter, personal care services or skilled nursing care shall be considered to be provided by a facility if they are provided by a person employed by or associated with the facility or by another person pursuant to an agreement to which neither the resident who receives the services nor the resident's sponsor is a party.

(D) Nothing in division (A)(4) of this section shall be construed to permit skilled nursing care to be imposed on an individual who does not require skilled nursing care.

Nothing in division (A)(5) of this section shall be construed to permit personal care services to be imposed on an individual who is capable of performing the activity in question without assistance.

(E) Division (A)(1)(c)~~(xi)~~(x) of this section does not prohibit a facility, infirmary, or other entity described in that division from seeking licensure under sections 3721.01 to 3721.09 of the Revised Code or certification under Title XVIII or XIX of the "Social Security Act." However, such a facility, infirmary, or entity that applies for licensure or certification must meet the requirements of those sections or titles and the rules adopted under them and obtain a certificate of need from the director of health under section 3702.52 of the Revised Code.

(F) Nothing in this chapter, or rules adopted pursuant to it, shall be construed as authorizing the supervision, regulation, or control of the spiritual care or treatment of residents or patients in any home who rely upon treatment by prayer or spiritual means in accordance with the creed or tenets of any recognized church or religious denomination.

Sec. 3721.011. (A) In addition to providing accommodations, supervision, and personal care services to its residents, a residential care facility may provide skilled nursing care as follows:

- (1) Supervision of special diets;
- (2) Application of dressings, in accordance with rules adopted under section 3721.04 of the Revised Code;
- (3) Providing for the administration of medication to residents, to the extent authorized under division (B)(1) of this section;
- (4) Other skilled nursing care provided on a part-time, intermittent basis pursuant to division (C) of this section.

A residential care facility may not admit or retain an individual requiring skilled nursing care that is not authorized by this section. A residential care facility may not provide skilled nursing care beyond the



limits established by this section.

(B)(1) A residential care facility may admit or retain an individual requiring medication, including biologicals, only if the individual's personal physician has determined in writing that the individual is capable of self-administering the medication or the facility provides for the medication to be administered to the individual by a home health agency certified under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended; a hospice care program licensed under Chapter 3712. of the Revised Code; or a member of the staff of the residential care facility who is qualified to perform medication administration. Medication may be administered in a residential care facility only by the following persons authorized by law to administer medication:

(a) A registered nurse licensed under Chapter 4723. of the Revised Code;

(b) A licensed practical nurse licensed under Chapter 4723. of the Revised Code who holds proof of successful completion of a course in medication administration approved by the board of nursing and who administers the medication only at the direction of a registered nurse or a physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery;

(c) A medication aide certified under Chapter 4723. of the Revised Code;

(d) A physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.

(2) In assisting a resident with self-administration of medication, any member of the staff of a residential care facility may do the following:

(a) Remind a resident when to take medication and watch to ensure that the resident follows the directions on the container;

(b) Assist a resident by taking the medication from the locked area where it is stored, in accordance with rules adopted pursuant to section 3721.04 of the Revised Code, and handing it to the resident. If the resident is physically unable to open the container, a staff member may open the container for the resident.

(c) Assist a physically impaired but mentally alert resident, such as a resident with arthritis, cerebral palsy, or Parkinson's disease, in removing oral or topical medication from containers and in consuming or applying the medication, upon request by or with the consent of the resident. If a resident is physically unable to place a dose of medicine to the resident's mouth without spilling it, a staff member may place the dose in a container and place the container to the mouth of the resident.

(C) A residential care facility may admit or retain individuals who require skilled nursing care beyond the supervision of special diets, application of dressings, or administration of medication, only if the care will be provided on a part-time, intermittent basis for not more than a total of one hundred twenty days in any twelve-month period. In accordance with Chapter 119. of the Revised Code, the public health council shall adopt rules specifying what constitutes the need for skilled nursing care on a part-time, intermittent basis. The council shall adopt rules that are consistent with rules pertaining to home health care adopted by the director of job and family services for the medical assistance program established under Chapter 5111. of the Revised Code. Skilled nursing care provided pursuant to this division may be provided by a home health agency certified under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, a hospice care program licensed under Chapter 3712. of the Revised Code, or a member of the staff of a residential care facility who is qualified to perform skilled nursing care.

A residential care facility that provides skilled nursing care pursuant to this division shall do both of the following:

- (1) Evaluate each resident receiving the skilled nursing care at least once every seven days to determine whether the resident should be transferred to a nursing home;
- (2) Meet the skilled nursing care needs of each resident receiving the care.

(D) Notwithstanding any other provision of this chapter, a residential care facility in which residents receive skilled nursing care pursuant to this section is not a nursing home.

Sec. 3721.02. (A) The director of health shall license homes and establish procedures to be followed in inspecting and licensing homes. The director may inspect a home at any time. Each home shall be inspected by the director at least once prior to the issuance of a license and at least once every fifteen months thereafter. The state fire marshal or a township, municipal, or other legally constituted fire department approved by the marshal shall also inspect a home prior to issuance of a license, at least once every fifteen months thereafter, and at any other time requested by the director. A home does not have to be inspected prior to issuance of a license by the director, state fire marshal, or a fire department if ownership of the home is assigned or transferred to a different person and the home was licensed under this chapter immediately prior to the assignment or transfer. The director may enter at any time, for the purposes of investigation, any institution, residence, facility, or other structure that has been reported to the

director or that the director has reasonable cause to believe is operating as a nursing home, residential care facility, or home for the aging without a valid license required by section 3721.05 of the Revised Code or, in the case of a county home or district home, is operating despite the revocation of its residential care facility license. The director may delegate the director's authority and duties under this chapter to any division, bureau, agency, or official of the department of health.

(B) A single facility may be licensed both as a nursing home pursuant to this chapter and as an adult care facility pursuant to Chapter 3722. of the Revised Code if the director determines that the part or unit to be licensed as a nursing home can be maintained separate and discrete from the part or unit to be licensed as an adult care facility.

(C) In determining the number of residents in a home for the purpose of licensing, the director shall consider all the individuals for whom the home provides accommodations as one group unless one of the following is the case:

(1) The home is a home for the aging, in which case all the individuals in the part or unit licensed as a nursing home shall be considered as one group, and all the individuals in the part or unit licensed as a rest home shall be considered as another group.

(2) The home is both a nursing home and an adult care facility. In that case, all the individuals in the part or unit licensed as a nursing home shall be considered as one group, and all the individuals in the part or unit licensed as an adult care facility shall be considered as another group.

(3) The home maintains, in addition to a nursing home or residential care facility, a separate and discrete part or unit that provides accommodations to individuals who do not require or receive skilled nursing care and do not receive personal care services from the home, in which case the individuals in the separate and discrete part or unit shall not be considered in determining the number of residents in the home if the separate and discrete part or unit is in compliance with the Ohio basic building code established by the board of building standards under Chapters 3781. and 3791. of the Revised Code and the home permits the director, on request, to inspect the separate and discrete part or unit and speak with the individuals residing there, if they consent, to determine whether the separate and discrete part or unit meets the requirements of this division.

(D) The director of health shall charge an application fee and an annual renewal licensing and inspection fee of one hundred ~~five~~ seventy dollars for each fifty persons or part thereof of a home's licensed capacity. All fees collected by the director for the issuance or renewal of licenses shall be

deposited into the state treasury to the credit of the general operations fund created in section 3701.83 of the Revised Code for use only in administering and enforcing this chapter and rules adopted under it.

(E)(1) Except as otherwise provided in this section, the results of an inspection or investigation of a home that is conducted under this section, including any statement of deficiencies and all findings and deficiencies cited in the statement on the basis of the inspection or investigation, shall be used solely to determine the home's compliance with this chapter or another chapter of the Revised Code in any action or proceeding other than an action commenced under division (I) of section 3721.17 of the Revised Code. Those results of an inspection or investigation, that statement of deficiencies, and the findings and deficiencies cited in that statement shall not be used in any court or in any action or proceeding that is pending in any court and are not admissible in evidence in any action or proceeding unless that action or proceeding is an appeal of an action by the department of health under this chapter or is an action by any department or agency of the state to enforce this chapter or another chapter of the Revised Code.

(2) Nothing in division (E)(1) of this section prohibits the results of an inspection or investigation conducted under this section from being used in a criminal investigation or prosecution.

Sec. 3721.03. ~~The~~ (A) As used in this section, "person" has the same meaning as in section 1.59 of the Revised Code.

(B) The director of health shall enforce the provisions of sections 3721.01 to 3721.09 3721.13 and 3721.99 of the Revised Code and may issue orders to secure compliance with the provisions of these sections and the rules adopted under them. The director may hold hearings, issue subpoenas, compel testimony, and make adjudications. ~~It~~

The director may issue an order revoking a license in the event the director finds, upon hearing or opportunity afforded therefor pursuant to Chapter 119. of the Revised Code, that any of the following apply to a person, firm, partnership, association, corporation, county home, or district home licensed under section 3721.07 of the Revised Code is in violation of:

(1) Has violated any of the provisions of Chapter 3721. of the Revised Code or rules adopted by the public health council under it; is in violation of

(2) Has violated any order issued by the director; is

(3) Is not, or any of its principals are not suitable, morally or financially to operate such an institution; or is

(4) Is not furnishing humane, kind, and adequate treatment and care; the director may issue an order revoking the license previously issued by the director;

(5) Has had a long-standing pattern of violations of this chapter or the rules adopted under it that has caused physical, emotional, mental, or psychosocial harm to one or more residents. Upon

Upon the issuance of any order of revocation, the person whose license is revoked, or the county home or district home that has its license revoked, may appeal in accordance with Chapter 119. of the Revised Code.

~~The state fire marshal shall enforce all statutes and rules pertaining to fire safety in homes and shall adopt rules pertaining to fire safety in homes as the marshal determines necessary. The rules adopted by the marshal shall be in addition to those fire safety rules that the board of building standards and the public health council are empowered to adopt and shall be adopted prior to December 31, 1972. In the event of a dispute between the marshal and another officer having responsibilities under sections 3721.01 to 3721.09 of the Revised Code with respect to the interpretation or application of a specific fire safety statute or rule, the interpretation of the marshal shall prevail.~~

~~If the ownership of a home is assigned or transferred to a different person, the new owner is responsible and liable for compliance with any notice of proposed action or order issued under this section in accordance with Chapter 119. of the Revised Code prior to the effective date of the assignment or transfer (C) Once the director notifies a person, county home, or district home licensed to operate a home that the license may be revoked or issues any order under this section, the person, county home, or district home shall not assign or transfer to another person or entity the right to operate the home. This prohibition shall remain in effect until proceedings under Chapter 119. of the Revised Code concerning the order or license revocation have been concluded or the director notifies the person, county home, or district home that the prohibition has been lifted.~~

If a license is revoked under this section, the former license holder shall not assign or transfer or consent to assignment or transfer of the right to operate the home. Any attempted assignment or transfer to another person or entity is void.

On revocation of a license, the former licensee shall take all necessary steps to cease operation of the home.

The director of health shall not accept a certificate of need application under section 3702.52 of the Revised Code regarding a home if the license to operate the home has been revoked under this section.

Sec. 3721.032. The state fire marshal shall enforce all statutes and rules pertaining to fire safety in homes and shall adopt rules pertaining to fire safety in homes as the marshal determines necessary. The rules adopted by

the marshal shall be in addition to those fire safety rules that the board of building standards and the public health council are empowered to adopt. In the event of a dispute between the marshal and another officer having responsibilities under sections 3721.01 to 3721.09 of the Revised Code with respect to the interpretation or application of a specific fire safety statute or rule, the interpretation of the marshal shall prevail.

Sec. 3721.07. Every person desiring to operate a home and the superintendent or administrator of each county home or district home for which a license as a residential care facility is sought shall apply for a license to the director of health. The director shall issue a license for the home, if after investigation of the applicant and, if required by section 3721.02 of the Revised Code, inspection of the home, the following requirements or conditions are satisfied or complied with:

(A) The applicant has not been convicted of a felony or a crime involving moral turpitude;

(B) The applicant is not violating any of the rules made by the public health council or any order issued by the director of health;

(C) The applicant has not had a license to operate the home revoked pursuant to section 3721.03 of the Revised Code because of any act or omission that jeopardized a resident's health, welfare, or safety nor has the applicant had a long-standing pattern of violations of this chapter or rules adopted under it that caused physical, emotional, mental, or psychosocial harm to one or more residents.

(D) The buildings in which the home is housed have been approved by the state fire marshal or a township, municipal, or other legally constituted fire department approved by the marshal. In the approval of a home such agencies shall apply standards prescribed by the board of building standards, and by the state fire marshal, and by section 3721.071 of the Revised Code.

~~(D)~~(E) The applicant, if it is an individual, or the principal participants, if it is an association or a corporation, is or are suitable financially and morally to operate a home;

~~(E)~~(F) The applicant is equipped to furnish humane, kind, and adequate treatment and care;

~~(F)~~(G) The home does not maintain or contain:

(1) Facilities for the performance of major surgical procedures;

(2) Facilities for providing therapeutic radiation;

(3) An emergency ward;

(4) A clinical laboratory unless it is under the supervision of a clinical pathologist who is a licensed physician in this state;

(5) Facilities for radiological examinations unless such examinations are

performed only by a person licensed to practice medicine, surgery, or dentistry in this state.

~~(G)~~(H) The home does not accept or treat outpatients, except upon the written orders of a physician licensed in this state, maternity cases, boarding children, and does not house transient guests, other than participants in an adult day-care program, for twenty-four hours or less;

~~(H)~~(I) The home is in compliance with sections 3721.28 and 3721.29 of the Revised Code.

When the director issues a license, the license shall remain in effect until revoked by the director or voided at the request of the applicant; provided, there shall be an annual renewal fee payable during the month of January of each calendar year. Any licensed home that does not pay its renewal fee in January shall pay, beginning the first day of February, a late fee of one hundred dollars for each week or part thereof that the renewal fee is not paid. If either the renewal fee or the late fee is not paid by the fifteenth day of February, the director may, in accordance with Chapter 119. of the Revised Code, revoke the home's license.

If, under division (B)(5) of section 3721.03 of the Revised Code, the license of a person has been revoked or the license of a county home or district home to operate as a residential care facility has been revoked, the director of health shall not issue a license to the person or home at any time. A person whose license is revoked, and a county home or district home that has its license as a residential care facility revoked other than under division (B)(5) of section 3721.03 of the Revised Code, for any reason other than nonpayment of the license renewal fee or late fees ~~may~~ shall not ~~apply for~~ be issued a new license under this chapter until a period of one year following the date of revocation has elapsed.

Any applicant who is denied a license may appeal in accordance with Chapter 119. of the Revised Code.

Sec. 3721.121. (A) As used in this section:

(1) "Adult day-care program" means a program operated pursuant to rules adopted by the public health council under section 3721.04 of the Revised Code and provided by and on the same site as homes licensed under this chapter.

(2) "Applicant" means a person who is under final consideration for employment with a home or adult day-care program in a full-time, part-time, or temporary position that involves providing direct care to an older adult. "Applicant" does not include a person who provides direct care as a volunteer without receiving or expecting to receive any form of remuneration other than reimbursement for actual expenses.

(3) "Criminal records check" and "older adult" have the same meanings as in section 109.572 of the Revised Code.

(4) "Home" means a home as defined in section 3721.10 of the Revised Code.

(B)(1) Except as provided in division (I) of this section, the chief administrator of a home or adult day-care program shall request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check with respect to each applicant. If an applicant for whom a criminal records check request is required under this division does not present proof of having been a resident of this state for the five-year period immediately prior to the date the criminal records check is requested or provide evidence that within that five-year period the superintendent has requested information about the applicant from the federal bureau of investigation in a criminal records check, the chief administrator shall request that the superintendent obtain information from the federal bureau of investigation as part of the criminal records check of the applicant. Even if an applicant for whom a criminal records check request is required under this division presents proof of having been a resident of this state for the five-year period, the chief administrator may request that the superintendent include information from the federal bureau of investigation in the criminal records check.

(2) A person required by division (B)(1) of this section to request a criminal records check shall do both of the following:

(a) Provide to each applicant for whom a criminal records check request is required under that division a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a standard fingerprint impression sheet prescribed pursuant to division (C)(2) of that section, and obtain the completed form and impression sheet from the applicant;

(b) Forward the completed form and impression sheet to the superintendent of the bureau of criminal identification and investigation.

(3) An applicant provided the form and fingerprint impression sheet under division (B)(2)(a) of this section who fails to complete the form or provide fingerprint impressions shall not be employed in any position for which a criminal records check is required by this section.

(C)(1) Except as provided in rules adopted by the director of health in accordance with division (F) of this section and subject to division (C)(2) of this section, no home or adult day-care program shall employ a person in a position that involves providing direct care to an older adult if the person has been convicted of or pleaded guilty to any of the following:



(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 2925.22, 2925.23, or 3716.11 of the Revised Code.

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

(2)(a) A home or an adult day-care program may employ conditionally an applicant for whom a criminal records check request is required under division (B) of this section prior to obtaining the results of a criminal records check regarding the individual, provided that the home or program shall request a criminal records check regarding the individual in accordance with division (B)(1) of this section not later than five business days after the individual begins conditional employment. In the circumstances described in division (I)(2) of this section, a home or adult day-care program may employ conditionally an applicant who has been referred to the home or adult day-care program by an employment service that supplies full-time, part-time, or temporary staff for positions involving the direct care of older adults and for whom, pursuant to that division, a criminal records check is not required under division (B) of this section.

(b) A home or adult day-care program that employs an individual conditionally under authority of division (C)(2)(a) of this section shall terminate the individual's employment if the results of the criminal records check requested under division (B) of this section or described in division (I)(2) of this section, other than the results of any request for information from the federal bureau of investigation, are not obtained within the period ending thirty days after the date the request is made. Regardless of when the results of the criminal records check are obtained, if the results indicate that the individual has been convicted of or pleaded guilty to any of the offenses listed or described in division (C)(1) of this section, the home or program shall terminate the individual's employment unless the home or program chooses to employ the individual pursuant to division (F) of this section. Termination of employment under this division shall be considered just cause for discharge for purposes of division (D)(2) of section 4141.29 of the Revised Code if the individual makes any attempt to deceive the home or program about the individual's criminal record.

(D)(1) Each home or adult day-care program shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted pursuant to a request made under division (B) of this section.

(2) A home or adult day-care program may charge an applicant a fee not exceeding the amount the home or program pays under division (D)(1) of this section. A home or program may collect a fee only if both of the following apply:

(a) The home or program notifies the person at the time of initial application for employment of the amount of the fee and that, unless the fee is paid, the person will not be considered for employment;

(b) The medical assistance program established under Chapter 5111. of the Revised Code does not reimburse the home or program the fee it pays under division (D)(1) of this section.

(E) The report of any criminal records check conducted pursuant to a request made under this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the following:

(1) The individual who is the subject of the criminal records check or the individual's representative;

(2) The chief administrator of the home or program requesting the criminal records check or the administrator's representative;

(3) The administrator of any other facility, agency, or program that provides direct care to older adults that is owned or operated by the same entity that owns or operates the home or program;

(4) A court, hearing officer, or other necessary individual involved in a case dealing with a denial of employment of the applicant or dealing with employment or unemployment benefits of the applicant;

(5) Any person to whom the report is provided pursuant to, and in accordance with, division (I)(1) or (2) of this section;

(6) The board of nursing for purposes of accepting and processing an application for a medication aide certificate issued under Chapter 4723. of the Revised Code.

(F) In accordance with section 3721.11 of the Revised Code, the director of health shall adopt rules to implement this section. The rules shall specify circumstances under which a home or adult day-care program may employ a person who has been convicted of or pleaded guilty to an offense listed or described in division (C)(1) of this section but meets personal character standards set by the director.

(G) The chief administrator of a home or adult day-care program shall inform each individual, at the time of initial application for a position that involves providing direct care to an older adult, that the individual is required to provide a set of fingerprint impressions and that a criminal records check is required to be conducted if the individual comes under final consideration for employment.

(H) In a tort or other civil action for damages that is brought as the result of an injury, death, or loss to person or property caused by an individual who a home or adult day-care program employs in a position that involves providing direct care to older adults, all of the following shall apply:

(1) If the home or program employed the individual in good faith and reasonable reliance on the report of a criminal records check requested under this section, the home or program shall not be found negligent solely because of its reliance on the report, even if the information in the report is determined later to have been incomplete or inaccurate;

(2) If the home or program employed the individual in good faith on a conditional basis pursuant to division (C)(2) of this section, the home or program shall not be found negligent solely because it employed the individual prior to receiving the report of a criminal records check requested under this section;

(3) If the home or program in good faith employed the individual according to the personal character standards established in rules adopted under division (F) of this section, the home or program shall not be found negligent solely because the individual prior to being employed had been convicted of or pleaded guilty to an offense listed or described in division (C)(1) of this section.

(I)(1) The chief administrator of a home or adult day-care program is not required to request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check of an applicant if the applicant has been referred to the home or program by an employment service that supplies full-time, part-time, or temporary staff for positions involving the direct care of older adults and both of the following apply:

(a) The chief administrator receives from the employment service or the applicant a report of the results of a criminal records check regarding the applicant that has been conducted by the superintendent within the one-year period immediately preceding the applicant's referral;

(b) The report of the criminal records check demonstrates that the person has not been convicted of or pleaded guilty to an offense listed or

described in division (C)(1) of this section, or the report demonstrates that the person has been convicted of or pleaded guilty to one or more of those offenses, but the home or adult day-care program chooses to employ the individual pursuant to division (F) of this section.

(2) The chief administrator of a home or adult day-care program is not required to request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check of an applicant and may employ the applicant conditionally as described in this division, if the applicant has been referred to the home or program by an employment service that supplies full-time, part-time, or temporary staff for positions involving the direct care of older adults and if the chief administrator receives from the employment service or the applicant a letter from the employment service that is on the letterhead of the employment service, dated, and signed by a supervisor or another designated official of the employment service and that states that the employment service has requested the superintendent to conduct a criminal records check regarding the applicant, that the requested criminal records check will include a determination of whether the applicant has been convicted of or pleaded guilty to any offense listed or described in division (C)(1) of this section, that, as of the date set forth on the letter, the employment service had not received the results of the criminal records check, and that, when the employment service receives the results of the criminal records check, it promptly will send a copy of the results to the home or ~~adult-care~~ adult day-care program. If a home or adult day-care program employs an applicant conditionally in accordance with this division, the employment service, upon its receipt of the results of the criminal records check, promptly shall send a copy of the results to the home or adult day-care program, and division (C)(2)(b) of this section applies regarding the conditional employment.

Sec. 3721.15. (A) Authorization from a resident or a sponsor with a power of attorney for a home to manage the resident's financial affairs shall be in writing and shall be attested to by a witness who is not connected in any manner whatsoever with the home or its administrator. The home shall maintain accounts pursuant to division (A)(27) of section 3721.13 of the Revised Code. Upon the resident's transfer, discharge, or death, the account shall be closed and a final accounting made. All remaining funds shall be returned to the resident or resident's sponsor, except in the case of death, when all remaining funds shall be transferred or used in accordance with section ~~5411.112~~ 5111.113 of the Revised Code.

(B) A home that manages a resident's financial affairs shall deposit the

resident's funds in excess of one hundred dollars, and may deposit the resident's funds that are one hundred dollars or less, in an interest-bearing account separate from any of the home's operating accounts. Interest earned on the resident's funds shall be credited to the resident's account. A resident's funds that are one hundred dollars or less and have not been deposited in an interest-bearing account may be deposited in a noninterest-bearing account or petty cash fund.

(C) Each resident whose financial affairs are managed by a home shall be promptly notified by the home when the total of the amount of funds in the resident's accounts and the petty cash fund plus other nonexempt resources reaches two hundred dollars less than the maximum amount permitted a recipient of medicaid. The notice shall include an explanation of the potential effect on the resident's eligibility for medicaid if the amount in the resident's accounts and the petty cash fund, plus the value of other nonexempt resources, exceeds the maximum assets a medicaid recipient may retain.

(D) Each home that manages the financial affairs of residents shall purchase a surety bond or otherwise provide assurance satisfactory to the director of health, or, in the case of a home that participates in the medicaid program, to the director of job and family services, to assure the security of all residents' funds managed by the home.

Sec. 3721.19. (A) As used in this section:

(1) "Home" and "residential care facility" have the same meanings as in section 3721.01 of the Revised Code;

(2) "Sponsor" and "residents' rights advocate" have the same meanings as in section 3721.10 of the Revised Code.

A home licensed under this chapter that is not a party to a provider agreement, as defined in section 5111.20 of the Revised Code, shall provide each prospective resident, before admission, with the following information, orally and in a separate written notice on which is printed in a conspicuous manner: "This home is not a participant in the medical assistance program administered by the Ohio department of job and family services. Consequently, you may be discharged from this home if you are unable to pay for the services provided by this home."

If the prospective resident has a sponsor whose identity is made known to the home, the home shall also inform the sponsor, before admission of the resident, of the home's status relative to the medical assistance program. Written acknowledgement of the receipt of the information shall be provided by the resident and, if the prospective resident has a sponsor who has been identified to the home, by the sponsor. The written

acknowledgement shall be made part of the resident's record by the home.

No home shall terminate its status as a provider under the ~~medical assistance~~ medicaid program unless it has complied with section 5111.66 of the Revised Code and, at least ninety days prior to such termination, provided written notice to the ~~department of job and family services and~~ residents of the home and their sponsors of such action. This requirement shall not apply in cases where the department of job and family services terminates a home's provider agreement or provider status.

(B) A home licensed under this chapter as a residential care facility shall provide notice to each prospective resident or the individual's sponsor of the services offered by the facility and the types of skilled nursing care that the facility may provide. A residential care facility that, pursuant to section 3721.012 of the Revised Code, has a policy of entering into risk agreements with residents or their sponsors shall provide each prospective resident or the individual's sponsor a written explanation of the policy and the provisions that may be contained in a risk agreement. At the time the information is provided, the facility shall obtain a statement signed by the individual receiving the information acknowledging that the individual received the information. The facility shall maintain on file the individual's signed statement.

(C) A resident has a cause of action against a home for breach of any duty imposed by this section. The action may be commenced by the resident, or on the resident's behalf by the resident's sponsor or a residents' rights advocate, by the filing of a civil action in the court of common pleas of the county in which the home is located, or in the court of common pleas of Franklin county.

If the court finds that a breach of any duty imposed by this section has occurred, the court shall enjoin the home from discharging the resident from the home until arrangements satisfactory to the court are made for the orderly transfer of the resident to another mode of health care including, but not limited to, another home, and may award the resident and a person or public agency that brings an action on behalf of a resident reasonable attorney's fees. If a home discharges a resident to whom or to whose sponsor information concerning its status relative to the medical assistance program was not provided as required under this section, the court shall grant any appropriate relief including, but not limited to, actual damages, reasonable attorney's fees, and costs.

Sec. 3721.21. As used in sections 3721.21 to 3721.34 of the Revised Code:

(A) "Long-term care facility" means either of the following:

(1) A nursing home as defined in section 3721.01 of the Revised Code, other than a nursing home or part of a nursing home certified as an intermediate care facility for the mentally retarded under Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended;

(2) A facility or part of a facility that is certified as a skilled nursing facility or a nursing facility under Title XVIII or XIX of the "Social Security Act."

(B) "Residential care facility" has the same meaning as in section 3721.01 of the Revised Code.

(C) "Abuse" means knowingly causing physical harm or recklessly causing serious physical harm to a resident by physical contact with the resident or by use of physical or chemical restraint, medication, or isolation as punishment, for staff convenience, excessively, as a substitute for treatment, or in amounts that preclude habilitation and treatment.

(D) "Neglect" means recklessly failing to provide a resident with any treatment, care, goods, or service necessary to maintain the health or safety of the resident when the failure results in serious physical harm to the resident. "Neglect" does not include allowing a resident, at the resident's option, to receive only treatment by spiritual means through prayer in accordance with the tenets of a recognized religious denomination.

(E) "Misappropriation" means depriving, defrauding, or otherwise obtaining the real or personal property of a resident by any means prohibited by the Revised Code, including violations of Chapter 2911. or 2913. of the Revised Code.

(F) "Resident" includes a resident, patient, former resident or patient, or deceased resident or patient of a long-term care facility or a residential care facility.

(G) "Physical restraint" has the same meaning as in section 3721.10 of the Revised Code.

(H) "Chemical restraint" has the same meaning as in section 3721.10 of the Revised Code.

(I) "Nursing and nursing-related services" means the personal care services and other services not constituting skilled nursing care that are specified in rules the public health council shall adopt in accordance with Chapter 119. of the Revised Code.

(J) "Personal care services" has the same meaning as in section 3721.01 of the Revised Code.

(K)(1) Except as provided in division (K)(2) of this section, "Nurse nurse aide" means an individual, other than a licensed health professional practicing within the scope of the professional's license, who provides

nursing and nursing-related services to residents in a long-term care facility, either as a member of the staff of the facility for monetary compensation or as a volunteer without monetary compensation.

(2) "Nurse aide" does not include either of the following:

(a) A licensed health professional practicing within the scope of the professional's license;

(b) An individual providing nursing and nursing-related services in a religious nonmedical health care institution, if the individual has been trained in the principles of nonmedical care and is recognized by the institution as being competent in the administration of care within the religious tenets practiced by the residents of the institution.

(L) "Licensed health professional" means all of the following:

(1) An occupational therapist or occupational therapy assistant licensed under Chapter 4755. of the Revised Code;

(2) A physical therapist or physical therapy assistant licensed under Chapter 4755. of the Revised Code;

(3) A physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatry;

(4) A physician assistant authorized under Chapter 4730. of the Revised Code to practice as a physician assistant;

(5) A registered nurse or licensed practical nurse licensed under Chapter 4723. of the Revised Code;

(6) A social worker or independent social worker licensed under Chapter 4757. of the Revised Code or a social work assistant registered under that chapter;

(7) A speech-language pathologist or audiologist licensed under Chapter 4753. of the Revised Code;

(8) A dentist or dental hygienist licensed under Chapter 4715. of the Revised Code;

(9) An optometrist licensed under Chapter 4725. of the Revised Code;

(10) A pharmacist licensed under Chapter 4729. of the Revised Code;

(11) A psychologist licensed under Chapter 4732. of the Revised Code;

(12) A chiropractor licensed under Chapter 4734. of the Revised Code;

(13) A nursing home administrator licensed or temporarily licensed under Chapter 4751. of the Revised Code;

(14) A professional counselor or professional clinical counselor licensed under Chapter 4757. of the Revised Code.

(M) "Religious nonmedical health care institution" means an institution that meets or exceeds the conditions to receive payment under the medicare



program established under Title XVIII of the "Social Security Act" for inpatient hospital services or post-hospital extended care services furnished to an individual in a religious nonmedical health care institution, as defined in section 1861(ss)(1) of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395x(ss)(1), as amended.

(N) "Competency evaluation program" means a program through which the competency of a nurse aide to provide nursing and nursing-related services is evaluated.

~~(N)~~(O) "Training and competency evaluation program" means a program of nurse aide training and evaluation of competency to provide nursing and nursing-related services.

Sec. 3721.50. As used in sections 3721.50 to 3721.58 of the Revised Code:

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

(B) "Inpatient days" means all days during which a resident of a nursing facility, regardless of payment source, occupies a bed in the nursing facility that is included in the facility's certified capacity under Title XIX. Therapeutic or hospital leave days for which payment is made under section 5111.26 of the Revised Code are considered inpatient days proportionate to the percentage of the facility's per resident per day rate paid for those days.

(C) "Medicaid" has the same meaning as in section 5111.01 of the Revised Code.

(D) "Medicaid day" means all days during which a resident who is a medicaid recipient occupies a bed in a nursing facility that is included in the facility's certified capacity under Title XIX. Therapeutic or hospital leave days for which payment is made under section 5111.26 of the Revised Code are considered medicaid days proportionate to the percentage of the nursing facility's per resident per day rate for those days.

(E) "Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.

(F)(1) "Nursing home" means all of the following:

(a) A nursing home licensed under section 3721.02 or 3721.09 of the Revised Code, including any part of a home for the aging licensed as a nursing home;

(b) A facility or part of a facility, other than a hospital, that is certified as a skilled nursing facility under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended;

(c) A nursing facility as defined in section 5111.20 of the Revised Code, other than a portion of a hospital certified as a nursing facility.

(2) "Nursing home" does not include ~~a~~ any of the following:

(a) A county home, county nursing home, or district home operated pursuant to Chapter 5155. of the Revised Code or a;

(b) A nursing home maintained and operated by the Ohio veterans' home agency under section 5907.01 of the Revised Code;

(c) A nursing home or part of a nursing home licensed under section 3721.02 or 3721.09 of the Revised Code that is certified as an intermediate care facility for the mentally retarded under Title XIX of the "Social Security Act."

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

(G) "Title XIX" means Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as amended.

(H) "Title XVIII" means Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended.

Sec. 3721.51. The department of job and family services shall do all of the following:

(A) ~~For~~ Subject to division (C) of this section and for the purposes specified in section sections 3721.56 and 3721.561 of the Revised Code, determine an annual franchise permit fee on each nursing home in an amount equal to ~~three dollars and thirty cents for fiscal year 2002, four six dollars and thirty twenty-five cents for fiscal years 2003 through 2005, 2006 and 2007~~ and one dollar for each fiscal year thereafter, multiplied by the product of the following:

(1) The number of beds licensed as nursing home beds, plus any other beds certified as skilled nursing facility beds under Title XVIII or nursing facility beds under Title XIX ~~of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, on July 1, 1993, and, for each subsequent year,~~ the first day of May of the calendar year in which the fee is determined pursuant to division (A) of section 3721.53 of the Revised Code;

(2) ~~The number of days in fiscal year 1994 and, for each subsequent year,~~ the number of days in the fiscal year beginning on the first day of July of the calendar year in which the fee is determined pursuant to division (A) of section 3721.53 of the Revised Code.

(B) ~~For~~ Subject to division (C) of this section and for the purposes specified in section sections 3721.56 and 3721.561 of the Revised Code, determine an annual franchise permit fee on each hospital in an amount equal to ~~three dollars and thirty cents for fiscal year 2002, four six dollars and thirty twenty-five cents for fiscal years 2003 through 2005, 2006 and 2007~~ and one dollar for each fiscal year thereafter, multiplied by the product

of the following:

(1) The number of beds registered pursuant to section 3701.07 of the Revised Code as skilled nursing facility beds or long-term care beds, plus any other beds licensed as nursing home beds under section 3721.02 or 3721.09 of the Revised Code, on ~~July 1, 1993, and, for each subsequent year,~~ the first day of May of the calendar year in which the fee is determined pursuant to division (A) of section 3721.53 of the Revised Code;

(2) ~~The number of days in fiscal year 1994 and, for each subsequent year,~~ the number of days in the fiscal year beginning on the first day of July of the calendar year in which the fee is determined pursuant to division (A) of section 3721.53 of the Revised Code.

(C) If the United States centers for medicare and medicaid services determines that the franchise permit fee established by sections 3721.50 to 3721.58 of the Revised Code ~~would be~~ is an impermissible health care related tax under section 1903(w) of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 1396b(w), as amended, ~~the department of job and family services shall~~ take all necessary actions to cease implementation of ~~those~~ sections 3721.50 to 3721.58 of the Revised Code in accordance with rules adopted under section 3721.58 of the Revised Code.

Sec. 3721.52. (A) For the purpose of the fee under division (A) of section 3721.51 of the Revised Code, the department of health shall, ~~not later than August 1, 1993, and, for each subsequent year,~~ not later than the first day of each June, report to the department of job and family services the number of beds in each nursing home licensed on ~~July 1, 1993, and, for each subsequent year,~~ the preceding first day of May under section 3721.02 or 3721.09 of the Revised Code or certified on that date under Title XVIII or XIX of the ~~"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended.~~

(B) For the purpose of the fee under division (B) of section 3721.51 of the Revised Code, the department of health shall, ~~not later than August 1, 1993, and, for each subsequent year,~~ not later than the first day of each June, report to the department of job and family services the number of beds in each hospital registered on ~~July 1, 1993, and, for each subsequent year,~~ the preceding first day of May pursuant to section 3701.07 of the Revised Code as skilled nursing facility or long-term care beds or licensed on that date under section 3721.02 or 3721.09 of the Revised Code as nursing home beds.

Sec. 3721.541. (A) In addition to assessing a penalty pursuant to section 3721.54 of the Revised Code, the department of job and family services may do either of the following if a nursing facility or hospital fails to pay the full

amount of a franchise permit fee installment when due:

(1) Withhold an amount equal to the installment and penalty assessed under section 3721.54 of the Revised Code from a medicaid payment due the nursing facility or hospital until the nursing facility or hospital pays the installment and penalty;

(2) Terminate the nursing facility or hospital's medicaid provider agreement.

(B) The department may withhold a medicaid payment under division (A)(1) of this section without providing notice to the nursing facility or hospital and without conducting an adjudication under Chapter 119. of the Revised Code.

Sec. 3721.56. (A) ~~Thirty and three tenths~~ There is hereby created in the state treasury the home- and community-based services for the aged fund. ~~Sixteen~~ per cent of all payments and penalties paid by nursing homes and hospitals under sections 3721.53 and 3721.54 of the Revised Code for fiscal year ~~2002, twenty three and twenty six hundredths~~ per cent of such payments and penalties paid for fiscal years 2003 through 2005 2006 and 2007, and all such payments and penalties paid for subsequent fiscal years, shall be deposited into the "home and community-based services for the aged fund," which is hereby created in the state treasury. The departments of job and family services and aging shall use the moneys in the fund to fund the following in accordance with rules adopted under section 3721.58 of the Revised Code:

(1)(A) The ~~medical assistance~~ medicaid program established under Chapter 5111. of the Revised Code;

(2) ~~The, including the~~ PASSPORT program established under section 173.40 of the Revised Code;

(3)(B) The residential state supplement program established under section 173.35 of the Revised Code.

(B) ~~Sixty nine and seven tenths~~ per cent of all payments and penalties paid by nursing homes and hospitals under sections 3721.53 and 3721.54 of the Revised Code for fiscal year 2002, and ~~seventy six and seventy four hundredths~~ per cent of such payments and penalties paid for fiscal years 2003 through 2005, shall be deposited into the nursing facility stabilization fund, which is hereby created in the state treasury. The department of job and family services shall use the money in the fund in the manner provided by Am. Sub. H.B. 94 and Am. Sub. S.B. 261 of the 124th general assembly.

Sec. 3721.561. (A) There is hereby created in the state treasury the nursing facility stabilization fund. All payments and penalties paid by

nursing homes and hospitals under sections 3721.53 and 3721.54 of the Revised Code that are not deposited into the home and community-based services for the aged fund shall be deposited into the fund. The department of job and family services shall use the money in the fund to make medicaid payments to nursing facilities.

(B) Any money remaining in the nursing facility stabilization fund after payments specified in division (A) of this section are made shall be retained in the fund. Any interest or other investment proceeds earned on money in the fund shall be credited to the fund and used to make medicaid payments in accordance with division (A) of this section.

Sec. 3721.58. The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code to do ~~both~~ all of the following:

(A) Prescribe the actions the department of job and family services will take to cease implementation of sections 3721.50 through 3721.57 of the Revised Code if the United States ~~health care financing administration~~ centers for medicare and medicaid services determines that the franchise permit fee established by those sections is an impermissible health-care related tax under section 1903(w) of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. ~~1396(b)(w)~~ 1396b(w), as amended;

(B) Establish the method of distributing moneys in the home and community-based services for the aged fund created under section 3721.56 of the Revised Code;

(C) Establish any requirements or procedures the director considers necessary to implement sections 3721.50 to 3721.58 of the Revised Code.

Sec. 3722.01. (A) As used in this chapter:

(1) "Owner" means the person who owns the business of and who ultimately controls the operation of an adult care facility and to whom the manager, if different from the owner, is responsible.

(2) "Manager" means the person responsible for the daily operation of an adult care facility. The manager and the owner of a facility may be the same person.

(3) "Adult" means an individual eighteen years of age or older.

(4) "Unrelated" means that an adult resident is not related to the owner or manager of an adult care facility or to the owner's or manager's spouse as a parent, grandparent, child, stepchild, grandchild, brother, sister, niece, nephew, aunt, or uncle, or as the child of an aunt or uncle.

(5) "Skilled nursing care" means skilled nursing care as defined in section 3721.01 of the Revised Code.

(6)(a) "Personal care services" means services including, but not limited

to, the following:

(i) Assisting residents with activities of daily living;  
(ii) Assisting residents with self-administration of medication, in accordance with rules adopted by the public health council pursuant to this chapter;

(iii) Preparing special diets, other than complex therapeutic diets, for residents pursuant to the instructions of a physician or a licensed dietitian, in accordance with rules adopted by the public health council pursuant to this chapter.

(b) "Personal care services" does not include "skilled nursing care" as defined in section 3721.01 of the Revised Code. A facility need not provide more than one of the services listed in division (A)(6)(a) of this section to be considered to be providing personal care services.

(7) "Adult family home" means a residence or facility that provides accommodations to three to five unrelated adults and supervision and personal care services to at least three of those adults.

(8) "Adult group home" means a residence or facility that provides accommodations to six to sixteen unrelated adults and provides supervision and personal care services to at least three of the unrelated adults.

(9) "Adult care facility" means an adult family home or an adult group home. For the purposes of this chapter, any residence, facility, institution, hotel, congregate housing project, or similar facility that provides accommodations and supervision to three to sixteen unrelated adults, at least three of whom are provided personal care services, is an adult care facility regardless of how the facility holds itself out to the public. "Adult care facility" does not include:

(a) A facility operated by a hospice care program licensed under section 3712.04 of the Revised Code that is used exclusively for care of hospice patients;

(b) A nursing home, residential care facility, or home for the aging as defined in section 3721.01 of the Revised Code;

(c) A community alternative home as defined in section 3724.01 of the Revised Code;

(d) An alcohol and drug addiction program as defined in section 3793.01 of the Revised Code;

~~(e) A habilitation center as defined in section 5123.041 of the Revised Code;~~

~~(f)~~ A residential facility for the mentally ill licensed by the department of mental health under section 5119.22 of the Revised Code;

~~(g)~~ A facility licensed to provide methadone treatment under section

3793.11 of the Revised Code;

~~(h)~~(g) A residential facility licensed under section 5123.19 of the Revised Code or otherwise regulated by the department of mental retardation and developmental disabilities;

~~(i)~~(h) Any residence, institution, hotel, congregate housing project, or similar facility that provides personal care services to fewer than three residents or that provides, for any number of residents, only housing, housekeeping, laundry, meal preparation, social or recreational activities, maintenance, security, transportation, and similar services that are not personal care services or skilled nursing care;

~~(j)~~(i) Any facility that receives funding for operating costs from the department of development under any program established to provide emergency shelter housing or transitional housing for the homeless;

~~(k)~~(j) A terminal care facility for the homeless that has entered into an agreement with a hospice care program under section 3712.07 of the Revised Code;

~~(l)~~(k) A facility approved by the veterans administration under section 104(a) of the "Veterans Health Care Amendments of 1983," 97 Stat. 993, 38 U.S.C.A. 630, as amended, and used exclusively for the placement and care of veterans;

~~(m)~~(l) Until January 1, 1994, the portion of a facility in which care is provided exclusively to members of a religious order if the facility is owned by or part of a nonprofit institution of higher education authorized to award degrees by the Ohio board of regents under Chapter 1713. of the Revised Code.

(10) "Residents' rights advocate" means:

(a) An employee or representative of any state or local government entity that has a responsibility for residents of adult care facilities and has registered with the department of health under section 3701.07 of the Revised Code;

(b) An employee or representative, other than a manager or employee of an adult care facility or nursing home, of any private nonprofit corporation or association that qualifies for tax-exempt status under section 501(a) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501(a), as amended, that has registered with the department of health under section 3701.07 of the Revised Code, and whose purposes include educating and counseling residents, assisting residents in resolving problems and complaints concerning their care and treatment, and assisting them in securing adequate services.

(11) "Sponsor" means an adult relative, friend, or guardian of a resident

of an adult care facility who has an interest in or responsibility for the resident's welfare.

(12) "Ombudsperson" means a "representative of the office of the state long-term care ombudsperson program" as defined in section 173.14 of the Revised Code.

(13) "Mental health agency" means a community mental health agency, as defined in section 5119.22 of the Revised Code, under contract with a board of alcohol, drug addiction, and mental health services pursuant to division (A)(8)(a) of section 340.03 of the Revised Code.

(B) For purposes of this chapter, personal care services or skilled nursing care shall be considered to be provided by a facility if they are provided by a person employed by or associated with the facility or by another person pursuant to an agreement to which neither the resident who receives the services nor the resident's sponsor is a party.

(C) Nothing in division (A)(6) of this section shall be construed to permit personal care services to be imposed upon a resident who is capable of performing the activity in question without assistance.

Sec. 3722.02. A person seeking a license to operate an adult care facility shall submit to the director of health an application on a form prescribed by the director and the following:

(A) In the case of an adult group home seeking licensure as an adult care facility, evidence that the home has been inspected and approved by a local certified building department or by the division of industrial compliance in the department of commerce as meeting the applicable requirements of sections 3781.06 to 3781.18 and 3791.04 of the Revised Code and any rules adopted under those sections and evidence that the home has been inspected by the state fire marshal or fire prevention officer of a municipal, township, or other legally constituted fire department approved by the state fire marshal and found to be in compliance with rules adopted under section 3737.83 of the Revised Code regarding fire prevention and safety in adult group homes;

(B) Valid approvals of the facility's water and sewage systems issued by the responsible governmental entity, if applicable;

(C) A statement of ownership containing the following information:

(1) If the owner is an individual, the owner's name, address, telephone number, business address, business telephone number, and occupation. If the owner is an association, corporation, or partnership, the business activity, address, and telephone number of the entity and the name of every person who has an ownership interest of five per cent or more in the entity.

(2) If the owner does not own the building or if the owner owns only



part of the building in which the facility is housed, the name of each person who has an ownership interest of five per cent or more in the building;

(3) The address of any adult care facility and any facility described in divisions (A)(9)(a) to ~~(i)~~(h) of section 3722.01 of the Revised Code in which the owner has an ownership interest of five per cent or more;

(4) The identity of the manager of the adult care facility, if different from the owner;

(5) The name and address of any adult care facility and any facility described in divisions (A)(9)(a) to ~~(i)~~(h) of section 3722.01 of the Revised Code with which either the owner or manager has been affiliated through ownership or employment in the five years prior to the date of the application;

(6) The names and addresses of three persons not employed by or associated in business with the owner who will provide information about the character, reputation, and competence of the owner and the manager and the financial responsibility of the owner;

(7) Information about any arrest of the owner or manager for, or adjudication or conviction of, a criminal offense related to the provision of care in an adult care facility or any facility described in divisions (A)(9)(a) to ~~(i)~~(h) of section 3722.01 of the Revised Code or the ability to operate a facility;

(8) Any other information the director may require regarding the owner's ability to operate the facility.

(D) If the facility is an adult group home, a balance sheet showing the assets and liabilities of the owner and a statement projecting revenues and expenses for the first twelve months of the facility's operation;

(E) Proof of insurance in an amount and type determined in rules adopted by the public health council pursuant to this chapter to be adequate;

(F) A nonrefundable license application fee in an amount established in rules adopted by the public health council pursuant to this chapter.

Sec. 3722.04. (A)(1) The director of health shall inspect, license, and regulate adult care facilities. Except as otherwise provided in division (D) of this section, the director shall issue a license to an adult care facility that meets the requirements of section 3722.02 of the Revised Code and that the director determines to be in substantial compliance with the rules adopted by the public health council pursuant to this chapter. The director shall consider the past record of the owner and manager and any individuals who are principal participants in an entity that is the owner or manager in operating facilities providing care to adults. The director may, in accordance with Chapter 119. of the Revised Code, deny a license if the past record indicates

that the owner or manager is not suitable to own or manage an adult care facility.

The license shall contain the name and address of the facility for which it was issued, the date of expiration of the license, and the maximum number of residents that may be accommodated by the facility. A license for an adult care facility shall be valid for a period of two years after the date of issuance. No single facility may be licensed to operate as more than one adult care facility.

(2) Notwithstanding division (A)(1) of this section and sections 3722.02 and 3722.041 of the Revised Code, the director may issue a temporary license if the requirements of divisions (C), (D), and (F) of section 3722.02 of the Revised Code have been met. A temporary license shall be valid for a period of ninety days and, except as otherwise provided in division (A)(3) of section 3722.05 of the Revised Code, may be renewed, without payment of an additional application fee, for an additional ninety days.

(B) The director shall renew a license for a two-year period if the facility continues to be in compliance with the requirements of this chapter and in substantial compliance with the rules adopted under this chapter. The owner shall submit a nonrefundable license renewal application fee in an amount established in rules adopted by the public health council pursuant to this chapter. Before the license of an adult group home is renewed, if any alterations have been made to the buildings, a certificate of occupancy for the facility shall have been issued by the division of industrial compliance in the department of commerce or a local certified building department. The facility shall have water and sewage system approvals, if required by law, and, in the case of an adult group home, documentation of continued compliance with the rules adopted by the state fire marshal under division (F) of section 3737.83 of the Revised Code.

(C) The director shall make at least one unannounced inspection of an adult care facility during each licensure period in addition to inspecting the facility to determine whether a license should be issued or renewed, and may make additional unannounced inspections as the director considers necessary. Other inspections may be made at any time that the director considers appropriate. The director shall take all reasonable actions to avoid giving notice of an inspection by the manner in which the inspection is scheduled or performed. Not later than sixty days after the date of an inspection of a facility, the director shall send a report of the inspection to the ombudsperson in whose region the facility is located. The state fire marshal or fire prevention officer of a municipal, township, or other legally constituted fire department approved by the state fire marshal shall inspect

an adult group home seeking a license or renewal under this chapter as an adult care facility prior to issuance of a license or renewal, at least once annually thereafter, and at any other time at the request of the director, to determine compliance with the rules adopted under division (F) of section 3737.83 of the Revised Code.

(D) The director may waive any of the licensing requirements having to do with fire and safety requirements or building standards established by rule adopted by the public health council pursuant to this chapter upon written request of the facility. The director may grant a waiver if the director determines that the strict application of the licensing requirement would cause undue hardship to the facility and that granting the waiver would not jeopardize the health or safety of any resident. The director may provide a facility with an informal hearing concerning the denial of a waiver request, but the facility shall not be entitled to a hearing under Chapter 119. of the Revised Code unless the director takes an action that requires a hearing to be held under section 3722.05 of the Revised Code.

(E)(1) ~~Not later than thirty days after the issuance or renewal of the license, other than a temporary license, of an adult care facility under this section each of the following~~, the owner of an adult care facility shall submit an inspection fee of ~~ten~~ twenty dollars for each bed for which the facility is licensed:

(a) Issuance or renewal of a license, other than a temporary license;

(b) The unannounced inspection required by division (C) of this section;

(c) If, during an inspection conducted in addition to the two inspections required by division (C) of this section, the facility was found to be in violation of this chapter or the rules adopted under it, receipt by the facility of the report of that investigation. The

(2) The director may revoke the license of any adult care facility that fails to submit the fee within the thirty-day period. ~~All~~

(3) All inspection fees received by the director, all civil penalties assessed under section 3722.08 of the Revised Code, all fines imposed under section 3722.99 of the Revised Code, and all license application and renewal application fees received under division (F) of section 3722.02 of the Revised Code or under division (B) of this section shall be deposited into the general operations fund created in section 3701.83 of the Revised Code and shall be used only to pay the costs of administering and enforcing the requirements of this chapter and rules adopted under it.

(F)(1) An owner shall inform the director in writing of any changes in the information contained in the statement of ownership made pursuant to division (C) of section 3722.02 of the Revised Code or in the identity of the

manager, not later than ten days after the change occurs.

(2) An owner who sells or transfers an adult care facility shall be responsible and liable for the following:

(a) Any civil penalties imposed against the facility under section 3722.08 of the Revised Code for violations that occur before the date of transfer of ownership or during any period in which the seller or the seller's agent operates the facility;

(b) Any outstanding liability to the state, unless the buyer or transferee has agreed, as a condition of the sale or transfer, to accept the outstanding liabilities and to guarantee their payment, except that if the buyer or transferee fails to meet these obligations the seller or transferor shall remain responsible for the outstanding liability.

(G) The director shall annually publish a list of licensed adult care facilities, facilities whose licenses have been revoked or not renewed, any facilities under an order suspending admissions pursuant to section 3722.07 of the Revised Code, and any facilities that have been assessed a civil penalty pursuant to section 3722.08 of the Revised Code. The director shall furnish information concerning the status of licensure of any facility to any person upon request. The director shall annually send a copy of the list to the department of job and family services, to the department of mental health, and to the department of aging.

Sec. 3734.01. As used in this chapter:

(A) "Board of health" means the board of health of a city or general health district or the authority having the duties of a board of health in any city as authorized by section 3709.05 of the Revised Code.

(B) "Director" means the director of environmental protection.

(C) "Health district" means a city or general health district as created by or under authority of Chapter 3709. of the Revised Code.

(D) "Agency" means the environmental protection agency.

(E) "Solid wastes" means such unwanted residual solid or semisolid material as results from industrial, commercial, agricultural, and community operations, excluding earth or material from construction, mining, or demolition operations, or other waste materials of the type that normally would be included in demolition debris, nontoxic fly ash and bottom ash, including at least ash that results from the combustion of coal and ash that results from the combustion of coal in combination with scrap tires where scrap tires comprise not more than fifty per cent of heat input in any month, spent nontoxic foundry sand, nontoxic, nonhazardous, unwanted fired and unfired, glazed and unglazed, structural shale and clay products, and slag and other substances that are not harmful or inimical to public health, and

includes, but is not limited to, garbage, scrap tires, combustible and noncombustible material, street dirt, and debris. "Solid wastes" does not include ~~any~~ either of the following:

(1) Any material that is an infectious waste or a hazardous waste;

(2) Spent petroleum refinery hydrotreating, hydrorefining, and hydrocracking catalysts that are used to produce ferrovanadium, iron nickel molybdenum, and calcium aluminate alloys for the steel, iron, and nickel industries unless the catalysts are disposed of at a solid waste facility licensed under this chapter or are accumulated speculatively.

(F) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, emitting, or placing of any solid wastes or hazardous waste into or on any land or ground or surface water or into the air, except if the disposition or placement constitutes storage or treatment or, if the solid wastes consist of scrap tires, the disposition or placement constitutes a beneficial use or occurs at a scrap tire recovery facility licensed under section 3734.81 of the Revised Code.

(G) "Person" includes the state, any political subdivision and other state or local body, the United States and any agency or instrumentality thereof, and any legal entity defined as a person under section 1.59 of the Revised Code.

(H) "Open burning" means the burning of solid wastes in an open area or burning of solid wastes in a type of chamber or vessel that is not approved or authorized in rules adopted by the director under section 3734.02 of the Revised Code or, if the solid wastes consist of scrap tires, in rules adopted under division (V) of this section or section 3734.73 of the Revised Code, or the burning of treated or untreated infectious wastes in an open area or in a type of chamber or vessel that is not approved in rules adopted by the director under section 3734.021 of the Revised Code.

(I) "Open dumping" means the depositing of solid wastes into a body or stream of water or onto the surface of the ground at a site that is not licensed as a solid waste facility under section 3734.05 of the Revised Code or, if the solid wastes consist of scrap tires, as a scrap tire collection, storage, monocell, monofill, or recovery facility under section 3734.81 of the Revised Code; the depositing of solid wastes that consist of scrap tires onto the surface of the ground at a site or in a manner not specifically identified in divisions (C)(2) to (5), (7), or (10) of section 3734.85 of the Revised Code; the depositing of untreated infectious wastes into a body or stream of water or onto the surface of the ground; or the depositing of treated infectious wastes into a body or stream of water or onto the surface of the ground at a site that is not licensed as a solid waste facility under section

3734.05 of the Revised Code.

(J) "Hazardous waste" means any waste or combination of wastes in solid, liquid, semisolid, or contained gaseous form that in the determination of the director, because of its quantity, concentration, or physical or chemical characteristics, may do either of the following:

(1) Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness;

(2) Pose a substantial present or potential hazard to human health or safety or to the environment when improperly stored, treated, transported, disposed of, or otherwise managed.

"Hazardous waste" includes any substance identified by regulation as hazardous waste under the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, and does not include any substance that is subject to the "Atomic Energy Act of 1954," 68 Stat. 919, 42 U.S.C.A. 2011, as amended.

(K) "Treat" or "treatment," when used in connection with hazardous waste, means any method, technique, or process designed to change the physical, chemical, or biological characteristics or composition of any hazardous waste; to neutralize the waste; to recover energy or material resources from the waste; to render the waste nonhazardous or less hazardous, safer to transport, store, or dispose of, or amenable for recovery, storage, further treatment, or disposal; or to reduce the volume of the waste. When used in connection with infectious wastes, "treat" or "treatment" means any method, technique, or process designed to render the wastes noninfectious, including, without limitation, steam sterilization and incineration, or, in the instance of wastes identified in division (R)(7) of this section, to substantially reduce or eliminate the potential for the wastes to cause lacerations or puncture wounds.

(L) "Manifest" means the form used for identifying the quantity, composition, origin, routing, and destination of hazardous waste during its transportation from the point of generation to the point of disposal, treatment, or storage.

(M) "Storage," when used in connection with hazardous waste, means the holding of hazardous waste for a temporary period in such a manner that it remains retrievable and substantially unchanged physically and chemically and, at the end of the period, is treated; disposed of; stored elsewhere; or reused, recycled, or reclaimed in a beneficial manner. When used in connection with solid wastes that consist of scrap tires, "storage" means the holding of scrap tires for a temporary period in such a manner that they remain retrievable and, at the end of that period, are beneficially

used; stored elsewhere; placed in a scrap tire monocell or monofill facility licensed under section 3734.81 of the Revised Code; processed at a scrap tire recovery facility licensed under that section or a solid waste incineration or energy recovery facility subject to regulation under this chapter; or transported to a scrap tire monocell, monofill, or recovery facility, any other solid waste facility authorized to dispose of scrap tires, or a facility that will beneficially use the scrap tires, that is located in another state and is operating in compliance with the laws of the state in which the facility is located.

(N) "Facility" means any site, location, tract of land, installation, or building used for incineration, composting, sanitary landfilling, or other methods of disposal of solid wastes or, if the solid wastes consist of scrap tires, for the collection, storage, or processing of the solid wastes; for the transfer of solid wastes; for the treatment of infectious wastes; or for the storage, treatment, or disposal of hazardous waste.

(O) "Closure" means the time at which a hazardous waste facility will no longer accept hazardous waste for treatment, storage, or disposal, the time at which a solid waste facility will no longer accept solid wastes for transfer or disposal or, if the solid wastes consist of scrap tires, for storage or processing, or the effective date of an order revoking the permit for a hazardous waste facility or the registration certificate, permit, or license for a solid waste facility, as applicable. "Closure" includes measures performed to protect public health or safety, to prevent air or water pollution, or to make the facility suitable for other uses, if any, including, but not limited to, the removal of processing residues resulting from solid wastes that consist of scrap tires; the establishment and maintenance of a suitable cover of soil and vegetation over cells in which hazardous waste or solid wastes are buried; minimization of erosion, the infiltration of surface water into such cells, the production of leachate, and the accumulation and runoff of contaminated surface water; the final construction of facilities for the collection and treatment of leachate and contaminated surface water runoff, except as otherwise provided in this division; the final construction of air and water quality monitoring facilities, except as otherwise provided in this division; the final construction of methane gas extraction and treatment systems; or the removal and proper disposal of hazardous waste or solid wastes from a facility when necessary to protect public health or safety or to abate or prevent air or water pollution. With regard to a solid waste facility that is a scrap tire facility, "closure" includes the final construction of facilities for the collection and treatment of leachate and contaminated surface water runoff and the final construction of air and water quality

monitoring facilities only if those actions are determined to be necessary.

(P) "Premises" means either of the following:

- (1) Geographically contiguous property owned by a generator;
- (2) Noncontiguous property that is owned by a generator and connected by a right-of-way that the generator controls and to which the public does not have access. Two or more pieces of property that are geographically contiguous and divided by public or private right-of-way or rights-of-way are a single premises.

(Q) "Post-closure" means that period of time following closure during which a hazardous waste facility is required to be monitored and maintained under this chapter and rules adopted under it, including, without limitation, operation and maintenance of methane gas extraction and treatment systems, or the period of time after closure during which a scrap tire monocell or monofill facility licensed under section 3734.81 of the Revised Code is required to be monitored and maintained under this chapter and rules adopted under it.

(R) "Infectious wastes" includes all of the following substances or categories of substances:

(1) Cultures and stocks of infectious agents and associated biologicals, including, without limitation, specimen cultures, cultures and stocks of infectious agents, wastes from production of biologicals, and discarded live and attenuated vaccines;

(2) Laboratory wastes that were, or are likely to have been, in contact with infectious agents that may present a substantial threat to public health if improperly managed;

(3) Pathological wastes, including, without limitation, human and animal tissues, organs, and body parts, and body fluids and excreta that are contaminated with or are likely to be contaminated with infectious agents, removed or obtained during surgery or autopsy or for diagnostic evaluation, provided that, with regard to pathological wastes from animals, the animals have or are likely to have been exposed to a zoonotic or infectious agent;

(4) Waste materials from the rooms of humans, or the enclosures of animals, that have been isolated because of diagnosed communicable disease that are likely to transmit infectious agents. Such waste materials from the rooms of humans do not include any wastes of patients who have been placed on blood and body fluid precautions under the universal precaution system established by the centers for disease control in the public health service of the United States department of health and human services, except to the extent specific wastes generated under the universal precautions system have been identified as infectious wastes by rules



adopted under division (R)(8) of this section.

(5) Human and animal blood specimens and blood products that are being disposed of, provided that, with regard to blood specimens and blood products from animals, the animals were or are likely to have been exposed to a zoonotic or infectious agent. "Blood products" does not include patient care waste such as bandages or disposable gowns that are lightly soiled with blood or other body fluids unless those wastes are soiled to the extent that the generator of the wastes determines that they should be managed as infectious wastes.

(6) Contaminated carcasses, body parts, and bedding of animals that were intentionally exposed to infectious agents from zoonotic or human diseases during research, production of biologicals, or testing of pharmaceuticals, and carcasses and bedding of animals otherwise infected by zoonotic or infectious agents that may present a substantial threat to public health if improperly managed;

(7) Sharp wastes used in the treatment, diagnosis, or inoculation of human beings or animals or that have, or are likely to have, come in contact with infectious agents in medical, research, or industrial laboratories, including, without limitation, hypodermic needles and syringes, scalpel blades, and glass articles that have been broken;

(8) Any other waste materials generated in the diagnosis, treatment, or immunization of human beings or animals, in research pertaining thereto, or in the production or testing of biologicals, that the public health council created in section 3701.33 of the Revised Code, by rules adopted in accordance with Chapter 119. of the Revised Code, identifies as infectious wastes after determining that the wastes present a substantial threat to human health when improperly managed because they are contaminated with, or are likely to be contaminated with, infectious agents.

(S) "Infectious agent" means a type of microorganism, helminth, or virus that causes, or significantly contributes to the cause of, increased morbidity or mortality of human beings.

(T) "Zoonotic agent" means a type of microorganism, helminth, or virus that causes disease in vertebrate animals and that is transmissible to human beings and causes or significantly contributes to the cause of increased morbidity or mortality of human beings.

(U) "Solid waste transfer facility" means any site, location, tract of land, installation, or building that is used or intended to be used primarily for the purpose of transferring solid wastes that were generated off the premises of the facility from vehicles or containers into other vehicles for transportation to a solid waste disposal facility. "Solid waste transfer facility" does not

include any facility that consists solely of portable containers that have an aggregate volume of fifty cubic yards or less nor any facility where legitimate recycling activities are conducted.

(V) "Beneficially use" means to use a scrap tire in a manner that results in a commodity for sale or exchange or in any other manner authorized as a beneficial use in rules adopted by the director in accordance with Chapter 119. of the Revised Code.

(W) "Commercial car," "commercial tractor," "farm machinery," "motor bus," "vehicles," "motor vehicle," and "semitrailer" have the same meanings as in section 4501.01 of the Revised Code.

(X) "Construction equipment" means road rollers, traction engines, power shovels, power cranes, and other equipment used in construction work, or in mining or producing or processing aggregates, and not designed for or used in general highway transportation.

(Y) "Motor vehicle salvage dealer" has the same meaning as in section 4738.01 of the Revised Code.

(Z) "Scrap tire" means an unwanted or discarded tire.

(AA) "Scrap tire collection facility" means any facility that meets all of the following qualifications:

(1) The facility is used for the receipt and storage of whole scrap tires from the public prior to their transportation to a scrap tire storage, monocell, monofill, or recovery facility licensed under section 3734.81 of the Revised Code; a solid waste incineration or energy recovery facility subject to regulation under this chapter; a premises within the state where the scrap tires will be beneficially used; or a scrap tire storage, monocell, monofill, or recovery facility, any other solid waste disposal facility authorized to dispose of scrap tires, or a facility that will beneficially use the scrap tires, that is located in another state, and that is operating in compliance with the laws of the state in which the facility is located;

(2) The facility exclusively stores scrap tires in portable containers;

(3) The aggregate storage of the portable containers in which the scrap tires are stored does not exceed five thousand cubic feet.

(BB) "Scrap tire monocell facility" means an individual site within a solid waste landfill that is used exclusively for the environmentally sound storage or disposal of whole scrap tires or scrap tires that have been shredded, chipped, or otherwise mechanically processed.

(CC) "Scrap tire monofill facility" means an engineered facility used or intended to be used exclusively for the storage or disposal of scrap tires, including at least facilities for the submergence of whole scrap tires in a body of water.

(DD) "Scrap tire recovery facility" means any facility, or portion thereof, for the processing of scrap tires for the purpose of extracting or producing usable products, materials, or energy from the scrap tires through a controlled combustion process, mechanical process, or chemical process. "Scrap tire recovery facility" includes any facility that uses the controlled combustion of scrap tires in a manufacturing process to produce process heat or steam or any facility that produces usable heat or electric power through the controlled combustion of scrap tires in combination with another fuel, but does not include any solid waste incineration or energy recovery facility that is designed, constructed, and used for the primary purpose of incinerating mixed municipal solid wastes and that burns scrap tires in conjunction with mixed municipal solid wastes, or any tire retreading business, tire manufacturing finishing center, or tire adjustment center having on the premises of the business a single, covered scrap tire storage area at which not more than four thousand scrap tires are stored.

(EE) "Scrap tire storage facility" means any facility where whole scrap tires are stored prior to their transportation to a scrap tire monocell, monofill, or recovery facility licensed under section 3734.81 of the Revised Code; a solid waste incineration or energy recovery facility subject to regulation under this chapter; a premises within the state where the scrap tires will be beneficially used; or a scrap tire storage, monocell, monofill, or recovery facility, any other solid waste disposal facility authorized to dispose of scrap tires, or a facility that will beneficially use the scrap tires, that is located in another state, and that is operating in compliance with the laws of the state in which the facility is located.

(FF) "Used oil" means any oil that has been refined from crude oil, or any synthetic oil, that has been used and, as a result of that use, is contaminated by physical or chemical impurities. "Used oil" includes only those substances identified as used oil by the United States environmental protection agency under the "Used Oil Recycling Act of 1980," 94 Stat. 2055, 42 U.S.C.A. 6901a, as amended.

(GG) "Accumulated speculatively" has the same meaning as in rules adopted by the director under section 3734.12 of the Revised Code.

Sec. 3734.20. (A) If the director of environmental protection has reason to believe that hazardous waste was treated, stored, or disposed of at any location within the state, ~~he~~ the director may conduct such investigations and make such inquiries, including obtaining samples and examining and copying records, as are reasonable or necessary to determine if conditions at a hazardous waste facility, solid waste facility, or other location where the director has reason to believe hazardous waste was treated, stored, or

disposed of constitute a substantial threat to public health or safety or are causing or contributing to or threatening to cause or contribute to air or water pollution or soil contamination. The director or the director's authorized representative may apply for, and any judge of a court of common pleas shall issue, an appropriate search warrant necessary to achieve the purposes of this section within the court's territorial jurisdiction. The director may expend moneys from the hazardous waste clean-up fund created in section 3734.28 of the Revised Code or the environmental protection remediation fund created in section 3734.281 of the Revised Code for conducting investigations under this section.

(B) If the director determines that conditions at a hazardous waste facility, solid waste facility, or other location where hazardous waste was treated, stored, or disposed of constitute a substantial threat to public health or safety or are causing or contributing to or threatening to cause or contribute to air or water pollution or soil contamination, the director shall initiate appropriate action under this chapter or Chapter 3704. or 6111. of the Revised Code or seek any other appropriate legal or equitable remedies to abate the pollution or contamination or to protect public health or safety.

If an order of the director to abate or prevent air or water pollution or soil contamination or to remedy a threat to public health or safety caused by conditions at such a facility issued pursuant to this chapter or Chapter 3704. or 6111. of the Revised Code is not wholly complied with within the time prescribed in the order, the director may, through officers or employees of the environmental protection agency or through contractors employed for that purpose in accordance with the bidding procedure established in division (C) of section 3734.23 of the Revised Code, enter upon the facility and perform those measures necessary to abate or prevent air or water pollution or soil contamination from the facility or to protect public health or safety, including, but not limited to, measures prescribed in division (B) of section 3734.23 of the Revised Code. The director shall keep an itemized record of the cost of the investigation and measures performed, including costs for labor, materials, and any contract services required. Upon completion of the investigation or measures, the director shall record the cost of performing those measures at the office of the county recorder of the county in which the facility is located. The cost so recorded constitutes a lien against the property on which the facility is located until discharged. Upon written request of the director, the attorney general shall institute a civil action to recover the cost. Any moneys so received shall be credited to the hazardous waste clean-up fund ~~created in section 3734.28 of the Revised Code~~ or the environmental protection remediation fund, as applicable.

When entering upon a facility under this division, the director shall perform or cause to be performed only those measures necessary to abate or prevent air or water pollution or soil contamination caused by conditions at the facility or to abate threats to public health or safety caused by conditions at the facility. For this purpose the director may expend moneys from ~~the~~ either fund and may expend moneys from loans from the Ohio water development authority to the environmental protection agency that pledge moneys from ~~the~~ either fund for the repayment of and for the interest on such loans.

Sec. 3734.21. (A) The director of environmental protection may expend moneys credited to the hazardous waste clean-up fund created in section 3734.28 of the Revised Code or the environmental protection remediation fund created in section 3734.281 of the Revised Code for the payment of the cost of measures necessary for the proper closure of hazardous waste facilities or any solid waste facilities containing significant quantities of hazardous waste, for the payment of costs of the development and construction of suitable hazardous waste facilities required by division (B) of section 3734.23 of the Revised Code to the extent the director determines that such facilities are not available, and for the payment of costs that are necessary to abate conditions thereon that are causing or contributing to or threatening to cause or contribute to air or water pollution or soil contamination or that constitute a substantial threat to public health or safety. In addition, the director may expend and pledge moneys credited to ~~the~~ either fund for repayment of and for interest on any loan made by the Ohio water development authority to the environmental protection agency for the payment of such costs.

(B) Before beginning to clean up any facility under this section, the director shall develop a plan for the cleanup and an estimate of the cost thereof. The plan shall include only those measures necessary to abate conditions thereon that are causing or contributing to or threatening to cause or contribute to air or water pollution or soil contamination or that constitute a substantial threat to public health or safety, including, but not limited to, establishment and maintenance of an adequate cover of soil and vegetation on any facility for the burial of hazardous waste to prevent the infiltration of water into cells where hazardous waste is buried, the accumulation or runoff of contaminated surface water, the production of leachate, and air emissions of hazardous waste; the collection and treatment of contaminated surface water runoff; the collection and treatment of leachate; or, if conditions so require, the removal of hazardous waste from the facility and the treatment or disposal of the waste at a suitable hazardous waste facility. The plan or

any part of the plan for the cleanup of the facility shall be carried out by entering into contracts therefor in accordance with the procedures established in division (C) of section 3734.23 of the Revised Code.

Sec. 3734.22. Before beginning to clean up any facility under section 3734.21 of the Revised Code, the director of environmental protection shall endeavor to enter into an agreement with the owner of the land on which the facility is located, or with the owner of the facility, specifying the measures to be performed and authorizing the director, employees of the agency, or contractors retained by the director to enter upon the land and perform the specified measures.

Each agreement ~~shall~~ may contain provisions for the reimbursement of the state for the costs of the cleanup.

All reimbursements and payments shall be credited to the hazardous waste clean-up fund created in section 3734.28 of the Revised Code or the environmental protection remediation fund created in section 3734.281 of the Revised Code, as applicable.

The agreement may require the owner to execute an easement whereby the director, an authorized employee of the agency, or a contractor employed by the agency in accordance with the bidding procedure established in division (C) of section 3734.23 of the Revised Code may enter upon the facility to sample, repair, or reconstruct air and water quality monitoring equipment constructed under the agreement. Such easements shall be for a specified period of years and may be extinguished by agreement between the owner and the director. When necessary to protect the public health or safety, the agreement may require the owner to enter into an environmental covenant with the director in accordance with sections 5301.80 to 5301.92 of the Revised Code.

Upon a breach of the reimbursement provisions of the agreement by the owner of the land or facility, or upon notification to the director by the owner that the owner is unable to perform the duties under the reimbursement provisions of the agreement, the director ~~shall~~ may record the unreimbursed portion of the costs of cleanup at the office of the county recorder of the county in which the facility is located. The costs so recorded constitute a lien against the property on which the facility is located until discharged. Upon written request of the director, the attorney general shall institute a civil action to recover the unreimbursed portion of the costs of cleanup. Any moneys so recovered shall be credited to the hazardous waste clean-up fund or the environmental protection remediation fund, as applicable.

Sec. 3734.23. (A) The director of environmental protection may acquire

by purchase, gift, donation, contribution, or appropriation in accordance with sections 163.01 to 163.21 of the Revised Code any hazardous waste facility or any solid waste facility containing significant quantities of hazardous waste that, because of its condition and the types and quantities of hazardous waste contained in the facility, constitutes an imminent and substantial threat to public health or safety or results in air pollution, pollution of the waters of the state, or soil contamination. For this purpose and for the purposes of division (B) of this section, the director may expend moneys from the hazardous waste clean-up fund created in section 3734.28 of the Revised Code or the environmental protection remediation fund created in section 3734.281 of the Revised Code and may expend moneys from loans from the Ohio water development authority to the environmental protection agency that pledge moneys from ~~the~~ either fund for the repayment of and for the interest on such loans. Any lands or facilities purchased or acquired under this section shall be deeded to the state, but no deed shall be accepted or the purchase price paid until the title has been approved by the attorney general.

(B) The director shall, with respect to any land or facility acquired under this section or cleaned up under section 3734.20 of the Revised Code, perform closure or other measures necessary to abate conditions thereon that are causing or contributing to or threatening to cause or contribute to air or water pollution or soil contamination or that constitute a substantial threat to public health or safety, including, but not limited to, establishment and maintenance of an adequate cover of soil and vegetation on any facility for the burial of hazardous waste to prevent the infiltration of water into cells where hazardous waste is buried, the accumulation or runoff of contaminated surface water, the production of leachate, and air emissions of hazardous waste; the collection and treatment of contaminated surface water runoff; the collection and treatment of leachate; or, if conditions so require, the removal of hazardous waste from the facility and the treatment or disposal of the waste at a suitable hazardous waste facility. After performing these measures, the director shall provide for the post-closure care, maintenance, and monitoring of facilities cleaned up under this section.

(C) Before proceeding to clean up any facility under this section or section 3734.20 or 3734.21 of the Revised Code, the director shall develop a plan for the cleanup of the facility and an estimate of the cost thereof. The director may carry out the plan or any part of the plan by contracting for the services, construction, and repair necessary therefor. The director shall award each such contract to the lowest responsible bidder after sealed bids therefor are received, opened, and published at the time fixed by the director

and notice of the time and place at which the sealed bids will be received, opened, and published has been published by the director in a newspaper of general circulation in the county in which the facility to be cleaned up under the contract is located at least once within the ten days before the opening of the bids. However, if after advertising for bids for the contract, no bids are received by the director at the time and place fixed for receiving them, the director may advertise again for bids, or ~~he~~ the director may, if ~~he~~ the director considers the public interest will best be served thereby, enter into a contract for the cleanup of the facility without further advertisement for bids. The director may reject any or all bids received and fix and publish again notice of the time and place at which bids for the contracts will be received, opened, and published.

(D) The director shall keep an itemized record of the costs of any acquisition under division (A) of this section and the costs of cleanup under division (B) of this section.

Sec. 3734.28. All moneys collected under sections 3734.122, 3734.13, 3734.20, 3734.22, 3734.24, and 3734.26 of the Revised Code and natural resource damages collected by the state under the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," 94 Stat. 2767, 42 U.S.C.A. 9601, as amended, shall be paid into the state treasury to the credit of the hazardous waste clean-up fund, which is hereby created. In addition, any moneys recovered for costs paid from the fund for activities described in division (A)(1) and (2) of section 3745.12 of the Revised Code shall be credited to the fund. The environmental protection agency shall use the moneys in the fund for the purposes set forth in division (D) of section 3734.122, sections 3734.19, 3734.20, 3734.21, 3734.23, 3734.25, 3734.26, and 3734.27, and, through October 15, 2005, divisions (A)(1) and (2) of section 3745.12 and Chapter 3746. of the Revised Code, including any related enforcement expenses. In addition, the agency shall use the moneys in the fund to pay the state's long-term operation and maintenance costs or matching share for actions taken under the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," as amended. If those moneys are reimbursed by grants or other moneys from the United States or any other person, the moneys shall be placed in the fund and not in the general revenue fund.

Sec. 3734.57. (A) ~~For the purposes of paying the state's long-term operation costs or matching share for actions taken under the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," 94 Stat. 2767, 42 U.S.C.A. 9601, as amended; paying the costs of measures for proper clean-up of sites where polychlorinated biphenyls and~~



~~substances, equipment, and devices containing or contaminated with polychlorinated biphenyls have been stored or disposed of; paying the costs of conducting surveys or investigations of solid waste facilities or other locations where it is believed that significant quantities of hazardous waste were disposed of and for conducting enforcement actions arising from the findings of such surveys or investigations; paying the costs of acquiring and cleaning up, or providing financial assistance for cleaning up, any hazardous waste facility or solid waste facility containing significant quantities of hazardous waste, that constitutes an imminent and substantial threat to public health or safety or the environment; and, from July 1, 2003, through June 30, 2006, for the purposes of paying the costs of administering and enforcing the laws pertaining to solid wastes, infectious wastes, and construction and demolition debris, including, without limitation, ground water evaluations related to solid wastes, infectious wastes, and construction and demolition debris, under this chapter and Chapter 3714. of the Revised Code and any rules adopted under them, and paying a share of the administrative costs of the environmental protection agency pursuant to section 3745.014 of the Revised Code, the~~ The following fees are hereby levied on the disposal of solid wastes in this state:

(1) ~~One dollar per ton on and after July 1, 1993~~2003, through June 30, 2008, one-half of the proceeds of which shall be deposited in the state treasury to the credit of the hazardous waste facility management fund created in section 3734.18 of the Revised Code and one-half of the proceeds of which shall be deposited in the state treasury to the credit of the hazardous waste clean-up fund created in section 3734.28 of the Revised Code;

(2) ~~An additional one dollar per ton on and after July 1, 2003, through June 30, 2006~~ 2008, the proceeds of which shall be deposited in the state treasury to the credit of the solid waste fund, which is hereby created. The environmental protection agency shall use money in the solid waste fund to pay the costs of administering and enforcing the laws pertaining to solid wastes, infectious wastes, and construction and demolition debris, including, without limitation, ground water evaluations related to solid wastes, infectious wastes, and construction and demolition debris, under this chapter and Chapter 3714. of the Revised Code and any rules adopted under them, providing compliance assistance to small businesses, and paying a share of the administrative costs of the environmental protection agency pursuant to section 3745.014 of the Revised Code.

(3) ~~An additional one dollar and fifty cents per ton on and after July 1, 2005, through June 30, 2008, the proceeds of which shall be deposited in the~~

state treasury to the credit of the environmental protection fund created in section 3745.015 of the Revised Code.

In the case of solid wastes that are taken to a solid waste transfer facility located in this state prior to being transported to a solid waste disposal facility for disposal, the fees levied under this division shall be collected by the owner or operator of the transfer facility as a trustee for the state. The amount of fees required to be collected under this division at such a transfer facility shall equal the total tonnage of solid wastes received at the facility multiplied by the fees levied under this division. In the case of solid wastes that are not taken to a solid waste transfer facility located in this state prior to being transported to a solid waste disposal facility, the fees shall be collected by the owner or operator of the solid waste disposal facility as a trustee for the state. The amount of fees required to be collected under this division at such a disposal facility shall equal the total tonnage of solid wastes received at the facility that was not previously taken to a solid waste transfer facility located in this state multiplied by the fees levied under this division. Fees levied under this division do not apply to materials separated from a mixed waste stream for recycling by a generator or materials removed from the solid waste stream through recycling, as "recycling" is defined in rules adopted under section 3734.02 of the Revised Code.

The owner or operator of a solid waste transfer facility or disposal facility shall collect the fees levied under this division as a trustee for the state and, as applicable, shall prepare and file with the director of environmental protection ~~monthly returns~~ each month a return indicating the total tonnage of solid wastes received for disposal at the gate of the facility during that month and the total amount of the fees required to be collected under this division during that month. In addition, the owner or operator of a solid waste disposal facility shall indicate on the return the total tonnage of solid wastes received from transfer facilities located in this state during that month for which the fees were required to be collected by the transfer facilities. The monthly returns shall be filed on a form prescribed by the director. Not later than thirty days after the last day of the month to which such a return applies, the owner or operator shall mail to the director the return for that month together with the fees required to be collected under this division during that month as indicated on the return. ~~The If the return is filed and the amount of the fees due is paid in a timely manner as required in this division, the owner or operator may retain a discount of three-fourths of one per cent of the total amount of the fees that are required to be paid as indicated on the return.~~

The owner or operator may request an extension of not more than thirty

days for filing the return and remitting the fees, provided that the owner or operator has submitted such a request in writing to the director together with a detailed description of why the extension is requested, the director has received the request not later than the day on which the return is required to be filed, and the director has approved the request. If the fees are not remitted within thirty days after the last day of the month ~~during which they were collected~~ to which the return applies or are not remitted by the last day of an extension approved by the director, the owner or operator shall not retain the three-fourths of one per cent discount and shall pay an additional fifty ten per cent of the amount of the fees for each month that they are late. For purposes of calculating the late fee, the first month in which fees are late begins on the first day after the deadline has passed for timely submitting the return and fees, and one additional month shall be counted every thirty days thereafter.

~~One half of the moneys remitted to the director under division (A)(1) of this section shall be credited to the hazardous waste facility management fund created in section 3734.18 of the Revised Code, and one half shall be credited to the hazardous waste clean up fund created in section 3734.28 of the Revised Code. The moneys remitted to the director under division (A)(2) of this section shall be credited to the solid waste fund, which is hereby created in the state treasury. The environmental protection agency shall use moneys in the solid waste fund only to pay the costs of administering and enforcing the laws pertaining to solid wastes, infectious wastes, and construction and demolition debris, including, without limitation, ground water evaluations related to solid wastes, infectious wastes, and construction and demolition debris, under this chapter and Chapter 3714. of the Revised Code and rules adopted under them and to pay a share of the administrative costs of the environmental protection agency pursuant to section 3745.014 of the Revised Code.~~

The owner or operator of a solid waste facility may request a refund or credit of fees levied under this division and remitted to the director that have not been paid to the owner or operator. Such a request shall be made only if the fees have not been collected by the owner or operator, have become a debt that has become worthless or uncollectable for a period of six months or more, and may be claimed as a deduction, including a deduction claimed if the owner or operator keeps accounts on an accrual basis, under the "Internal Revenue Code of 1954," 68A Stat. 50, 26 U.S.C. 166, as amended, and regulations adopted under it. Prior to making a request for a refund or credit, an owner or operator shall make reasonable efforts to collect the applicable fees. A request for a refund or credit shall not include any costs

resulting from those efforts to collect unpaid fees.

A request for a refund or credit of fees shall be made in writing, on a form prescribed by the director, and shall be supported by evidence that may be required in rules adopted by the director under this chapter. After reviewing the request, the director may grant a refund to the owner or operator or may permit a credit to be taken by the owner or operator on a subsequent monthly return submitted by the owner or operator. The amount of a refund or credit shall not exceed an amount that is equal to ninety days' worth of fees owed to an owner or operator by a particular debtor of the owner or operator. A refund or credit shall not be granted by the director to an owner or operator more than once in any twelve-month period for fees owed to the owner or operator by a particular debtor.

If, after receiving a refund or credit from the director, an owner or operator receives payment of all or part of the fees, the owner or operator shall remit the fees with the next monthly return submitted to the director together with a written explanation of the reason for the submittal.

For purposes of computing the fees levied under this division or division (B) of this section, any solid waste transfer or disposal facility that does not use scales as a means of determining gate receipts shall use a conversion factor of three cubic yards per ton of solid waste or one cubic yard per ton for baled waste, as applicable.

The fees levied under this division and divisions (B) and (C) of this section are in addition to all other applicable fees and taxes and shall be added to any other fee or amount specified in a contract that is charged paid by the customer to the owner or operator of a solid waste transfer or disposal facility or to any other fee or amount that is specified in a contract entered into on or after March 4, 1992, and that is charged by a transporter of solid wastes notwithstanding the existence of any provision in a contract that the customer may have with the owner or operator that would not require or allow such payment.

(B) For the purpose of preparing, revising, and implementing the solid waste management plan of the county or joint solid waste management district, including, without limitation, the development and implementation of solid waste recycling or reduction programs; providing financial assistance to boards of health within the district, if solid waste facilities are located within the district, for the enforcement of this chapter and rules adopted and orders and terms and conditions of permits, licenses, and variances issued under it, other than the hazardous waste provisions of this chapter and rules adopted and orders and terms and conditions of permits issued under those provisions; providing financial assistance to the county to

~~defray the added costs of maintaining roads and other public facilities and of providing emergency and other public services resulting from the location and operation of a solid waste facility within the county under the district's approved solid waste management plan; paying the costs incurred by boards of health for collecting and analyzing water samples from public or private wells on lands adjacent to solid waste facilities that are contained in the approved or amended plan of the district; paying the costs of developing and implementing a program for the inspection of solid wastes generated outside the boundaries of this state that are disposed of at solid waste facilities included in the district's approved solid waste management plan or amended plan; providing financial assistance to boards of health within the district for enforcing laws prohibiting open dumping; providing financial assistance to local law enforcement agencies within the district for enforcing laws and ordinances prohibiting littering; providing financial assistance to boards of health of health districts within the district that are on the approved list under section 3734.08 of the Revised Code for the training and certification required for their employees responsible for solid waste enforcement by rules adopted under division (L) of section 3734.02 of the Revised Code; providing financial assistance to individual municipal corporations and townships within the district to defray their added costs of maintaining roads and other public facilities and of providing emergency and other public services resulting from the location and operation within their boundaries of a composting, energy or resource recovery, incineration, or recycling facility that either is owned by the district or is furnishing solid waste management facility or recycling services to the district pursuant to a contract or agreement with the board of county commissioners or directors of the district; and payment of any expenses that are agreed to, awarded, or ordered to be paid under section 3734.35 of the Revised Code and of any administrative costs incurred pursuant to that section~~ purposes specified in division (G) of this section, the solid waste management policy committee of a county or joint solid waste management district may levy fees upon the following activities:

(1) The disposal at a solid waste disposal facility located in the district of solid wastes generated within the district;

(2) The disposal at a solid waste disposal facility within the district of solid wastes generated outside the boundaries of the district, but inside this state;

(3) The disposal at a solid waste disposal facility within the district of solid wastes generated outside the boundaries of this state.

~~If any such fees are levied prior to January 1, 1994, fees levied under~~

~~division (B)(1) of this section always shall be equal to one half of the fees levied under division (B)(2) of this section, and fees levied under division (B)(3) of this section, which shall be in addition to fees levied under division (B)(2) of this section, always shall be equal to fees levied under division (B)(1) of this section, except as otherwise provided in this division. The solid waste management plan of the county or joint district approved under section 3734.521 or 3734.55 of the Revised Code and any amendments to it, or the resolution adopted under this division, as appropriate, shall establish the rates of the fees levied under divisions (B)(1), (2), and (3) of this section, if any, and shall specify whether the fees are levied on the basis of tons or cubic yards as the unit of measurement. Although the fees under divisions (A)(1) and (2) of this section are levied on the basis of tons as the unit of measurement, the A solid waste management plan of the district and any amendments to it or the solid waste management policy committee in its resolution levying fees under this division may direct that the levies fees levied under those divisions be levied this division on the basis of cubic yards as the unit of measurement based upon a conversion factor of three cubic yards per ton generally or one cubic yard per ton for baled wastes if the fees under divisions (B)(1) to (3) of this section are being levied on the basis of cubic yards as the unit of measurement under the plan, amended plan, or resolution shall do so in accordance with division (A) of this section.~~

~~On and after January 1, 1994, the~~ The fee levied under division (B)(1) of this section shall be not less than one dollar per ton nor more than two dollars per ton, the fee levied under division (B)(2) of this section shall be not less than two dollars per ton nor more than four dollars per ton, and the fee levied under division (B)(3) of this section shall be not more than the fee levied under division (B)(1) of this section, ~~except as otherwise provided in this division and notwithstanding any schedule of those fees established in the solid waste management plan of a county or joint district approved under section 3734.55 of the Revised Code or a resolution adopted and ratified under this division that is in effect on that date. If the fee that a district is levying under division (B)(1) of this section on that date under its approved plan or such a resolution is less than one dollar per ton, the fee shall be one dollar per ton on and after January 1, 1994, and if the fee that a district is so levying under that division exceeds two dollars per ton, the fee shall be two dollars per ton on and after that date. If the fee that a district is so levying under division (B)(2) of this section is less than two dollars per ton, the fee shall be two dollars per ton on and after that date, and if the fee that the district is so levying under that division exceeds four dollars per ton, the fee~~

~~shall be four dollars per ton on and after that date. On that date, the fee levied by a district under division (B)(3) of this section shall be equal to the fee levied under division (B)(1) of this section. Except as otherwise provided in this division, the fees established by the operation of this amendment shall remain in effect until the district's resolution levying fees under this division is amended or repealed in accordance with this division to amend or abolish the schedule of fees, the schedule of fees is amended or abolished in an amended plan of the district approved under section 3734.521 or division (A) or (D) of section 3734.56 of the Revised Code, or the schedule of fees is amended or abolished through an amendment to the district's plan under division (E) of section 3734.56 of the Revised Code; the notification of the amendment or abolishment of the fees has been given in accordance with this division; and collection of the amended fees so established commences, or collection of the fees ceases, in accordance with this division.~~

~~The solid waste management policy committee of a district levying fees under divisions (B)(1) to (3) of this section on October 29, 1993, under its solid waste management plan approved under section 3734.55 of the Revised Code or a resolution adopted and ratified under this division that are within the ranges of rates prescribed by this amendment, by adoption of a resolution not later than December 1, 1993, and without the necessity for ratification of the resolution under this division, may amend those fees within the prescribed ranges, provided that the estimated revenues from the amended fees will not substantially exceed the estimated revenues set forth in the district's budget for calendar year 1994. Not later than seven days after the adoption of such a resolution, the committee shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the fees of the adoption of the resolution and of the amount of the amended fees. Collection of the amended fees shall take effect on the first day of the first month following the month in which the notification is sent to the owner or operator. The fees established in such a resolution shall remain in effect until the district's resolution levying fees that was adopted and ratified under this division is amended or repealed, and the amendment or repeal of the resolution is ratified, in accordance with this division, to amend or abolish the fees, the schedule of fees is amended or abolished in an amended plan of the district approved under section 3734.521 or division (A) or (D) of section 3734.56 of the Revised Code, or the schedule of fees is amended or abolished through an amendment to the district's plan under division (E) of section 3734.56 of the Revised Code; the notification of the amendment or abolishment of the fees has been given in~~

~~accordance with this division; and collection of the amended fees so established commences, or collection of the fees ceases, in accordance with this division.~~

Prior to the approval of the solid waste management plan of ~~the~~ a district under section 3734.55 of the Revised Code, the solid waste management policy committee of a district may levy fees under this division by adopting a resolution establishing the proposed amount of the fees. Upon adopting the resolution, the committee shall deliver a copy of the resolution to the board of county commissioners of each county forming the district and to the legislative authority of each municipal corporation and township under the jurisdiction of the district and shall prepare and publish the resolution and a notice of the time and location where a public hearing on the fees will be held. Upon adopting the resolution, the committee shall deliver written notice of the adoption of the resolution; of the amount of the proposed fees; and of the date, time, and location of the public hearing to the director and to the fifty industrial, commercial, or institutional generators of solid wastes within the district that generate the largest quantities of solid wastes, as determined by the committee, and to their local trade associations. The committee shall make good faith efforts to identify those generators within the district and their local trade associations, but the nonprovision of notice under this division to a particular generator or local trade association does not invalidate the proceedings under this division. The publication shall occur at least thirty days before the hearing. After the hearing, the committee may make such revisions to the proposed fees as it considers appropriate and thereafter, by resolution, shall adopt the revised fee schedule. Upon adopting the revised fee schedule, the committee shall deliver a copy of the resolution doing so to the board of county commissioners of each county forming the district and to the legislative authority of each municipal corporation and township under the jurisdiction of the district. Within sixty days after the delivery of a copy of the resolution adopting the proposed revised fees by the policy committee, each such board and legislative authority, by ordinance or resolution, shall approve or disapprove the revised fees and deliver a copy of the ordinance or resolution to the committee. If any such board or legislative authority fails to adopt and deliver to the policy committee an ordinance or resolution approving or disapproving the revised fees within sixty days after the policy committee delivered its resolution adopting the proposed revised fees, it shall be conclusively presumed that the board or legislative authority has approved the proposed revised fees. The committee shall determine if the resolution has been ratified in the same manner in which it determines if a draft solid



waste management plan has been ratified under division (B) of section 3734.55 of the Revised Code.

~~In the case of a county district or a joint district formed by two or three counties, the committee shall declare the proposed revised fees to be ratified as the fee schedule of the district upon determining that the board of county commissioners of each county forming the district has approved the proposed revised fees and that the legislative authorities of a combination of municipal corporations and townships with a combined population within the district comprising at least sixty per cent of the total population of the district have approved the proposed revised fees, provided that in the case of a county district, that combination shall include the municipal corporation having the largest population within the boundaries of the district, and provided further that in the case of a joint district formed by two or three counties, that combination shall include for each county forming the joint district the municipal corporation having the largest population within the boundaries of both the county in which the municipal corporation is located and the joint district. In the case of a joint district formed by four or more counties, the committee shall declare the proposed revised fees to be ratified as the fee schedule of the joint district upon determining that the boards of county commissioners of a majority of the counties forming the district have approved the proposed revised fees; that, in each of a majority of the counties forming the joint district, the proposed revised fees have been approved by the municipal corporation having the largest population within the county and the joint district; and that the legislative authorities of a combination of municipal corporations and townships with a combined population within the joint district comprising at least sixty per cent of the total population of the joint district have approved the proposed revised fees.~~

~~For the purposes of this division, only the population of the unincorporated area of a township shall be considered. For the purpose of determining the largest municipal corporation within each county under this division, a municipal corporation that is located in more than one solid waste management district, but that is under the jurisdiction of one county or joint solid waste management district in accordance with division (A) of section 3734.52 of the Revised Code shall be considered to be within the boundaries of the county in which a majority of the population of the municipal corporation resides.~~

The committee may amend the schedule of fees levied pursuant to a resolution ~~or amended resolution~~ adopted and ratified under this division by adopting a resolution establishing the proposed amount of the amended fees. The committee may ~~abolish~~ repeal the fees levied pursuant to such a

resolution ~~or amended resolution~~ by adopting a resolution proposing to repeal them. Upon adopting such a resolution, the committee shall proceed to obtain ratification of the resolution in accordance with this division.

Not later than fourteen days after declaring the new fees ~~or amended fees~~ to be ratified or the fees to be repealed under this division, the committee shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the fees of the ratification and the amount of the fees or of the repeal of the fees. Collection of any fees ~~or amended fees ratified on or after March 24, 1992,~~ shall commence or collection of repealed fees shall cease on the first day of the second month following the month in which notification is sent to the owner or operator.

~~Not later than fourteen days after declaring the repeal of the district's schedule of fees to be ratified under this division, the committee shall notify by certified mail the owner or operator of each facility that is collecting the fees of the repeal. Collection of the fees shall cease on the first day of the second month following the month in which notification is sent to the owner or operator.~~

Fees levied under this division also may be established, amended, or repealed by a solid waste management policy committee through the adoption of a new district solid waste management plan, the adoption of an amended plan, or the amendment of the plan or amended plan in accordance with sections 3734.55 and 3734.56 of the Revised Code or the adoption or amendment of a district plan in connection with a change in district composition under section 3734.521 of the Revised Code.

Not later than fourteen days after the director issues an order approving a district's solid waste management plan ~~under section 3734.55 of the Revised Code or, amended plan under division (A) or (D) of section 3734.56 of the Revised Code, or amendment to a plan or amended plan that establishes or, amends, or repeals~~ a schedule of fees levied by the district, ~~or the ratification of an amendment to the district's approved plan or amended plan under division (E) of section 3734.56 of the Revised Code that establishes or amends a schedule of fees, as appropriate,~~ the committee shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the fees of the approval of the plan or amended plan, or the amendment to the plan, as appropriate, and the amount of the fees ~~or amended fees, if any~~. In the case of an initial or amended plan approved under section 3734.521 of the Revised Code in connection with a change in district composition, other than one involving the withdrawal of a county from a joint district, ~~that establishes or amends a schedule of fees levied under divisions (B)(1) to (3) of this section by a district resulting~~

~~from the change~~, the committee, within fourteen days after the change takes effect pursuant to division (G) of that section, shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the fees that the change has taken effect and of the amount of the fees ~~or amended fees, if any~~. Collection of any fees set forth in a plan or amended plan approved by the director on or after April 16, 1993, or an amendment of a plan or amended plan under division (E) of section 3734.56 of the Revised Code that is ratified on or after April 16, 1993, shall commence or collection of repealed fees shall cease on the first day of the second month following the month in which notification is sent to the owner or operator.

~~Not later than fourteen days after the director issues an order approving a district's plan under section 3734.55 of the Revised Code or amended plan under division (A) or (D) of section 3734.56 of the Revised Code that abolishes the schedule of fees levied under divisions (B)(1) to (3) of this section, or an amendment to the district's approved plan or amended plan abolishing the schedule of fees is ratified pursuant to division (E) of section 3734.56 of the Revised Code, as appropriate, the committee shall notify by certified mail the owner or operator of each facility that is collecting the fees of the approval of the plan or amended plan, or the amendment of the plan or amended plan, as appropriate, and the abolishment of the fees. In the case of an initial or amended plan approved under section 3734.521 of the Revised Code in connection with a change in district composition, other than one involving the withdrawal of a county from a joint district, that abolishes the schedule of fees levied under divisions (B)(1) to (3) of this section by a district resulting from the change, the committee, within fourteen days after the change takes effect pursuant to division (G) of that section, shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the fees that the change has taken effect and of the abolishment of the fees. Collection of the fees shall cease on the first day of the second month following the month in which notification is sent to the owner or operator.~~

Except as otherwise provided in this division, if the schedule of fees that a district is levying under divisions (B)(1) to (3) of this section pursuant to a resolution or amended resolution adopted and ratified under this division, the solid waste management plan of the district approved under section 3734.55 of the Revised Code, an amended plan approved under division (A) or (D) of section 3734.56 of the Revised Code, or an amendment to the district's approved plan or amended plan under division (E) of section 3734.56 of the Revised Code, is amended by the adoption and ratification of

~~an amendment to the resolution or amended resolution or an amendment of the district's approved plan or amended plan, the fees in effect immediately prior to the approval of the plan or the amendment of the resolution, amended resolution, plan, or amended plan, as appropriate, shall continue to be collected until collection of the amended fees commences pursuant to this division.~~

If, in the case of a change in district composition involving the withdrawal of a county from a joint district, the director completes the actions required under division (G)(1) or (3) of section 3734.521 of the Revised Code, as appropriate, forty-five days or more before the beginning of a calendar year, the policy committee of each of the districts resulting from the change that obtained the director's approval of an initial or amended plan in connection with the change, within fourteen days after the director's completion of the required actions, shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the district's fees that the change is to take effect on the first day of January immediately following the issuance of the notice and of the amount of the fees or amended fees levied under divisions (B)(1) to (3) of this section pursuant to the district's initial or amended plan as so approved or, if appropriate, the ~~abolishment~~ repeal of the district's fees by that initial or amended plan. Collection of any fees set forth in such a plan or amended plan shall commence on the first day of January immediately following the issuance of the notice. If such an initial or amended plan ~~abolishes~~ repeals a schedule of fees, collection of the fees shall cease on that first day of January.

If, in the case of a change in district composition involving the withdrawal of a county from a joint district, the director completes the actions required under division (G)(1) or (3) of section 3734.521 of the Revised Code, as appropriate, less than forty-five days before the beginning of a calendar year, the director, on behalf of each of the districts resulting from the change that obtained the director's approval of an initial or amended plan in connection with the change proceedings, shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the district's fees that the change is to take effect on the first day of January immediately following the mailing of the notice and of the amount of the fees or amended fees levied under divisions (B)(1) to (3) of this section pursuant to the district's initial or amended plan as so approved or, if appropriate, the ~~abolishment~~ repeal of the district's fees by that initial or amended plan. Collection of any fees set forth in such a plan or amended plan shall commence on the first day of the second month

following the month in which notification is sent to the owner or operator. If such an initial or amended plan ~~abolishes~~ repeals a schedule of fees, collection of the fees shall cease on the first day of the second month following the month in which notification is sent to the owner or operator.

~~It~~ If the schedule of fees that a solid waste management district is levying under divisions (B)(1) to (3) of this section is amended or repealed, the fees in effect immediately prior to the amendment or repeal shall continue to be collected until collection of the amended fees commences or collection of the repealed fees ceases, as applicable, as specified in this division. In the case of a change in district composition, ~~the schedule of fees that the former districts that existed prior to the change were levying under divisions (B)(1) to (3) of this section pursuant to a resolution or amended resolution adopted and ratified under this division, the solid waste management plan of a former district approved under section 3734.521 or 3734.55 of the Revised Code, an amended plan approved under section 3734.521 or division (A) or (D) of section 3734.56 of the Revised Code, or an amendment to a former district's approved plan or amended plan under division (E) of section 3734.56 of the Revised Code, and that were in effect on the date that the director completed the actions required under division (G)(1) or (3) of section 3734.521 of the Revised Code shall continue to be collected until the collection of the fees or amended fees of the districts resulting from the change is required to commence, or if an initial or amended plan of a resulting district abolishes a schedule of fees, collection of the fees is required to cease, under this division. Moneys~~ money so received from the collection of the fees of the former districts shall be divided among the resulting districts in accordance with division (B) of section 343.012 of the Revised Code and the agreements entered into under division (B) of section 343.01 of the Revised Code to establish the former and resulting districts and any amendments to those agreements.

For the purposes of the provisions of division (B) of this section establishing the times when newly established or amended fees levied by a district are required to commence and the collection of fees that have been amended or ~~abolished~~ repealed is required to cease, "fees" or "schedule of fees" includes, in addition to fees levied under divisions (B)(1) to (3) of this section, those levied under section 3734.573 or 3734.574 of the Revised Code.

(C) For the purposes of defraying the added costs to a municipal corporation or township of maintaining roads and other public facilities and of providing emergency and other public services, and compensating a municipal corporation or township for reductions in real property tax

revenues due to reductions in real property valuations resulting from the location and operation of a solid waste disposal facility within the municipal corporation or township, a municipal corporation or township in which such a solid waste disposal facility is located may levy a fee of not more than twenty-five cents per ton on the disposal of solid wastes at a solid waste disposal facility located within the boundaries of the municipal corporation or township regardless of where the wastes were generated.

The legislative authority of a municipal corporation or township may levy fees under this division by enacting an ordinance or adopting a resolution establishing the amount of the fees. Upon so doing the legislative authority shall mail a certified copy of the ordinance or resolution to the board of county commissioners or directors of the county or joint solid waste management district in which the municipal corporation or township is located or, if a regional solid waste management authority has been formed under section 343.011 of the Revised Code, to the board of trustees of that regional authority, the owner or operator of each solid waste disposal facility in the municipal corporation or township that is required to collect the fee by the ordinance or resolution, and the director of environmental protection. Although the fees levied under this division are levied on the basis of tons as the unit of measurement, the legislative authority, in its ordinance or resolution levying the fees under this division, may direct that the fees be levied on the basis of cubic yards as the unit of measurement based upon a conversion factor of three cubic yards per ton generally or one cubic yard per ton for baled wastes.

Not later than five days after enacting an ordinance or adopting a resolution under this division, the legislative authority shall so notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the fee. Collection of any fee levied on or after March 24, 1992, shall commence on the first day of the second month following the month in which notification is sent to the owner or operator.

(D)(1) The fees levied under divisions (A), (B), and (C) of this section do not apply to the disposal of solid wastes that:

(a) Are disposed of at a facility owned by the generator of the wastes when the solid waste facility exclusively disposes of solid wastes generated at one or more premises owned by the generator regardless of whether the facility is located on a premises where the wastes are generated;

(b) Are disposed of at facilities that exclusively dispose of wastes that are generated from the combustion of coal, or from the combustion of primarily coal in combination with scrap tires, that is not combined in any way with garbage at one or more premises owned by the generator.

(2) Except as provided in section 3734.571 of the Revised Code, any fees levied under division (B)(1) of this section apply to solid wastes originating outside the boundaries of a county or joint district that are covered by an agreement for the joint use of solid waste facilities entered into under section 343.02 of the Revised Code by the board of county commissioners or board of directors of the county or joint district where the wastes are generated and disposed of.

(3) When solid wastes, other than solid wastes that consist of scrap tires, are burned in a disposal facility that is an incinerator or energy recovery facility, the fees levied under divisions (A), (B), and (C) of this section shall be levied upon the disposal of the fly ash and bottom ash remaining after burning of the solid wastes and shall be collected by the owner or operator of the sanitary landfill where the ash is disposed of.

(4) When solid wastes are delivered to a solid waste transfer facility, the fees levied under divisions ~~(A)~~, (B), and (C) of this section shall be levied upon the disposal of solid wastes transported off the premises of the transfer facility for disposal and shall be collected by the owner or operator of the solid waste disposal facility where the wastes are disposed of.

(5) The fees levied under divisions (A), (B), and (C) of this section do not apply to sewage sludge that is generated by a waste water treatment facility holding a national pollutant discharge elimination system permit and that is disposed of through incineration, land application, or composting or at another resource recovery or disposal facility that is not a landfill.

(6) The fees levied under divisions (A), (B), and (C) of this section do not apply to solid wastes delivered to a solid waste composting facility for processing. When any unprocessed solid waste or compost product is transported off the premises of a composting facility and disposed of at a landfill, the fees levied under divisions (A), (B), and (C) of this section shall be collected by the owner or operator of the landfill where the unprocessed waste or compost product is disposed of.

(7) When solid wastes that consist of scrap tires are processed at a scrap tire recovery facility, the fees levied under divisions (A), (B), and (C) of this section shall be levied upon the disposal of the fly ash and bottom ash or other solid wastes remaining after the processing of the scrap tires and shall be collected by the owner or operator of the solid waste disposal facility where the ash or other solid wastes are disposed of.

(8) The director of environmental protection may issue an order exempting from the fees levied under this section solid wastes, including, but not limited to, scrap tires, that are generated, transferred, or disposed of as a result of a contract providing for the expenditure of public funds entered

into by the administrator or regional administrator of the United States environmental protection agency, the director of environmental protection, or the director of administrative services on behalf of the director of environmental protection for the purpose of remediating conditions at a hazardous waste facility, solid waste facility, or other location at which the administrator or regional administrator or the director of environmental protection has reason to believe that there is a substantial threat to public health or safety or the environment or that the conditions are causing or contributing to air or water pollution or soil contamination. An order issued by the director of environmental protection under division (D)(8) of this section shall include a determination that the amount of the fees not received by a solid waste management district as a result of the order will not adversely impact the implementation and financing of the district's approved solid waste management plan and any approved amendments to the plan. Such an order is a final action of the director of environmental protection.

(E) The fees levied under divisions (B) and (C) of this section shall be collected by the owner or operator of the solid waste disposal facility where the wastes are disposed of as a trustee for the county or joint district and municipal corporation or township where the wastes are disposed of. Moneys from the fees levied under division (B) of this section shall be forwarded to the board of county commissioners or board of directors of the district in accordance with rules adopted under division (H) of this section. Moneys from the fees levied under division (C) of this section shall be forwarded to the treasurer or such other officer of the municipal corporation as, by virtue of the charter, has the duties of the treasurer or to the clerk of the township, as appropriate, in accordance with those rules.

(F) Moneys received by the treasurer or such other officer of the municipal corporation under division (E) of this section shall be paid into the general fund of the municipal corporation. Moneys received by the clerk of the township under that division shall be paid into the general fund of the township. The treasurer or such other officer of the municipal corporation or the clerk, as appropriate, shall maintain separate records of the moneys received from the fees levied under division (C) of this section.

(G) Moneys received by the board of county commissioners or board of directors under division (E) of this section or section 3734.571, 3734.572, 3734.573, or 3734.574 of the Revised Code shall be paid to the county treasurer, or other official acting in a similar capacity under a county charter, in a county district or to the county treasurer or other official designated by the board of directors in a joint district and kept in a separate and distinct fund to the credit of the district. If a regional solid waste



management authority has been formed under section 343.011 of the Revised Code, moneys received by the board of trustees of that regional authority under division (E) of this section shall be kept by the board in a separate and distinct fund to the credit of the district. Moneys in the special fund of the county or joint district arising from the fees levied under division (B) of this section and the fee levied under division (A) of section 3734.573 of the Revised Code shall be expended by the board of county commissioners or directors of the district in accordance with the district's solid waste management plan or amended plan approved under section 3734.521, 3734.55, or 3734.56 of the Revised Code exclusively for the following purposes:

(1) Preparation of the solid waste management plan of the district under section 3734.54 of the Revised Code, monitoring implementation of the plan, and conducting the periodic review and amendment of the plan required by section 3734.56 of the Revised Code by the solid waste management policy committee;

(2) Implementation of the approved solid waste management plan or amended plan of the district, including, without limitation, the development and implementation of solid waste recycling or reduction programs;

(3) Providing financial assistance to boards of health within the district, if solid waste facilities are located within the district, for enforcement of this chapter and rules, orders, and terms and conditions of permits, licenses, and variances adopted or issued under it, other than the hazardous waste provisions of this chapter and rules adopted and orders and terms and conditions of permits issued under those provisions;

(4) Providing financial assistance to each county within the district to defray the added costs of maintaining roads and other public facilities and of providing emergency and other public services resulting from the location and operation of a solid waste facility within the county under the district's approved solid waste management plan or amended plan;

(5) Pursuant to contracts entered into with boards of health within the district, if solid waste facilities contained in the district's approved plan or amended plan are located within the district, for paying the costs incurred by those boards of health for collecting and analyzing samples from public or private water wells on lands adjacent to those facilities;

(6) Developing and implementing a program for the inspection of solid wastes generated outside the boundaries of this state that are disposed of at solid waste facilities included in the district's approved solid waste management plan or amended plan;

(7) Providing financial assistance to boards of health within the district

for the enforcement of section 3734.03 of the Revised Code or to local law enforcement agencies having jurisdiction within the district for enforcing anti-littering laws and ordinances;

(8) Providing financial assistance to boards of health of health districts within the district that are on the approved list under section 3734.08 of the Revised Code to defray the costs to the health districts for the participation of their employees responsible for enforcement of the solid waste provisions of this chapter and rules adopted and orders and terms and conditions of permits, licenses, and variances issued under those provisions in the training and certification program as required by rules adopted under division (L) of section 3734.02 of the Revised Code;

(9) Providing financial assistance to individual municipal corporations and townships within the district to defray their added costs of maintaining roads and other public facilities and of providing emergency and other public services resulting from the location and operation within their boundaries of a composting, energy or resource recovery, incineration, or recycling facility that either is owned by the district or is furnishing solid waste management facility or recycling services to the district pursuant to a contract or agreement with the board of county commissioners or directors of the district;

(10) Payment of any expenses that are agreed to, awarded, or ordered to be paid under section 3734.35 of the Revised Code and of any administrative costs incurred pursuant to that section. In the case of a joint solid waste management district, if the board of county commissioners of one of the counties in the district is negotiating on behalf of affected communities, as defined in that section, in that county, the board shall obtain the approval of the board of directors of the district in order to expend moneys for administrative costs incurred.

Prior to the approval of the district's solid waste management plan under section 3734.55 of the Revised Code, moneys in the special fund of the district arising from the fees shall be expended for those purposes in the manner prescribed by the solid waste management policy committee by resolution.

Notwithstanding division (G)(6) of this section as it existed prior to October 29, 1993, or any provision in a district's solid waste management plan prepared in accordance with division (B)(2)(e) of section 3734.53 of the Revised Code as it existed prior to that date, any moneys arising from the fees levied under division (B)(3) of this section prior to January 1, 1994, may be expended for any of the purposes authorized in divisions (G)(1) to (10) of this section.

(H) The director shall adopt rules in accordance with Chapter 119. of the Revised Code prescribing procedures for collecting and forwarding the fees levied under divisions (B) and (C) of this section to the boards of county commissioners or directors of county or joint solid waste management districts and to the treasurers or other officers of municipal corporations or to the clerks of townships. The rules also shall prescribe the dates for forwarding the fees to the boards and officials and may prescribe any other requirements the director considers necessary or appropriate to implement and administer divisions (A), (B), and (C) of this section. ~~Collection of the fees levied under division (A)(1) of this section shall commence on July 1, 1993. Collection of the fees levied under division (A)(2) of this section shall commence on January 1, 1994.~~

Sec. 3734.573. (A) ~~For the purpose of preparing, revising, and implementing the solid waste management plan of the district, including, without limitation, the development and implementation of solid waste recycling or reduction programs; providing financial assistance to boards of health within the district, if solid waste facilities are located in the district, for the enforcement of this chapter and rules adopted and orders and terms and conditions of permits, licenses, and variances issued under it, other than the hazardous waste provisions of this chapter and rules adopted and orders and terms and conditions of permits issued under those provisions; providing financial assistance to the county to defray the added costs of maintaining roads and other public facilities and of providing emergency and other public services resulting from the location and operation of a solid waste facility within the county under the district's approved plan or amended plan; paying the costs incurred by boards of health for collecting and analyzing water samples from public and private wells on lands adjacent to solid waste facilities that are contained in the approved or amended plan of the district; paying the costs of developing and implementing a program for the inspection of solid wastes generated outside the boundaries of this state that are disposed of at solid waste facilities included in the district's approved plan or amended plan; providing financial assistance to boards of health within the district for enforcing laws prohibiting open dumping; providing financial assistance to local law enforcement agencies within the district for enforcing laws and ordinances prohibiting littering; providing financial assistance to boards of health of health districts within the district that are on the approved list under section 3734.08 of the Revised Code for the training and certification required for their employees responsible for solid waste enforcement by rules adopted under division (L) of section 3734.02 of the Revised Code; providing financial assistance to individual~~

~~municipal corporations and townships within the district to defray their added costs of maintaining roads and other public facilities and of providing emergency and other public services resulting from the location and operation within their boundaries of a composting, energy or resource recovery, incineration, or recycling facility that either is owned by the district or is furnishing solid waste management facility or recycling services to the district pursuant to a contract or agreement with the board of county commissioners or directors of the district; and paying any expenses provided for or incurred under section 3734.35 purposes specified in division (G) of section 3734.57 of the Revised Code, the solid waste management policy committee of a county or joint solid waste management district may levy a fee on the generation of solid wastes within the district.~~

The initial or amended solid waste management plan of the county or joint district approved under section 3734.521, 3734.55, or 3734.56 of the Revised Code, an amendment to the district's plan adopted under division (E) of section 3734.56 of the Revised Code, or the resolution adopted and ratified under division (B) of this section shall establish the rate of the fee levied under this division and shall specify whether the fee is levied on the basis of tons or cubic yards as the unit of measurement.

(B) Prior to the approval under division (A) of section 3734.56 of the Revised Code of the first amended plan that the district is required to submit for approval under that section, the approval of an initial plan under section 3734.521 of the Revised Code, the approval of an amended plan under section 3734.521 or division (D) of section 3734.56 of the Revised Code, or the amendment of the district's plan under division (E) of section 3734.56 of the Revised Code, the solid waste management policy committee of a county or joint district that is operating under an initial plan approved under section 3734.55 of the Revised Code, or one for which approval of its initial plan is pending before the director of environmental protection on October 29, 1993, under section 3734.55 of the Revised Code, may levy a fee under division (A) of this section by adopting and obtaining ratification of a resolution establishing the amount of the fee. A policy committee that, after December 1, 1993, concurrently proposes to levy a fee under division (A) of this section and to amend the fees levied by the district under divisions (B)(1) to (3) of section 3734.57 of the Revised Code may adopt and obtain ratification of one resolution proposing to do both. The requirements and procedures set forth in division (B) of section 3734.57 of the Revised Code governing the adoption, amendment, and repeal of resolutions levying fees under divisions (B)(1) to (3) of that section, the ratification of those resolutions, and the notification of owners and operators of solid waste

facilities required to collect fees levied under those divisions govern the adoption of the resolutions authorized to be adopted under this division, the ratification thereof, and the notification of owners and operators required to collect the fees, except as otherwise specifically provided in division (C) of this section.

(C) Any initial or amended plan of a district adopted under section 3734.521 or 3734.56 of the Revised Code, or resolution adopted under division (B) of this section, that proposes to levy a fee under division (A) of this section that exceeds five dollars per ton shall be ratified in accordance with the provisions of section 3734.55 or division (B) of section 3734.57 of the Revised Code, as applicable, except that such an initial or amended plan or resolution shall be approved by a combination of municipal corporations and townships with a combined population within the boundaries of the district comprising at least seventy-five per cent, rather than at least sixty per cent, of the total population of the district.

(D) The policy committee of a county or joint district may amend the fee levied by the district under division (A) of this section by adopting and obtaining ratification of a resolution establishing the amount of the amended fee. The policy committee may abolish the fee or an amended fee established under this division by adopting and obtaining ratification of a resolution proposing to repeal it. The requirements and procedures under division (B) and, if applicable, division (C) of this section govern the adoption and ratification of a resolution authorized to be adopted under this division and the notification of owners and operators of solid waste facilities required to collect the fees.

(E) Collection of a fee or amended fee levied under division (A) or (D) of this section shall commence or cease in accordance with division (B) of section 3734.57 of the Revised Code. If a district is levying a fee under section 3734.572 of the Revised Code, collection of that fee shall cease on the date on which collection of the fee levied under division (A) of this section commences in accordance with division (B) of section 3734.57 of the Revised Code.

(F) In the case of solid wastes that are taken to a solid waste transfer facility prior to being transported to a solid waste disposal facility for disposal, the fee levied under division (A) of this section shall be collected by the owner or operator of the transfer facility as a trustee for the district. In the case of solid wastes that are not taken to a solid waste transfer facility prior to being transported to a solid waste disposal facility, the fee shall be collected by the owner or operator of the solid waste disposal facility where the wastes are disposed of. An owner or operator of a solid waste transfer or

disposal facility who is required to collect the fee shall collect and forward the fee to the district in accordance with section 3734.57 of the Revised Code and rules adopted under division (H) of that section.

If the owner or operator of a solid waste transfer or disposal facility who did not receive notice pursuant to division (B) of this section to collect the fee levied by a district under division (A) of this section receives solid wastes generated in the district, the owner or operator, within thirty days after receiving the wastes, shall send written notice of that fact to the board of county commissioners or directors of the district. Within thirty days after receiving such a notice, the board of county commissioners or directors shall send written notice to the owner or operator indicating whether the district is levying a fee under division (A) of this section and, if so, the amount of the fee.

(G) Moneys received by a district levying a fee under division (A) of this section shall be credited to the special fund of the district created in division (G) of section 3734.57 of the Revised Code and shall be used exclusively for the purposes ~~set forth specified in divisions (G)(1) to (10) of that section~~ division. Prior to the approval under division (A) of section 3734.56 of the Revised Code of the first amended plan that the district is required to submit for approval under that section, the approval of an initial plan under section 3734.521 of the Revised Code, the approval of an amended plan under that section or division (D) of section 3734.56 of the Revised Code, or the amendment of the district's plan under division (E) of section 3734.56 of the Revised Code, moneys credited to the special fund arising from the fee levied pursuant to a resolution adopted and ratified under division (B) of this section shall be expended for those purposes in the manner prescribed by the solid waste management policy committee by resolution.

(H) The fee levied under division (A) of this section does not apply to the management of solid wastes that:

(1) Are disposed of at a facility owned by the generator of the wastes when the solid waste facility exclusively disposes of solid wastes generated at one or more premises owned by the generator regardless of whether the facility is located on a premises where the wastes were generated;

(2) Are disposed of at facilities that exclusively dispose of wastes that are generated from the combustion of coal, or from the combustion of primarily coal in combination with scrap tires, that is not combined in any way with garbage at one or more premises owned by the generator.

(I) When solid wastes that are burned in a disposal facility that is an incinerator or energy recovery facility are delivered to a solid waste transfer

facility prior to being transported to the incinerator or energy recovery facility where they are burned, the fee levied under division (A) of this section shall be levied on the wastes delivered to the transfer facility.

(J) When solid wastes that are burned in a disposal facility that is an incinerator or energy recovery facility are not delivered to a solid waste transfer facility prior to being transported to the incinerator or energy recovery facility where they are burned, the fee levied under division (A) of this section shall be levied on the wastes delivered to the incinerator or energy recovery facility.

(K) The fee levied under division (A) of this section does not apply to sewage sludge that is generated by a waste water treatment facility holding a national pollutant discharge elimination system permit and that is disposed of through incineration, land application, or composting or at another resource recovery or disposal facility that is not a landfill.

(L) The fee levied under division (A) of this section does not apply to yard waste delivered to a solid waste composting facility for processing or to a solid waste transfer facility.

(M) The fee levied under division (A) of this section does not apply to materials separated from a mixed waste stream for recycling by the generator.

(N) The director of environmental protection may issue an order exempting from the fees levied under this section solid wastes, including, but not limited to, scrap tires, that are generated, transferred, or disposed of as a result of a contract providing for the expenditure of public funds entered into by the administrator or regional administrator of the United States environmental protection agency, the director of environmental protection, or the director of administrative services on behalf of the director of environmental protection for the purpose of remediating conditions at a hazardous waste facility, solid waste facility, or other location at which the administrator or regional administrator or the director of environmental protection has reason to believe that there is a substantial threat to public health or safety or the environment or that the conditions are causing or contributing to air or water pollution or soil contamination. An order issued by the director of environmental protection under this division shall include a determination that the amount of fees not received by a solid waste management district as a result of the order will not adversely impact the implementation and financing of the district's approved solid waste management plan and any approved amendments to the plan. Such an order is a final action of the director of environmental protection.

Sec. 3734.85. (A) On and after the effective date of the rules adopted

under sections 3734.70, 3734.71, 3734.72, and 3734.73 of the Revised Code, the director of environmental protection may take action under this section to abate accumulations of scrap tires. If the director determines that an accumulation of scrap tires constitutes a danger to the public health or safety or to the environment, ~~he~~ the director shall issue an order under section 3734.13 of the Revised Code to the person responsible for the accumulation of scrap tires directing that person, within one hundred twenty days after the issuance of the order, to remove the accumulation of scrap tires from the premises on which it is located and transport the tires to a scrap tire storage, monocell, monofill, or recovery facility licensed under section 3734.81 of the Revised Code, to such a facility in another state operating in compliance with the laws of the state in which it is located, or to any other solid waste disposal facility in another state that is operating in compliance with the laws of that state. If the person responsible for causing the accumulation of scrap tires is a person different from the owner of the land on which the accumulation is located, the director may issue such an order to the landowner.

If the director is unable to ascertain immediately the identity of the person responsible for causing the accumulation of scrap tires, ~~he~~ the director shall examine the records of the applicable board of health and law enforcement agencies to ascertain that person's identity. Before initiating any enforcement or removal actions under this division against the owner of the land on which the accumulation is located, the director shall initiate any such actions against the person that ~~he~~ the director has identified as responsible for causing the accumulation of scrap tires. Failure of the director to make diligent efforts to ascertain the identity of the person responsible for causing the accumulation of scrap tires or to initiate an action against the person responsible for causing the accumulation shall not constitute an affirmative defense by a landowner to an enforcement action initiated by the director under this division requiring immediate removal of any accumulation of scrap tires.

Upon the written request of the recipient of an order issued under this division, the director may extend the time for compliance with the order if the request demonstrates that the recipient has acted in good faith to comply with the order. If the recipient of an order issued under this division fails to comply with the order within one hundred twenty days after the issuance of the order or, if the time for compliance with the order was so extended, within that time, the director shall take such actions as ~~he~~ the director considers reasonable and necessary to remove and properly manage the scrap tires located on the land named in the order. The director, through



employees of the environmental protection agency or a contractor, may enter upon the land on which the accumulation of scrap tires is located and remove and transport them to a scrap tire recovery facility for processing, to a scrap tire storage facility for storage, or to a scrap tire monocell or monofill facility for storage or disposal.

The director shall enter into contracts with the owners or operators of scrap tire storage, monocell, monofill, or recovery facilities for the storage, disposal, or processing of scrap tires removed through removal operations conducted under this section. In doing so, the director shall give preference to scrap tire recovery facilities.

If a person to whom a removal order is issued under this division fails to comply with the order and if the director performs a removal action under this section, the person to whom the removal order is issued is liable to the director for the costs incurred by the director for conducting the removal operation, storage at a scrap tire storage facility, storage or disposal at a scrap tire monocell or monofill facility, or processing of the scrap tires so removed, the transportation of the scrap tires from the site of the accumulation to the scrap tire storage, monocell, monofill, or recovery facility where the scrap tires were stored, disposed of, or processed, and the administrative and legal expenses incurred by the director in connection with the removal operation. The director shall keep an itemized record of those costs. Upon completion of the actions for which the costs were incurred, the director shall record the costs at the office of the county recorder of the county in which the accumulation of scrap tires was located. The costs so recorded constitute a lien on the property on which the accumulation of scrap tires was located until discharged. Upon the written request of the director, the attorney general shall bring a civil action against the person responsible for the accumulation of the scrap tires that were the subject of the removal operation to recover the costs of the removal operation. ~~If the director is unable to recover those costs through such a civil action, he shall certify them to the county recorder of the county in which the accumulation of scrap tires was located. The recorder shall record the costs so certified as a lien on the property on which the accumulation of scrap tires was located, which costs shall be a lien on the property until discharged for which the person is liable under this division. Any money so received or recovered shall be credited to the scrap tire management fund created in section 3734.82 of the Revised Code.~~

If, in a civil action brought under this division, an owner of real property is ordered to pay to the director the costs of a removal action that removed an accumulation of scrap tires from the person's land or if a lien is placed on

the person's land for the costs of such a removal action, and, in either case, if the landowner was not the person responsible for causing the accumulation of scrap tires so removed, the landowner may bring a civil action against the person who was responsible for causing the accumulation to recover the amount of the removal costs that the court ordered the landowner to pay to the director or the amount of the removal costs certified to the county recorder as a lien on the landowner's property, whichever is applicable. If the landowner prevails in the civil action against the person who was responsible for causing the accumulation of scrap tires, the court, as it considers appropriate, may award to the landowner the reasonable attorney's fees incurred by the landowner for bringing the action, court costs, and other reasonable expenses incurred by the landowner in connection with the civil action. A landowner shall bring such a civil action within two years after making the final payment of the removal costs to the director pursuant to the judgment rendered against the landowner in the civil action brought under this division upon the director's request or within two years after the director certified the costs of the removal action to the county recorder, as appropriate. A person who, at the time that a removal action was conducted under this division, owned the land on which the removal action was performed may bring an action under this division to recover the costs of the removal action from the person responsible for causing the accumulation of scrap tires so removed regardless of whether the person owns the land at the time of bringing the action.

Subject to the limitations set forth in division (G) of section 3734.82 of the Revised Code, the director may use moneys in the scrap tire management fund ~~created in that division~~ for conducting removal actions under this division. Any moneys recovered under this division shall be credited to the scrap tire management fund.

(B) The director shall initiate enforcement and removal actions under division (A) of this section in accordance with the following descending listing of priorities:

- (1) Accumulations of scrap tires that the director finds constitute a fire hazard or threat to public health;
- (2) Accumulations of scrap tires determined by the director to contain more than one million scrap tires;
- (3) Accumulations of scrap tires in densely populated areas;
- (4) Other accumulations of scrap tires that the director or board of health of the health district in which the accumulation is located determines constitute a public nuisance;
- (5) Any other accumulations of scrap tires present on premises

operating without a valid license issued under section 3734.05 or 3734.81 of the Revised Code.

(C) The director shall not take enforcement and removal actions under division (A) of this section against the owner or operator of, or the owner of the land on which is located, any of the following:

(1) A premises where not more than one hundred scrap tires are present at any time;

(2) The premises of a business engaging in the sale of tires at retail that meets either of the following criteria:

(a) Not more than one thousand scrap tires are present on the premises at any time in an unsecured, uncovered outdoor location;

(b) Any number of scrap tires are secured in a building or a covered, enclosed container, trailer, or installation.

(3) The premises of a tire retreading business, a tire manufacturing finishing center, or a tire adjustment center on which is located a single, covered scrap tire storage area where not more than four thousand scrap tires are stored;

(4) The premises of a business that removes tires from motor vehicles in the ordinary course of business and on which is located a single scrap tire storage area that occupies not more than twenty-five hundred square feet;

(5) A solid waste facility licensed under section 3734.05 of the Revised Code that stores scrap tires on the surface of the ground if the total land area on which scrap tires are actually stored does not exceed ten thousand square feet;

(6) A premises where not more than two hundred fifty scrap tires are stored or kept for agricultural use;

(7) A construction site where scrap tires are stored for use or used in road resurfacing or the construction of embankments;

(8) A scrap tire collection, storage, monocell, monofill, or recovery facility licensed under section 3734.81 of the Revised Code;

(9) A solid waste incineration or energy recovery facility that is subject to regulation under this chapter and that burns scrap tires;

(10) A premises where scrap tires are beneficially used and for which the notice required by rules adopted under section 3734.84 of the Revised Code has been given;

(11) A transporter registered under section 3734.83 of the Revised Code that collects and holds scrap tires in a covered trailer or vehicle for not longer than thirty days prior to transporting them to their final destination.

(D) Nothing in this section restricts any right any person may have under statute or common law to enforce or seek enforcement of any law

applicable to the management of scrap tires, abate a nuisance, or seek any other appropriate relief.

(E) An owner of real property upon which there is located an accumulation of not more than two thousand scrap tires is not liable under division (A) of this section for the cost of the removal of the scrap tires, and no lien shall attach to the property under this section, if all of the following conditions are met:

(1) The tires were placed on the property after the owner acquired title to the property, or the tires were placed on the property before the owner acquired title to the property and the owner acquired title to the property by bequest or devise;

(2) The owner of the property did not have knowledge that the tires were being placed on the property, or the owner posted on the property signs prohibiting dumping or took other action to prevent the placing of tires on the property;

(3) The owner of the property did not participate in or consent to the placing of the tires on the property;

(4) The owner of the property received no financial benefit from the placing of the tires on the property or otherwise having the tires on the property;

(5) Title to the property was not transferred to the owner for the purpose of evading liability under division (A) of this section;

(6) The person responsible for placing the tires on the property, in doing so, was not acting as an agent for the owner of the property.

Sec. 3734.901. (A)(1) For the purpose of providing revenue to defray the cost of administering and enforcing the scrap tire provisions of this chapter, rules adopted under those provisions, and terms and conditions of orders, variances, and licenses issued under those provisions; to abate accumulations of scrap tires; to make grants to promote research regarding alternative methods of recycling scrap tires and loans to promote the recycling or recovery of energy from scrap tires; and to defray the costs of administering and enforcing sections 3734.90 to 3734.9014 of the Revised Code, a fee of fifty cents per tire is hereby levied on the sale of tires. The fee is levied from the first day of the calendar month that begins next after thirty days from October 29, 1993, through June 30, 2006 2011.

(2) Beginning on ~~the effective date of this section~~ September 5, 2001, and ending on June 30, 2011, there is hereby levied an additional fee of fifty cents per tire on the sale of tires the proceeds of which shall be deposited in the state treasury to the credit of the scrap tire management fund created in section 3734.82 of the Revised Code and be used exclusively for the

purposes specified in division (G)(3) of that section.

(B) Only one sale of the same article shall be used in computing the amount of the fee due.

Sec. 3734.9010. ~~Four~~ Two per cent of all amounts paid to the treasurer of state pursuant to sections 3734.90 to 3734.9014 of the Revised Code shall be certified directly to the credit of the tire fee administrative fund, which is hereby created in the state treasury, for appropriation to the department of taxation for use in administering those sections. The remainder of the amounts paid to the treasurer of state shall be deposited to the credit of the scrap tire management fund created in section 3734.82 of the Revised Code.

Sec. 3735.27. (A) Whenever the director of development has determined that there is need for a housing authority in any portion of any county that comprises two or more political subdivisions or portions of two or more political subdivisions but is less than all the territory within the county, a metropolitan housing authority shall be declared to exist, and the territorial limits of the authority shall be defined, by a letter from the director. The director shall issue a determination from the department of development declaring that there is need for a housing authority within those territorial limits after finding either of the following:

(1) Unsanitary or unsafe inhabited housing accommodations exist in that area;

(2) There is a shortage of safe and sanitary housing accommodations in that area available to persons who lack the amount of income that is necessary, as determined by the director, to enable them, without financial assistance, to live in decent, safe, and sanitary dwellings without congestion.

In determining whether dwelling accommodations are unsafe or unsanitary, the director may take into consideration the degree of congestion, the percentage of land coverage, the light, air, space, and access available to the inhabitants of the dwelling accommodations, the size and arrangement of rooms, the sanitary facilities, and the extent to which conditions exist in the dwelling accommodations that endanger life or property by fire or other causes.

The territorial limits of a metropolitan housing authority as defined by the director under this division shall be fixed for the authority upon proof of a letter from the director declaring the need for the authority to function in those territorial limits. Any such letter from the director, any certificate of determination issued by the director, and any certificate of appointment of members of the authority shall be admissible in evidence in any suit, action, or proceeding.

A certified copy of the letter from the director declaring the existence of

a metropolitan housing authority and the territorial limits of its district shall be immediately forwarded to each appointing authority. A metropolitan housing authority shall consist of members who are residents of the territory in which they serve.

(B)(1) Except as otherwise provided in division (C), (D), or (E) of this section, the members of a metropolitan housing authority shall be appointed as follows:

(a)(i) In a district in a county in which a charter has been adopted under Article X, Section 3 of the Ohio Constitution, and in which the most populous city is not the city with the largest ratio of housing units owned or managed by the authority to population, one member shall be appointed by the probate court, one member shall be appointed by the court of common pleas, one member shall be appointed by the board of county commissioners, one member shall be appointed by the chief executive officer of the city that has the largest ratio of housing units owned or managed by the authority to population, and two members shall be appointed by the chief executive officer of the most populous city in the district.

(ii) If, in a district that appoints members pursuant to division (B)(1)(a) of this section, the most populous city becomes the city with the largest ratio of housing units owned or managed by the authority to population, when the term of office of the member who was appointed by the chief executive officer of the city with the largest ratio expires, that member shall not be reappointed, and the membership of the authority shall be as described in division (B)(1)(b) of this section.

(b) In any district other than one described in division (B)(1)(a) of this section, one member shall be appointed by the probate court, one member shall be appointed by the court of common pleas, one member shall be appointed by the board of county commissioners, and two members shall be appointed by the chief executive officer of the most populous city in the district.

(2) At the time of the initial appointment of the authority, the member appointed by the probate court shall be appointed for a period of four years, the member appointed by the court of common pleas shall be appointed for three years, the member appointed by the board of county commissioners shall be appointed for two years, one member appointed by the chief executive officer of the most populous city in the district shall be appointed for one year, and the other member appointed by the chief executive officer of the most populous city in the district shall be appointed for five years.

If appointments are made under division (B)(1)(a) of this section, the

member appointed by the chief executive officer of the city in the district that is not the most populous city, but that has the largest ratio of housing units owned or managed by the authority to population, shall be appointed for five years.

After the initial appointments, all members of the authority shall be appointed for five-year terms, and any vacancy occurring upon the expiration of a term shall be filled by the appointing authority that made the initial appointment.

(3) For purposes of this division, population shall be determined according to the last preceding federal census.

(C) For any metropolitan housing authority district that contained, as of the 1990 federal census, a population of at least one million, two members of the authority shall be appointed by the legislative authority of the most populous city in the district, two members shall be appointed by the chief executive officer of the most populous city in the district, and one member shall be appointed by the chief executive officer, with the approval of the legislative authority, of the city in the district that has the second highest number of housing units owned or managed by the authority.

At the time of the initial appointment of the authority, one member appointed by the legislative authority of the most populous city in the district shall be appointed for three years, and one such member shall be appointed for one year; the member appointed by the chief executive officer of the city with the second highest number of housing units owned or managed by the authority shall be appointed, with the approval of the legislative authority, for three years; and one member appointed by the chief executive officer of the most populous city in the district shall be appointed for three years, and one such member shall be appointed for one year. Thereafter, all members of the authority shall be appointed for three-year terms, and any vacancy shall be filled by the same appointing power that made the initial appointment. At the expiration of the term of any member appointed by the chief executive officer of the most populous city in the district before March 15, 1983, the chief executive officer of the most populous city in the district shall fill the vacancy by appointment for a three-year term. At the expiration of the term of any member appointed by the board of county commissioners before March 15, 1983, the chief executive officer of the city in the district with the second highest number of housing units owned or managed by the authority shall, with the approval of the municipal legislative authority, fill the vacancy by appointment for a three-year term. At the expiration of the term of any member appointed before March 15, 1983, by the court of common pleas or the probate court,

the legislative authority of the most populous city in the district shall fill the vacancy by appointment for a three-year term.

After March 15, 1983, at least one of the members appointed by the chief executive officer of the most populous city shall be a resident of a dwelling unit owned or managed by the authority. At least one of the initial appointments by the chief executive officer of the most populous city, after March 15, 1983, shall be a resident of a dwelling unit owned or managed by the authority. Thereafter, any member appointed by the chief executive officer of the most populous city for the term established by this initial appointment, or for any succeeding term, shall be a person who resides in a dwelling unit owned or managed by the authority. If there is an elected, representative body of all residents of the authority, the chief executive officer of the most populous city shall, whenever there is a vacancy in this resident term, provide written notice of the vacancy to the representative body. If the representative body submits to the chief executive officer of the most populous city, in writing and within sixty days after the date on which it was notified of the vacancy, the names of at least five residents of the authority who are willing and qualified to serve as a member, the chief executive officer of the most populous city shall appoint to the resident term one of the residents recommended by the representative body. At no time shall residents constitute a majority of the members of the authority.

(D)(1) For any metropolitan housing authority district located in a county that had, as of the 2000 federal census, a population of at least four hundred thousand and no city with a population greater than thirty per cent of the total population of the county, one member of the authority shall be appointed by the probate court, one member shall be appointed by the court of common pleas, one member shall be appointed by the chief executive officer of the most populous city in the district, and two members shall be appointed by the board of county commissioners.

(2) At the time of the initial appointment of a metropolitan housing authority pursuant to this division, the member appointed by the probate court shall be appointed for a period of four years, the member appointed by the court of common pleas shall be appointed for three years, the member appointed by the chief executive officer of the most populous city shall be appointed for two years, one member appointed by the board of county commissioners shall be appointed for one year, and the other member appointed by the board of county commissioners shall be appointed for five years. Thereafter, all members of the authority shall be appointed for five-year terms, with each term ending on the same day of the same month as the term that it succeeds. Vacancies shall be filled in the manner provided



in the original appointments. Any member appointed to fill a vacancy occurring prior to the expiration of the term shall hold office as a member for the remainder of that term.

(E)(1) ~~An additional two members~~ One resident member shall be appointed to ~~the a metropolitan housing authority in any district that has three hundred or more assisted housing units and that does not have at least one resident as a member of its authority. For the purposes of this section, an "assisted unit" is a housing unit owned or operated by the housing authority or a unit in which the occupants receive tenant-based housing assistance through the federal section 8 housing program, 24 C.F.R. Ch VIII, and, a "resident" is a person who lives in an assisted housing unit when required by federal law. The~~

~~(2) The chief executive officer of the most populous city in the district shall appoint an additional member who is a that resident member for an initial a term of five years. The board of county commissioners shall appoint the other additional member, who need not be a resident, for an initial term of three years. After the initial term, the terms of both members~~ Subsequent terms of that resident member also shall be for five years, and vacancies any vacancy in the position of the resident member shall be filled in the manner provided for original appointments by the chief executive officer of the most populous city in the district. Any member appointed to fill such a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office as a resident member for the remainder of that term. If, at any time,

~~(3) A member appointed as a resident member who no longer qualifies as a resident shall be deemed unable to serve, and another resident member shall be appointed by the appointing authority who originally appointed the resident member to serve for the unexpired portion of that term.~~

(2) On and after the effective date of this amendment, any metropolitan housing authority to which two additional members were appointed pursuant to former division (E)(1) of this section as enacted by Amended Substitute House Bill No. 95 of the 125th general assembly shall continue to have those additional members. Their terms shall be for five years, and vacancies in their positions shall be filled in the manner provided for their original appointment under former division (E)(1) of this section as so enacted.

(F) Public officials, other than the officers having the appointing power under this section, shall be eligible to serve as members, officers, or employees of a metropolitan housing authority notwithstanding any statute, charter, or law to the contrary. Not more than two such public officials shall be members of the authority at any one time.

All members of an authority shall serve without compensation but shall be entitled to be reimbursed for all necessary expenses incurred.

After a metropolitan housing authority district is formed, the director may enlarge the territory within the district to include other political subdivisions, or portions of other political subdivisions, but the territorial limits of the district shall be less than that of the county.

(G)(1) Any vote taken by a metropolitan housing authority shall require a majority affirmative vote to pass. A tie vote shall constitute a defeat of any measure receiving equal numbers of votes for and against it.

(2) The members of a metropolitan housing authority shall act in the best interest of the district and shall not act solely as representatives of their respective appointing authorities.

Sec. 3743.01. As used in this chapter:

(A) "Beer" and "intoxicating liquor" have the same meanings as in section 4301.01 of the Revised Code.

(B) "Booby trap" means a small tube that has a string protruding from both ends, that has a friction-sensitive composition, and that is ignited by pulling the ends of the string.

(C) "Cigarette load" means a small wooden peg that is coated with a small quantity of explosive composition and that is ignited in a cigarette.

(D)(1) "1.3G fireworks" means display fireworks consistent with regulations of the United States department of transportation as expressed using the designation "division 1.3" in Title 49, Code of Federal Regulations.

(2) "1.4G fireworks" means consumer fireworks consistent with regulations of the United States department of transportation as expressed using the designation "division 1.4" in Title 49, Code of Federal Regulations.

(E) "Controlled substance" has the same meaning as in section 3719.01 of the Revised Code.

(F) "Fireworks" means any composition or device prepared for the purpose of producing a visible or an audible effect by combustion, deflagration, or detonation, except ordinary matches and except as provided in section 3743.80 of the Revised Code.

(G) "Fireworks plant" means all buildings and other structures in which the manufacturing of fireworks, or the storage or sale of manufactured fireworks by a manufacturer, takes place.

(H) "Highway" means any public street, road, alley, way, lane, or other public thoroughfare.

(I) "Licensed exhibitor of fireworks" or "licensed exhibitor" means a

person licensed pursuant to sections 3743.50 to 3743.55 of the Revised Code.

(J) "Licensed manufacturer of fireworks" or "licensed manufacturer" means a person licensed pursuant to sections 3743.02 to 3743.08 of the Revised Code.

(K) "Licensed wholesaler of fireworks" or "licensed wholesaler" means a person licensed pursuant to sections 3743.15 to 3743.21 of the Revised Code.

(L) "List of licensed exhibitors" means the list required by division (C) of section 3743.51 of the Revised Code.

(M) "List of licensed manufacturers" means the list required by division (C) of section 3743.03 of the Revised Code.

(N) "List of licensed wholesalers" means the list required by division (C) of section 3743.16 of the Revised Code.

(O) "Manufacturing of fireworks" means the making of fireworks from raw materials, none of which in and of themselves constitute a fireworks, or the processing of fireworks.

(P) "Navigable waters" means any body of water susceptible of being used in its ordinary condition as a highway of commerce over which trade and travel is or may be conducted in the customary modes, but does not include a body of water that is not capable of navigation by barges, tugboats, and other large vessels.

(Q) "Novelties and trick noisemakers" include the following items:

(1) Devices that produce a small report intended to surprise the user, including, but not limited to, booby traps, cigarette loads, party poppers, and snappers;

(2) Snakes or glow worms;

(3) Smoke devices;

(4) Trick matches.

(R) "Party popper" means a small plastic or paper item that contains not more than sixteen milligrams of friction-sensitive explosive composition, that is ignited by pulling a string protruding from the item, and from which paper streamers are expelled when the item is ignited.

(S) "Processing of fireworks" means the making of fireworks from materials all or part of which in and of themselves constitute a fireworks, but does not include the mere packaging or repackaging of fireworks.

(T) "Railroad" means any railway or railroad that carries freight or passengers for hire, but does not include auxiliary tracks, spurs, and sidings installed and primarily used in serving a mine, quarry, or plant.

(U) "Retail sale" or "sell at retail" means a sale of fireworks to a

purchaser who intends to use the fireworks, and not resell them.

(V) "Smoke device" means a tube or sphere that contains pyrotechnic composition that, upon ignition, produces white or colored smoke as the primary effect.

(W) "Snake or glow worm" means a device that consists of a pressed pellet of pyrotechnic composition that produces a large, snake-like ash upon burning, which ash expands in length as the pellet burns.

(X) "Snapper" means a small, paper-wrapped item that contains a minute quantity of explosive composition coated on small bits of sand, and that, when dropped, implodes.

(Y) "Trick match" means a kitchen or book match that is coated with a small quantity of explosive composition and that, upon ignition, produces a small report or a shower of sparks.

(Z) "Wire sparkler" means a sparkler consisting of a wire or stick coated with a nonexplosive pyrotechnic mixture that produces a shower of sparks upon ignition and that contains no more than one hundred grams of this mixture.

(AA) "Wholesale sale" or "sell at wholesale" means a sale of fireworks to a purchaser who intends to resell the fireworks so purchased.

(BB) "Licensed premises" means the real estate upon which a licensed manufacturer or wholesaler of fireworks conducts business.

(CC) "Licensed building" means a building on the licensed premises of a licensed manufacturer or wholesaler of fireworks that is approved for occupancy by the building official having jurisdiction.

(DD) "Fireworks incident" means any action or omission that occurs at a fireworks exhibition, that results in injury or death, or a substantial risk of injury or death, to any person, and that involves either of the following:

(1) The handling or other use, or the results of the handling or other use, of fireworks or associated equipment or other materials;

(2) The failure of any person to comply with any applicable requirement imposed by this chapter or any applicable rule adopted under this chapter.

(EE) "Discharge site" means an area immediately surrounding the mortars used to fire aerial shells.

(FF) "Fireworks incident site" means a discharge site or other location at a fireworks exhibition where a fireworks incident occurs, a location where an injury or death associated with a fireworks incident occurs, or a location where evidence of a fireworks incident or an injury or death associated with a fireworks incident is found.

(GG) "Storage location" means a single parcel or contiguous parcels of real estate approved by the fire marshal pursuant to division (I) of section

3743.04 of the Revised Code or division (G) of section 3743.17 of the Revised Code that are separate from a licensed premises containing a retail showroom, and which parcel or parcels a licensed manufacturer or wholesaler of fireworks may use only for the distribution, possession, and storage of fireworks in accordance with this chapter.

Sec. 3743.02. (A) Any person who wishes to manufacture fireworks in this state shall submit to the fire marshal an application for licensure as a manufacturer of fireworks before the first day of October of each year. The application shall be submitted prior to the operation of a fireworks plant, shall be on a form prescribed by the fire marshal, shall contain all information required by this section or requested by the fire marshal, and shall be accompanied by the license fee, fingerprints, and proof of insurance coverage described in division (B) of this section.

The fire marshal shall prescribe a form for applications for licensure as a manufacturer of fireworks and make a copy of the form available, upon request, to persons who seek that licensure.

(B) An applicant for licensure as a manufacturer of fireworks shall submit with the application all of the following:

(1) A license fee of two thousand seven hundred fifty dollars, which the fire marshal shall use to pay for fireworks safety education, training programs, and inspections; If the applicant has any storage locations approved in accordance with division (I) of section 3743.04 of the Revised Code, the applicant also shall submit a fee of one hundred dollars per storage location for the inspection of each storage location.

(2) Proof of comprehensive general liability insurance coverage, specifically including fire and smoke casualty on premises and products, in an amount not less than one million dollars for each occurrence for bodily injury liability and wrongful death liability at the fireworks plant. All applicants shall submit evidence of comprehensive general liability insurance coverage verified by the insurer and certified as to its provision of the minimum coverage required under this division.

(3) One complete set of the applicant's fingerprints and a complete set of fingerprints of any individual holding, owning, or controlling a five per cent or greater beneficial or equity interest in the applicant for the license.

(C) A separate application for licensure as a manufacturer of fireworks shall be submitted for each fireworks plant that a person wishes to operate in this state.

(D) If an applicant intends to include the processing of fireworks as any part of its proposed manufacturing of fireworks, a statement indicating that intent shall be included in its application for licensure.

Sec. 3743.04. (A) The license of a manufacturer of fireworks is effective for one year beginning on the first day of December. The fire marshal shall issue or renew a license only on that date and at no other time. If a manufacturer of fireworks wishes to continue manufacturing fireworks at the designated fireworks plant after its then effective license expires, it shall apply no later than the first day of October for a new license pursuant to section 3743.02 of the Revised Code. The fire marshal shall send a written notice of the expiration of its license to a licensed manufacturer at least three months before the expiration date.

(B) If, during the effective period of its licensure, a licensed manufacturer of fireworks wishes to construct, locate, or relocate any buildings or other structures on the premises of its fireworks plant, to make any structural change or renovation in any building or other structure on the premises of its fireworks plant, or to change the nature of its manufacturing of fireworks so as to include the processing of fireworks, the manufacturer shall notify the fire marshal in writing. The fire marshal may require a licensed manufacturer also to submit documentation, including, but not limited to, plans covering the proposed construction, location, relocation, structural change or renovation, or change in manufacturing of fireworks, if the fire marshal determines the documentation is necessary for evaluation purposes in light of the proposed construction, location, relocation, structural change or renovation, or change in manufacturing of fireworks.

Upon receipt of the notification and additional documentation required by the fire marshal, the fire marshal shall inspect the premises of the fireworks plant to determine if the proposed construction, location, relocation, structural change or renovation, or change in manufacturing of fireworks conforms to sections 3743.02 to 3743.08 of the Revised Code and the rules adopted by the fire marshal pursuant to section 3743.05 of the Revised Code. The fire marshal shall issue a written authorization to the manufacturer for the construction, location, relocation, structural change or renovation, or change in manufacturing of fireworks if the fire marshal determines, upon the inspection and a review of submitted documentation, that the construction, location, relocation, structural change or renovation, or change in manufacturing of fireworks conforms to those sections and rules. Upon authorizing a change in manufacturing of fireworks to include the processing of fireworks, the fire marshal shall make notations on the manufacturer's license and in the list of licensed manufacturers in accordance with section 3743.03 of the Revised Code.

On or before June 1, 1998, a licensed manufacturer shall install, in every licensed building in which fireworks are manufactured, stored, or displayed

and to which the public has access, interlinked fire detection, smoke exhaust, and smoke evacuation systems that are approved by the superintendent of the division of industrial compliance, and shall comply with floor plans showing occupancy load limits and internal circulation and egress patterns that are approved by the fire marshal and superintendent, and that are submitted under seal as required by section 3791.04 of the Revised Code. Notwithstanding section 3743.59 of the Revised Code, the construction and safety requirements established in this division are not subject to any variance, waiver, or exclusion.

(C) The license of a manufacturer of fireworks authorizes the manufacturer to engage only in the following activities:

(1) The manufacturing of fireworks on the premises of the fireworks plant as described in the application for licensure or in the notification submitted under division (B) of this section, except that a licensed manufacturer shall not engage in the processing of fireworks unless authorized to do so by its license.

(2) To possess for sale at wholesale and sell at wholesale the fireworks manufactured by the manufacturer, to persons who are licensed wholesalers of fireworks, to out-of-state residents in accordance with section 3743.44 of the Revised Code, to residents of this state in accordance with section 3743.45 of the Revised Code, or to persons located in another state provided the fireworks are shipped directly out of this state to them by the manufacturer. A person who is licensed as a manufacturer of fireworks on June 14, 1988, also may possess for sale and sell pursuant to division (C)(2) of this section fireworks other than those the person manufactures. The possession for sale shall be on the premises of the fireworks plant described in the application for licensure or in the notification submitted under division (B) of this section, and the sale shall be from the inside of a licensed building and from no other structure or device outside a licensed building. At no time shall a licensed manufacturer sell any class of fireworks outside a licensed building.

(3) Possess for sale at retail and sell at retail the fireworks manufactured by the manufacturer, other than 1.4G fireworks as designated by the fire marshal in rules adopted pursuant to division (A) of section 3743.05 of the Revised Code, to licensed exhibitors in accordance with sections 3743.50 to 3743.55 of the Revised Code, and possess for sale at retail and sell at retail the fireworks manufactured by the manufacturer, including 1.4G fireworks, to out-of-state residents in accordance with section 3743.44 of the Revised Code, to residents of this state in accordance with section 3743.45 of the Revised Code, or to persons located in another state provided the fireworks

are shipped directly out of this state to them by the manufacturer. A person who is licensed as a manufacturer of fireworks on June 14, 1988, may also possess for sale and sell pursuant to division (C)(3) of this section fireworks other than those the person manufactures. The possession for sale shall be on the premises of the fireworks plant described in the application for licensure or in the notification submitted under division (B) of this section, and the sale shall be from the inside of a licensed building and from no other structure or device outside a licensed building. At no time shall a licensed manufacturer sell any class of fireworks outside a licensed building.

A licensed manufacturer of fireworks shall sell under division (C) of this section only fireworks that meet the standards set by the consumer product safety commission or by the American fireworks standard laboratories or that have received an EX number from the United States department of transportation.

(D) The license of a manufacturer of fireworks shall be protected under glass and posted in a conspicuous place on the premises of the fireworks plant. Except as otherwise provided in this division, the license is not transferable or assignable. A license may be transferred to another person for the same fireworks plant for which the license was issued if the assets of the plant are transferred to that person by inheritance or by a sale approved by the fire marshal. The license is subject to revocation in accordance with section 3743.08 of the Revised Code.

(E) The fire marshal shall not place the license of a manufacturer of fireworks in a temporarily inactive status while the holder of the license is attempting to qualify to retain the license.

(F) Each licensed manufacturer of fireworks that possesses fireworks for sale and sells fireworks under division (C) of section 3743.04 of the Revised Code, or a designee of the manufacturer, whose identity is provided to the fire marshal by the manufacturer, annually shall attend a continuing education program consisting of not less than eight hours of instruction. The fire marshal shall develop the program and the fire marshal or a person or public agency approved by the fire marshal shall conduct it. A licensed manufacturer or the manufacturer's designee who attends a program as required under this division, within one year after attending the program, shall conduct in-service training for other employees of the licensed manufacturer regarding the information obtained in the program. A licensed manufacturer shall provide the fire marshal with notice of the date, time, and place of all in-service training not less than thirty days prior to an in-service training event.

(G) A licensed manufacturer shall maintain comprehensive general



liability insurance coverage in the amount and type specified under division (B)(2) of section 3743.02 of the Revised Code at all times. Each policy of insurance required under this division shall contain a provision requiring the insurer to give not less than fifteen days' prior written notice to the fire marshal before termination, lapse, or cancellation of the policy, or any change in the policy that reduces the coverage below the minimum required under this division. Prior to canceling or reducing the amount of coverage of any comprehensive general liability insurance coverage required under this division, a licensed manufacturer shall secure supplemental insurance in an amount and type that satisfies the requirements of this division so that no lapse in coverage occurs at any time. A licensed manufacturer who secures supplemental insurance shall file evidence of the supplemental insurance with the fire marshal prior to canceling or reducing the amount of coverage of any comprehensive general liability insurance coverage required under this division.

(H) The fire marshal shall adopt rules for the expansion or contraction of a licensed premises and for approval of such expansions or contractions. The boundaries of a licensed premises, including any geographic expansion or contraction of those boundaries, shall be approved by the fire marshal in accordance with rules the fire marshal adopts. If the licensed premises consists of more than one parcel of real estate, those parcels shall be contiguous unless an exception is allowed pursuant to division (I) of this section.

(I)(1) A licensed manufacturer may expand its licensed premises within this state to include not more than two storage locations that are located upon one or more real estate parcels that are noncontiguous to the licensed premises as that licensed premises exists on the date a licensee submits an application as described below, if all of the following apply:

(a) The licensee submits an application to the fire marshal and an application fee of one hundred dollars per storage location for which the licensee is requesting approval.

(b) The identity of the holder of the license remains the same at the storage location.

(c) The storage location has received a valid certificate of zoning compliance as applicable and a valid certificate of occupancy for each building or structure at the storage location issued by the authority having jurisdiction to issue the certificate for the storage location, and those certificates permit the distribution and storage of fireworks regulated under this chapter at the storage location and in the buildings or structures. The storage location shall be in compliance with all other applicable federal,

state, and local laws and regulations.

(d) Every building or structure located upon the storage location is separated from occupied residential and nonresidential buildings or structures, railroads, highways, or any other buildings or structures on the licensed premises in accordance with the distances specified in the rules adopted by the fire marshal pursuant to section 3743.05 of the Revised Code.

(e) Neither the licensee nor any person holding, owning, or controlling a five per cent or greater beneficial or equity interest in the licensee has been convicted of or pleaded guilty to a felony under the laws of this state, any other state, or the United States, after the effective date of this amendment.

(f) The fire marshal approves the application for expansion.

(2) The fire marshal shall approve an application for expansion requested under division (I)(1) of this section if the fire marshal receives the application fee and proof that the requirements of divisions (I)(1)(b) to (e) of this section are satisfied. The storage location shall be considered part of the original licensed premises and shall use the same distinct number assigned to the original licensed premises with any additional designations as the fire marshal deems necessary in accordance with section 3743.03 of the Revised Code.

(J)(1) A licensee who obtains approval for the use of a storage location in accordance with division (I) of this section shall use the storage location exclusively for the following activities, in accordance with division (C) of this section:

(a) The packaging, assembling, or storing of fireworks, which shall only occur in buildings, structures, or trailers approved for such hazardous uses by the building code official having jurisdiction for the storage location and shall be in accordance with the rules adopted by the fire marshal under division (G) of section 3743.05 of the Revised Code for the packaging, assembling, and storage of fireworks.

(b) Distributing fireworks to other parcels of real estate located on the manufacturer's licensed premises, to licensed wholesalers or other licensed manufacturers in this state or to similarly licensed persons located in another state or country;

(c) Distributing fireworks to a licensed exhibitor of fireworks pursuant to a properly issued permit in accordance with section 3743.54 of the Revised Code.

(2) A licensed manufacturer shall not engage in any sales activity, including the retail sale of fireworks otherwise permitted under division (C)(2) or (C)(3) of this section, or pursuant to section 3743.44 or 3743.45 of

the Revised Code, at the storage location approved under this section.

(K) The licensee shall prohibit public access to the storage location. The fire marshal shall adopt rules to describe the acceptable measures a manufacturer shall use to prohibit access to the storage site.

Sec. 3743.05. The fire marshal shall adopt rules in accordance with Chapter 119. of the Revised Code governing the classification of fireworks that are consistent with the classification of fireworks by the United States department of transportation as set forth in Title 49, Code of Federal Regulations, and the manufacture of fireworks and the storage of manufactured fireworks by licensed manufacturers of fireworks. The rules shall be designed to promote the safety and security of employees of manufacturers, members of the public, and the fireworks plant.

The rules shall be consistent with sections 3743.02 to 3743.08 of the Revised Code, shall be substantially equivalent to the most recent versions of chapters 1123, 1124, and 1126 of the most recent national fire protection association standards, and shall apply to, but not be limited to, the following subject matters:

(A) A classification of fireworks by number and letter designation, including, specifically, a 1.4G designation of fireworks. The classes of fireworks established by the fire marshal shall be substantially equivalent to those defined by the United States department of transportation by regulation, except that, if the fire marshal determines that a type of fireworks designated as common fireworks by the United States department of transportation meets the criteria of any class of fireworks, other than 1.4G fireworks, as adopted by the fire marshal pursuant to this section, the fire marshal may include the type of fireworks in the other class instead of 1.4G.

(B) Appropriate standards for the manufacturing of types of fireworks that are consistent with standards adopted by the United States department of transportation and the consumer product safety commission, including, but not limited to, the following:

- (1) Permissible amounts of pyrotechnic or explosive composition;
- (2) Interior and exterior dimensions;
- (3) Structural specifications.

(C) Cleanliness and orderliness in, the heating, lighting, and use of stoves and flame-producing items in, smoking in, the prevention of fire and explosion in, the availability of fire extinguishers or other fire-fighting equipment and their use in, and emergency procedures relative to the buildings and other structures located on the premises of a fireworks plant.

(D) Appropriate uniforms to be worn by employees of manufacturers in the course of the manufacturing, handling, and storing of fireworks, and the

use of protective clothing and equipment by the employees.

(E) The manner in which fireworks are to be packed, packaged, and stored.

(F) Required distances between buildings or structures used in the manufacturing, storage, or sale of fireworks and occupied residential and nonresidential buildings or structures, railroads, highways, or any additional buildings or structures located on the licensed premises. The rules adopted pursuant to this division do not apply to factory buildings in fireworks plants that were erected on or before May 30, 1986, and that were legally being used for fireworks activities under authority of a valid license issued by the fire marshal as of December 1, 1990, pursuant to sections 3743.03 and 3743.04 of the Revised Code.

(G) Requirements for the operation of storage locations, including packaging, assembling, and storage of fireworks.

Sec. 3743.06. In addition to conforming to the rules of the fire marshal adopted pursuant to section 3743.05 of the Revised Code, licensed manufacturers of fireworks shall operate their fireworks plants in accordance with the following:

(A) Signs indicating that smoking is generally forbidden and trespassing is prohibited on the premises of a fireworks plant shall be posted on the premises in a manner determined by the fire marshal.

(B) Reasonable precautions shall be taken to protect the premises of a fireworks plant from trespass, loss, theft, or destruction. Only persons employed by the manufacturer, authorized governmental personnel, and persons who have obtained permission from a member of the manufacturer's office to be on the premises, are to be allowed to enter and remain on the premises.

(C) Smoking or the carrying of pipes, cigarettes, or cigars, matches, lighters, other flame-producing items, or open flame on, or the carrying of a concealed source of ignition into, the premises of a fireworks plant is prohibited, except that a manufacturer may permit smoking in specified lunchrooms or restrooms in buildings or other structures in which no manufacturing, handling, sales, or storage of fireworks takes place. "NO SMOKING" signs shall be posted on the premises as required by the fire marshal.

(D) Fire and explosion prevention and other reasonable safety measures and precautions shall be implemented by a manufacturer.

(E) Persons shall not be permitted to have in their possession or under their control, while they are on the premises of the fireworks plant, any intoxicating liquor, beer, or controlled substance, and they shall not be

permitted to enter or remain on the premises if they are found to be under the influence of any intoxicating liquor, beer, or controlled substance.

(F) A manufacturer shall conform to all building, safety, and zoning statutes, ordinances, rules, or other enactments that apply to the premises of its fireworks plant.

~~(G) No building used in the manufacture, storage, or sale of fireworks shall be situated nearer than one thousand feet to any structure that is not located on the property of and that does not belong to the licensed fireworks manufacturer, or nearer than three hundred feet to any highway or railroad, or nearer than one hundred feet to any building used for the storage of explosives or fireworks, or nearer than fifty feet to any factory building. This division does not apply to factory buildings in fireworks plants that were erected on or before May 30, 1986, and that were legally being used for fireworks activities under authority of a valid license issued by the fire marshal as of December 1, 1990, pursuant to sections 3743.03 and 3743.04 of the Revised Code.~~

~~(H)~~ Each fireworks plant shall have at least one class 1 magazine that is approved by the bureau of alcohol, tobacco, and firearms of the United States department of the treasury and that is otherwise in conformity with federal law. This division does not apply to fireworks plants existing on or before August 3, 1931.

~~(H)~~(H) Awnings, tents, and canopies shall not be used as facilities for the sale or storage of fireworks. This division does not prohibit the use of an awning or canopy attached to a public access showroom for storing nonflammable shopping convenience items such as shopping carts or baskets or providing a shaded area for patrons waiting to enter the public sales area.

~~(I)~~(I) Fireworks may be stored in trailers if the trailers are properly enclosed, secured, and grounded and are separated from any structure to which the public is admitted by a distance that will, in the fire marshal's judgment, allow fire-fighting equipment to have full access to the structures on the licensed premises. Such trailers may be moved into closer proximity to any structure only to accept or discharge cargo for a period not to exceed forty-eight hours. Only two such trailers may be placed in such closer proximity at any one time. At no time may trailers be used for conducting sales of any class of fireworks, nor may members of the public have access to the trailers.

Storage areas for fireworks that are in the same building where fireworks are displayed and sold to the public shall be separated from the areas to which the public has access by an appropriately rated fire wall.

~~(K)~~(J) A fire suppression system as defined in section 3781.108 of the Revised Code may be turned off only for repair, drainage of the system to prevent damage by freezing during the period of time, approved by the fire marshal, that the facility is closed to all public access during winter months, or maintenance of the system. If any repair or maintenance is necessary during times when the facility is open for public access and business as approved by the fire marshal, the licensed manufacturer shall notify in advance the appropriate insurance company and fire chief or fire prevention officer regarding the nature of the maintenance or repair and the time when it will be performed.

~~(L)~~(K) If any fireworks item is removed from its original package or is manufactured with any fuse other than a safety fuse approved by the consumer product safety commission, then the item shall be covered completely by repackaging or bagging or it shall otherwise be covered so as to prevent ignition prior to sale.

~~(M)~~(L) A safety officer shall be present during regular business hours at a building open to the public during the period commencing fourteen days before, and ending two days after, each fourth day of July. The officer shall be highly visible, enforce this chapter and any applicable building codes to the extent the officer is authorized by law, and be one of the following:

- (1) A deputy sheriff;
- (2) A law enforcement officer of a municipal corporation, township, or township or joint township police district;
- (3) A private uniformed security guard registered under section 4749.06 of the Revised Code.

~~(N)~~(M) All doors of all buildings on the licensed premises shall swing outward.

~~(O)~~(N) All wholesale and commercial sales of fireworks shall be packaged, shipped, placarded, and transported in accordance with United States department of transportation regulations applicable to the transportation, and the offering for transportation, of hazardous materials. For purposes of this division, "wholesale and commercial sales" includes all sales for resale and any nonretail sale made in furtherance of a commercial enterprise. For purposes of enforcement of these regulations under section 4905.83 of the Revised Code, any sales transaction exceeding one thousand pounds shall be rebuttably presumed to be a wholesale or commercial sale.

Sec. 3743.15. (A) Except as provided in division (C) of this section, any person who wishes to be a wholesaler of fireworks in this state shall submit to the fire marshal an application for licensure as a wholesaler of fireworks before the first day of October of each year. The application shall be

submitted prior to commencement of business operations, shall be on a form prescribed by the fire marshal, shall contain all information requested by the fire marshal, and shall be accompanied by the license fee, fingerprints, and proof of insurance coverage described in division (B) of this section.

The fire marshal shall prescribe a form for applications for licensure as a wholesaler of fireworks and make a copy of the form available, upon request, to persons who seek that licensure.

(B) An applicant for licensure as a wholesaler of fireworks shall submit with the application all of the following:

(1) A license fee of two thousand seven hundred fifty dollars, which the fire marshal shall use to pay for fireworks safety education, training programs, and inspections; If the applicant has any storage locations approved in accordance with division (G) of section 3743.17 of the Revised Code, the applicant also shall submit a fee of one hundred dollars per storage location for the inspection of each storage location.

(2) Proof of comprehensive general liability insurance coverage, specifically including fire and smoke casualty on premises, in an amount not less than one million dollars for each occurrence for bodily injury liability and wrongful death liability at its business location. Proof of such insurance coverage shall be submitted together with proof of coverage for products liability on all inventory located at the business location. All applicants shall submit evidence of comprehensive general liability insurance coverage verified by the insurer and certified as to its provision of the minimum coverage required under this division.

(3) One complete set of the applicant's fingerprints and a complete set of fingerprints of any individual holding, owning, or controlling a five per cent or greater beneficial or equity interest in the applicant for the license.

(C) A licensed manufacturer of fireworks is not required to apply for and obtain a wholesaler of fireworks license in order to engage in the wholesale sale of fireworks as authorized by division (C)(2) of section 3743.04 of the Revised Code. A business which is not a licensed manufacturer of fireworks may engage in the wholesale and retail sale of fireworks in the same manner as a licensed manufacturer of fireworks is authorized to do under this chapter without the necessity of applying for and obtaining a license pursuant to this section, but only if the business sells the fireworks on the premises of a fireworks plant covered by a license issued under section 3743.03 of the Revised Code and the holder of that license owns at least a majority interest in that business. However, if a licensed manufacturer of fireworks wishes to engage in the wholesale sale of fireworks in this state at a location other than the premises of the fireworks

plant described in its application for licensure as a manufacturer or in a notification submitted under division (B) of section 3743.04 of the Revised Code, the manufacturer shall first apply for and obtain a wholesaler of fireworks license before engaging in wholesale sales of fireworks at the other location.

(D) A separate application for licensure as a wholesaler of fireworks shall be submitted for each location at which a person wishes to engage in wholesale sales of fireworks.

Sec. 3743.17. (A) The license of a wholesaler of fireworks is effective for one year beginning on the first day of December. The fire marshal shall issue or renew a license only on that date and at no other time. If a wholesaler of fireworks wishes to continue engaging in the wholesale sale of fireworks at the particular location after its then effective license expires, it shall apply not later than the first day of October for a new license pursuant to section 3743.15 of the Revised Code. The fire marshal shall send a written notice of the expiration of its license to a licensed wholesaler at least three months before the expiration date.

(B) If, during the effective period of its licensure, a licensed wholesaler of fireworks wishes to perform any construction, or make any structural change or renovation, on the premises on which the fireworks are sold, the wholesaler shall notify the fire marshal in writing. The fire marshal may require a licensed wholesaler also to submit documentation, including, but not limited to, plans covering the proposed construction or structural change or renovation, if the fire marshal determines the documentation is necessary for evaluation purposes in light of the proposed construction or structural change or renovation.

Upon receipt of the notification and additional documentation required by the fire marshal, the fire marshal shall inspect the premises on which the fireworks are sold to determine if the proposed construction or structural change or renovation conforms to sections 3743.15 to 3743.21 of the Revised Code and the rules adopted by the fire marshal pursuant to section 3743.18 of the Revised Code. The fire marshal shall issue a written authorization to the wholesaler for the construction or structural change or renovation if the fire marshal determines, upon the inspection and a review of submitted documentation, that the construction or structural change or renovation conforms to those sections and rules.

(C) The license of a wholesaler of fireworks authorizes the wholesaler to engage only in the following activities:

(1) Possess for sale at wholesale and sell at wholesale fireworks to persons who are licensed wholesalers of fireworks, to out-of-state residents



in accordance with section 3743.44 of the Revised Code, to residents of this state in accordance with section 3743.45 of the Revised Code, or to persons located in another state provided the fireworks are shipped directly out of this state to them by the wholesaler. The possession for sale shall be at the location described in the application for licensure or in the notification submitted under division (B) of this section, and the sale shall be from the inside of a licensed building and from no structure or device outside a licensed building. At no time shall a licensed wholesaler sell any class of fireworks outside a licensed building.

(2) Possess for sale at retail and sell at retail fireworks, other than 1.4G fireworks as designated by the fire marshal in rules adopted pursuant to division (A) of section 3743.05 of the Revised Code, to licensed exhibitors in accordance with sections 3743.50 to 3743.55 of the Revised Code, and possess for sale at retail and sell at retail fireworks, including 1.4G fireworks, to out-of-state residents in accordance with section 3743.44 of the Revised Code, to residents of this state in accordance with section 3743.45 of the Revised Code, or to persons located in another state provided the fireworks are shipped directly out of this state to them by the wholesaler. The possession for sale shall be at the location described in the application for licensure or in the notification submitted under division (B) of this section, and the sale shall be from the inside of the licensed building and from no other structure or device outside this licensed building. At no time shall a licensed wholesaler sell any class of fireworks outside a licensed building.

A licensed wholesaler of fireworks shall sell under division (C) of this section only fireworks that meet the standards set by the consumer product safety commission or by the American fireworks standard laboratories or that have received an EX number from the United States department of transportation.

(D)(4) The license of a wholesaler of fireworks shall be protected under glass and posted in a conspicuous place at the location described in the application for licensure or in the notification submitted under division (B) of this section. Except as otherwise provided in this ~~division~~ section, the license is not transferable or assignable. A license may be transferred to another person for the same location for which the license was issued if the assets of the wholesaler are transferred to that person by inheritance or by a sale approved by the fire marshal. The license is subject to revocation in accordance with section 3743.21 of the Revised Code.

(2)(E) The fire marshal shall adopt rules for the expansion or contraction of a licensed premises and for the approval of an expansion or

contraction. The boundaries of a licensed premises, including any geographic expansion or contraction of those boundaries, shall be approved by the fire marshal in accordance with rules the fire marshal adopts. If the licensed premises of a licensed wholesaler from which the wholesaler operates consists of more than one parcel of real estate, those parcels must be contiguous, unless an exception is allowed pursuant to division (G) of this section.

(F)(1) Upon application by a licensed wholesaler of fireworks, a wholesaler license may be transferred from one geographic location to another within the same municipal corporation or within the unincorporated area of the same township, but only if all of the following apply:

(a) The identity of the holder of the license remains the same in the new location.

(b) The former location is closed prior to the opening of the new location and no fireworks business of any kind is conducted at the former location after the transfer of the license.

(c) The new location has received a local certificate of zoning compliance and a local certificate of occupancy, and otherwise is in compliance with all local building regulations.

(d) The transfer of the license is requested by the licensee because the existing facility poses an immediate hazard to the public.

(e) ~~Any Every building or structure at the new location is situated no closer than one thousand feet to any property line or structure that does not belong to the licensee requesting the transfer, no closer than three hundred feet to any highway or railroad, no closer than one hundred feet to any building used for the storage of explosives or fireworks by the licensee, no closer than fifty feet to any factory building owned or used by the licensee, and no closer than two thousand feet to any building used for the sale, storage, or manufacturing of fireworks that does not belong to the licensee~~ separated from occupied residential and nonresidential buildings or structures, railroads, highways, or any other buildings or structures located on the licensed premises in accordance with the distances specified in the rules adopted by the fire marshal pursuant to section 3743.18 of the Revised Code. If the licensee fails to comply with the requirements of division (D)(2)(e)(F)(1)(e) of this section by the licensee's own act, the license at the new location is forfeited.

(f) Neither the licensee nor any person holding, owning, or controlling a five per cent or greater beneficial or equity interest in the licensee has been convicted of or has pleaded guilty to a felony under the laws of this state, any other state, or the United States after ~~the effective date of this~~

~~amendment~~ June 30, 1997.

(g) The fire marshal approves the request for the transfer.

(2) The new location shall comply with the requirements specified in divisions (A)(1) and (2) of section 3743.25 of the Revised Code whether or not the fireworks showroom at the new location is constructed, expanded, or first begins operating on and after ~~the effective date of this amendment~~ June 30, 1997.

~~(E)~~(G)(1) A licensed wholesaler may expand its licensed premises within this state to include not more than two storage locations that are located upon one or more real estate parcels that are noncontiguous to the licensed premises as that licensed premises exists on the date a licensee submits an application as described below, if all of the following apply:

(a) The licensee submits an application to the fire marshal requesting the expansion and an application fee of one hundred dollars per storage location for which the licensee is requesting approval.

(b) The identity of the holder of the license remains the same at the storage location.

(c) The storage location has received a valid certificate of zoning compliance, as applicable, and a valid certificate of occupancy for each building or structure at the storage location issued by the authority having jurisdiction to issue the certificate for the storage location, and those certificates permit the distribution and storage of fireworks regulated under this chapter at the storage location and in the buildings or structures. The storage location shall be in compliance with all other applicable federal, state, and local laws and regulations.

(d) Every building or structure located upon the storage location is separated from occupied residential and nonresidential buildings or structures, railroads, highways, and any other buildings or structures on the licensed premises in accordance with the distances specified in the rules adopted by the fire marshal pursuant to section 3743.18 of the Revised Code.

(e) Neither the licensee nor any person holding, owning, or controlling a five per cent or greater beneficial or equity interest in the licensee has been convicted of or pleaded guilty to a felony under the laws of this state, any other state, or the United States, after the effective date of this amendment.

(f) The fire marshal approves the application for expansion.

(2) The fire marshal shall approve an application for expansion requested under division (G)(1) of this section if the fire marshal receives the application fee and proof that the requirements of divisions (G)(1)(b) to (e) of this section are satisfied. The storage location shall be considered part

of the original licensed premises and shall use the same distinct number assigned to the original licensed premises with any additional designations as the fire marshal deems necessary in accordance with section 3743.16 of the Revised Code.

(H)(1) A licensee who obtains approval for use of a storage location in accordance with division (G) of this section shall use the site exclusively for the following activities, in accordance with division (C)(1) of this section:

(a) Packaging, assembling, or storing fireworks, which shall occur only in buildings approved for such hazardous uses by the building code official having jurisdiction for the storage location and shall be in accordance with the rules adopted by the fire marshal under division (B)(4) of section 3743.18 of the Revised Code for the packaging, assembling, and storage of fireworks.

(b) Distributing fireworks to other parcels of real estate located on the wholesaler's licensed premises, to licensed manufacturers or other licensed wholesalers in this state or to similarly licensed persons located in another state or country;

(c) Distributing fireworks to a licensed exhibitor of fireworks pursuant to a properly issued permit in accordance with section 3743.54 of the Revised Code.

(2) A licensed wholesaler shall not engage in any sales activity, including the retail sale of fireworks otherwise permitted under division (C)(2) of this section or pursuant to section 3743.44 or 3743.45 of the Revised Code, at a storage location approved under this section.

(I) A licensee shall prohibit public access to all storage locations it uses. The fire marshal shall adopt rules establishing acceptable measures a wholesaler shall use to prohibit access to storage sites.

(J) The fire marshal shall not place the license of a wholesaler of fireworks in temporarily inactive status while the holder of the license is attempting to qualify to retain the license.

~~(F)~~(K) Each licensed wholesaler of fireworks or a designee of the wholesaler, whose identity is provided to the fire marshal by the wholesaler, annually shall attend a continuing education program consisting of not less than eight hours of instruction. The fire marshal shall develop the program and the fire marshal or a person or public agency approved by the fire marshal shall conduct it. A licensed wholesaler or the wholesaler's designee who attends a program as required under this division, within one year after attending the program, shall conduct in-service training for other employees of the licensed wholesaler regarding the information obtained in the program. A licensed wholesaler shall provide the fire marshal with notice of

the date, time, and place of all in-service training not less than thirty days prior to an in-service training event.

~~(G)~~(L) A licensed wholesaler shall maintain comprehensive general liability insurance coverage in the amount and type specified under division (B)(2) of section 3743.15 of the Revised Code at all times. Each policy of insurance required under this division shall contain a provision requiring the insurer to give not less than fifteen days' prior written notice to the fire marshal before termination, lapse, or cancellation of the policy, or any change in the policy that reduces the coverage below the minimum required under this division. Prior to canceling or reducing the amount of coverage of any comprehensive general liability insurance coverage required under this division, a licensed wholesaler shall secure supplemental insurance in an amount and type that satisfies the requirements of this division so that no lapse in coverage occurs at any time. A licensed wholesaler who secures supplemental insurance shall file evidence of the supplemental insurance with the fire marshal prior to canceling or reducing the amount of coverage of any comprehensive general liability insurance coverage required under this division.

Sec. 3743.18. (A) The fire marshal shall adopt rules pursuant to Chapter 119. of the Revised Code governing the storage of fireworks by and the business operations of licensed wholesalers of fireworks. These rules shall be designed to promote the safety and security of employees of wholesalers, members of the public, and the premises upon which fireworks are sold.

(B) The rules shall be consistent with sections 3743.15 to 3743.21 of the Revised Code, shall be substantially equivalent to the most recent versions of chapters 1123, 1124, and 1126 of the most recent national fire protection association standards, and shall apply to, but not be limited to, the following subject matters:

~~(A)~~(1) Cleanliness and orderliness in, the heating, lighting, and use of stoves and flame-producing items in, smoking in, the prevention of fire and explosion in, the availability of fire extinguishers or other fire-fighting equipment and their use in, and emergency procedures relative to the buildings and other structures on a wholesaler's premises;

~~(B)~~(2) Appropriate uniforms to be worn by employees of wholesalers in the course of handling and storing of fireworks, and the use of protective clothing and equipment by the employees;

~~(C)~~(3) The manner in which fireworks are to be stored;

(4) Required distances between buildings or structures used in the manufacturing, storage, or sale of fireworks and occupied residential and nonresidential buildings or structures, railroads, highways, or any additional

buildings or structures on a licensed premises.

(5) Requirements for the operation of storage locations, including packaging, assembling, and storage of fireworks.

(C) Rules adopted pursuant to division (B)(4) of this section do not apply to buildings that were erected on or before May 30, 1986, and that were legally being used for fireworks activities under authority of a valid license issued by the fire marshal as of December 1, 1990, pursuant to sections 3743.16 and 3743.17 of the Revised Code.

Sec. 3743.19. In addition to conforming to the rules of the fire marshal adopted pursuant to section 3743.18 of the Revised Code, licensed wholesalers of fireworks shall conduct their business operations in accordance with the following:

(A) A wholesaler shall conduct its business operations from the location described in its application for licensure or in a notification submitted under division (B) of section 3743.17 of the Revised Code.

(B) Signs indicating that smoking is generally forbidden and trespassing is prohibited on the premises of a wholesaler shall be posted on the premises as determined by the fire marshal.

(C) Reasonable precautions shall be taken to protect the premises of a wholesaler from trespass, loss, theft, or destruction.

(D) Smoking or the carrying of pipes, cigarettes, or cigars, matches, lighters, other flame-producing items, or open flame on, or the carrying of a concealed source of ignition into, the premises of a wholesaler is prohibited, except that a wholesaler may permit smoking in specified lunchrooms or restrooms in buildings or other structures in which no sales, handling, or storage of fireworks takes place. "NO SMOKING" signs shall be posted on the premises as required by the fire marshal.

(E) Fire and explosion prevention and other reasonable safety measures and precautions shall be implemented by a wholesaler.

(F) Persons shall not be permitted to have in their possession or under their control, while they are on the premises of a wholesaler, any intoxicating liquor, beer, or controlled substance, and they shall not be permitted to enter or remain on the premises if they are found to be under the influence of any intoxicating liquor, beer, or controlled substance.

(G) A wholesaler shall conform to all building, safety, and zoning statutes, ordinances, rules, or other enactments that apply to its premises.

~~(H) No building used in the storage or sale of fireworks shall be situated nearer than one thousand feet to any structure that is not located on the property of and that does not belong to the licensed fireworks wholesaler; nearer than three hundred feet to any highway or railroad, or nearer than one~~

~~hundred feet to any building used for the storage of explosives or fireworks. This division does not apply to buildings that were erected on or before May 30, 1986, and that were legally being used for fireworks activities under authority of a valid license issued by the fire marshal as of December 1, 1990, pursuant to sections 3743.16 and 3743.17 of the Revised Code.~~

~~(H)~~ Each building used in the sale of fireworks shall be kept open to the public for at least four hours each day between the hours of eight a.m. and five p.m., five days of each week, every week of the year. Upon application from a licensed wholesaler, the fire marshal may waive any of the requirements of this division.

~~(J)~~(I) Awnings, tents, or canopies shall not be used as facilities for the storage or sale of fireworks. This division does not prohibit the use of an awning or canopy attached to a public access showroom for storing nonflammable shopping convenience items such as shopping carts or baskets or providing a shaded area for patrons waiting to enter the public sales area.

~~(K)~~(J) Fireworks may be stored in trailers if the trailers are properly enclosed, secured, and grounded and are separated from any structure to which the public is admitted by a distance that will, in the fire marshal's judgment, allow fire-fighting equipment to have full access to the structures on the licensed premises. Such trailers may be moved into closer proximity to any structure only to accept or discharge cargo for a period not to exceed forty-eight hours. Only two such trailers may be placed in such closer proximity at any one time. At no time may trailers be used for conducting sales of any class of fireworks nor may members of the public have access to the trailers.

Storage areas for fireworks that are in the same building where fireworks are displayed and sold to the public shall be separated from the areas to which the public has access by an appropriately rated fire wall.

~~(L)~~(K) A fire suppression system as defined in section 3781.108 of the Revised Code may be turned off only for repair, drainage of the system to prevent damage by freezing during the period of time, approved by the fire marshal under division (I) of this section, that the facility is closed to public access during winter months, or maintenance of the system. If any repair or maintenance is necessary during times when the facility is open for public access and business, the licensed wholesaler shall notify in advance the appropriate insurance company and fire chief or fire prevention officer regarding the nature of the maintenance or repair and the time when it will be performed.

~~(M)~~(L) If any fireworks item is removed from its original package or is

manufactured with any fuse other than a fuse approved by the consumer product safety commission, then the item shall be covered completely by repackaging or bagging or it shall otherwise be covered so as to prevent ignition prior to sale.

~~(N)~~(M) A safety officer shall be present during regular business hours at a building open to the public during the period commencing fourteen days before, and ending two days after, each fourth day of July. The officer shall be highly visible, enforce this chapter and any applicable building codes to the extent the officer is authorized by law, and be one of the following:

- (1) A deputy sheriff;
- (2) A law enforcement officer of a municipal corporation, township, or township or joint township police district;
- (3) A private uniformed security guard registered under section 4749.06 of the Revised Code.

~~(O)~~(N) All doors of all buildings on the licensed premises shall swing outward.

~~(P)~~(O) All wholesale and commercial sales of fireworks shall be packaged, shipped, placarded, and transported in accordance with United States department of transportation regulations applicable to the transportation, and the offering for transportation, of hazardous materials. For purposes of this division, "wholesale and commercial sales" includes all sales for resale and any nonretail sale made in furtherance of a commercial enterprise. For purposes of enforcement of these regulations under section 4905.83 of the Revised Code, any sales transaction exceeding one thousand pounds shall be rebuttably presumed to be a wholesale or commercial sale.

Sec. 3743.57. (A) All fees collected by the fire marshal for licenses or permits issued pursuant to this chapter shall be deposited into the state fire marshal's fund, and interest earned on the amounts in the fund shall be credited by the treasurer of state to the fund.

(B) ~~There is hereby established in the state treasury the fire marshal's fireworks training and education fund. The fire marshal shall deposit all assessments paid under this division into the state treasury to the credit of the fund. Each fireworks manufacturer and fireworks wholesaler licensed under this chapter shall pay assessments to the fire marshal for deposit into the fund as required by this division.~~

~~The fire marshal shall impose an initial assessment upon each licensed fireworks manufacturer and wholesaler in order to establish a fund balance of fifteen thousand dollars. The fund balance shall at no time exceed fifteen thousand dollars, and the fire marshal shall impose no further assessments unless the fund balance is reduced to five thousand dollars or less. If the~~



~~fund balance is reduced to five thousand dollars or less, the fire marshal shall impose an additional assessment upon each licensed fireworks manufacturer and wholesaler in order to increase the fund balance to fifteen thousand dollars. The fire marshal shall determine the amount of the initial assessment on each manufacturer or wholesaler and each additional assessment by dividing the total amount needed to be paid into the fund by the total number of fireworks manufacturers and wholesalers licensed under this chapter. If a licensed fireworks manufacturer or wholesaler fails to pay an assessment required by this division within thirty days after receiving notice of the assessment, the fire marshal, in accordance with Chapter 119. of the Revised Code, may refuse to issue, or may revoke, the appropriate license.~~

The fire marshal shall in the fire marshal's discretion use amounts in the state fire marshal's fund for fireworks training and education purposes, including, but not limited to, the creation of educational and training programs, attendance by the fire marshal and the fire marshal's employees at conferences and seminars, the payment of travel and meal expenses associated with such attendance, participation by the fire marshal and the fire marshal's employees in committee meetings and other meetings related to pyrotechnic codes, and the payment of travel and meal expenses associated with such participation. The use of the fund shall comply with rules of the department of commerce, policies and procedures established by the director of budget and management, and all other applicable laws.

Sec. 3743.59. (A) Upon application by an affected party, the fire marshal may grant variances from the requirements of this chapter or from the requirements of rules adopted pursuant to this chapter if the fire marshal determines that a literal enforcement of the requirement will result in unnecessary hardship practical difficulty in complying with the requirements of this chapter or the rules adopted pursuant to this chapter and that the variance will not be contrary to the public health, safety, or welfare. A variance shall not be granted to a person who is initially licensed as a manufacturer or wholesaler of fireworks after June 14, 1988.

(B) The fire marshal may authorize a variance from the prohibitions in this chapter against the possession and use of pyrotechnic compounds to a person who submits proof that the person is certified and in good standing with the Ohio state board of education, provided that the pyrotechnic compounds are used for educational purposes only, or are used only at an authorized educational function approved by the governing board that exercises authority over the educational function.

(C) The fire marshal may authorize a variance from the prohibitions in

this chapter against the possession and use of pyrotechnic compounds to a person who possesses and uses the pyrotechnic compounds for personal and noncommercial purposes as a hobby. The fire marshal may rescind a variance authorized under this division at any time, exclusively at the fire marshal's discretion.

Sec. 3743.65. (A) No person shall possess fireworks in this state or shall possess for sale or sell fireworks in this state, except a licensed manufacturer of fireworks as authorized by sections 3743.02 to 3743.08 of the Revised Code, a licensed wholesaler of fireworks as authorized by sections 3743.15 to 3743.21 of the Revised Code, a shipping permit holder as authorized by section 3743.40 of the Revised Code, an out-of-state resident as authorized by section 3743.44 of the Revised Code, a resident of this state as authorized by section 3743.45 of the Revised Code, or a licensed exhibitor of fireworks as authorized by sections 3743.50 to 3743.55 of the Revised Code, and except as provided in section 3743.80 of the Revised Code.

(B) Except as provided in section 3743.80 of the Revised Code and except for licensed exhibitors of fireworks authorized to conduct a fireworks exhibition pursuant to sections 3743.50 to 3743.55 of the Revised Code, no person shall discharge, ignite, or explode any fireworks in this state.

(C) No person shall use in a theater or public hall, what is technically known as fireworks showers, or a mixture containing potassium chlorate and sulphur.

(D) No person shall sell fireworks of any kind to a person under eighteen years of age.

(E) No person shall advertise 1.4G fireworks for sale. A sign located on a seller's premises identifying the seller as a seller of fireworks is not the advertising of fireworks for sale.

(F) No person, other than a licensed manufacturer, licensed wholesaler, licensed exhibitor, or shipping permit holder, shall possess 1.3G fireworks in this state.

(G) Except as otherwise provided in division ~~(K)~~(J) of section 3743.06 and division ~~(L)~~(K) of section 3743.19 of the Revised Code, no person shall knowingly disable a fire suppression system as defined in section 3781.108 of the Revised Code on the premises of a fireworks plant of a licensed manufacturer of fireworks or on the premises of the business operations of a licensed wholesaler of fireworks.

Sec. 3743.75. (A) During the period beginning on June 29, 2001, and ending on December 15, 2008, the state fire marshal shall not do any of the following:

(1) Issue a license as a manufacturer of fireworks under sections

3743.02 and 3743.03 of the Revised Code to a person for a particular fireworks plant unless that person possessed such a license for that fireworks plant immediately prior to June 29, 2001;

(2) Issue a license as a wholesaler of fireworks under sections 3743.15 and 3743.16 of the Revised Code to a person for a particular location unless that person possessed such a license for that location immediately prior to June 29, 2001;

(3) Except as provided in division (B) of this section, approve the geographic transfer of a license as a manufacturer or wholesaler of fireworks issued under this chapter to any location other than a location for which a license was issued under this chapter immediately prior to June 29, 2001.

(B) Division (A)(3) of this section does not apply to a transfer that the state fire marshal approves under division ~~(D)(2)~~(F) of section 3743.17 of the Revised Code. ~~Section~~

(C) Notwithstanding section 3743.59 of the Revised Code does not apply to this section, the prohibited activities established in divisions (A)(1) and (2) of this section, geographic transfers approved pursuant to division (F) of section 3743.17 of the Revised Code, and storage locations allowed pursuant to division (I) of section 3743.04 of the Revised Code or division (G) of section 3743.17 of the Revised Code are not subject to any variance, waiver, or exclusion.

(D) As used in division (A) of this section:

(1) "Person" includes any person or entity, in whatever form or name, that acquires possession of a manufacturer or wholesaler of fireworks license issued pursuant to this chapter by transfer of possession of a license, whether that transfer occurs by purchase, assignment, inheritance, bequest, stock transfer, or any other type of transfer, on the condition that the transfer is in accordance with division (D) of section 3743.04 of the Revised Code or division (D) of section 3743.17 of the Revised Code and is approved by the fire marshal.

(2) "Particular location" includes a licensed premises and, regardless of when approved, any storage location approved in accordance with section 3743.04 or 3743.17 of the Revised Code.

Sec. 3745.015. There is hereby created in the state treasury the environmental protection fund consisting of money credited to the fund under division (A)(3) of section 3734.57 of the Revised Code. The environmental protection agency shall use money in the fund to pay the agency's costs associated with administering and enforcing, or otherwise conducting activities under, this chapter and Chapters 3704., 3734., 3746., 3747., 3748., 3750., 3751., 3752., 3753., 5709., 6101., 6103., 6105., 6109.,

6111., 6112., 6113., 6115., 6117., and 6119. and sections 122.65 and 1521.19 of the Revised Code.

Sec. 3745.11. (A) Applicants for and holders of permits, licenses, variances, plan approvals, and certifications issued by the director of environmental protection pursuant to Chapters 3704., 3734., 6109., and 6111. of the Revised Code shall pay a fee to the environmental protection agency for each such issuance and each application for an issuance as provided by this section. No fee shall be charged for any issuance for which no application has been submitted to the director.

(B) Each person who is issued a permit to install prior to July 1, 2003, pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code shall pay the fees specified in the following schedules:

(1) ~~Fuel-Burning Equipment~~ Fuel-burning equipment (boilers)

Input capacity (maximum) (million British thermal units per hour)	Permit to install
Greater than 0, but less than 10	\$ 200
10 or more, but less than 100	400
100 or more, but less than 300	800
300 or more, but less than 500	1500
500 or more, but less than 1000	2500
1000 or more, but less than 5000	4000
5000 or more	6000

Units burning exclusively natural gas, number two fuel oil, or both shall be assessed a fee that is one-half of the applicable amount established in division (F)(1) of this section.

(2) Incinerators

Input capacity (pounds per hour)	Permit to install
0 to 100	\$ 100
101 to 500	400
501 to 2000	750
2001 to 20,000	1000
more than 20,000	2500

(3)(a) Process

Process weight rate (pounds per hour)	Permit to install
0 to 1000	\$ 200
1001 to 5000	400
5001 to 10,000	600
10,001 to 50,000	800
more than 50,000	1000

In any process where process weight rate cannot be ascertained, the

minimum fee shall be assessed.

(b) Notwithstanding division (B)(3)(a) of this section, any person issued a permit to install pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code shall pay the fees established in division (B)(3)(c) of this section for a process used in any of the following industries, as identified by the applicable four-digit standard industrial classification code according to the Standard Industrial Classification Manual published by the United States office of management and budget in the executive office of the president, 1972, as revised:

- 1211 Bituminous coal and lignite mining;
- 1213 Bituminous coal and lignite mining services;
- 1411 Dimension stone;
- 1422 Crushed and broken limestone;
- 1427 Crushed and broken stone, not elsewhere classified;
- 1442 Construction sand and gravel;
- 1446 Industrial sand;
- 3281 Cut stone and stone products;
- 3295 Minerals and earth, ground or otherwise treated.

(c) The fees established in the following schedule apply to the issuance of a permit to install pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code for a process listed in division (B)(3)(b) of this section:

Process weight rate (pounds per hour)	Permit to install
0 to 1000	\$ 200
10,001 to 50,000	300
50,001 to 100,000	400
100,001 to 200,000	500
200,001 to 400,000	600
400,001 or more	700

(4) Storage tanks

Gallons (maximum useful capacity)	Permit to install
0 to 20,000	\$ 100
20,001 to 40,000	150
40,001 to 100,000	200
100,001 to 250,000	250
250,001 to 500,000	350
500,001 to 1,000,000	500
1,000,001 or greater	750

(5) Gasoline/fuel dispensing facilities

For each gasoline/fuel dispensing	Permit to install
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facility	\$ 100
(6) Dry cleaning facilities	
For each dry cleaning facility	Permit to install
(includes all units at the facility)	\$ 100
(7) Registration status	
For each source covered	Permit to install
by registration status	\$ 75

(C)(1) Except as otherwise provided in division (C)(2) of this section, beginning July 1, 1994, each person who owns or operates an air contaminant source and who is required to apply for and obtain a Title V permit under section 3704.036 of the Revised Code shall pay the fees set forth in division (C)(1) of this section. For the purposes of that division, total emissions of air contaminants may be calculated using engineering calculations, emissions factors, material balance calculations, or performance testing procedures, as authorized by the director.

The following fees shall be assessed on the total actual emissions from a source in tons per year of the regulated pollutants particulate matter, sulfur dioxide, nitrogen oxides, organic compounds, and lead:

(a) Fifteen dollars per ton on the total actual emissions of each such regulated pollutant during the period July through December 1993, to be collected no sooner than July 1, 1994;

(b) Twenty dollars per ton on the total actual emissions of each such regulated pollutant during calendar year 1994, to be collected no sooner than April 15, 1995;

(c) Twenty-five dollars per ton on the total actual emissions of each such regulated pollutant in calendar year 1995, and each subsequent calendar year, to be collected no sooner than the fifteenth day of April of the year next succeeding the calendar year in which the emissions occurred.

The fees levied under division (C)(1) of this section do not apply to that portion of the emissions of a regulated pollutant at a facility that exceed four thousand tons during a calendar year.

(2) The fees assessed under division (C)(1) of this section are for the purpose of providing funding for the Title V permit program.

(3) The fees assessed under division (C)(1) of this section do not apply to emissions from any electric generating unit designated as a Phase I unit under Title IV of the federal Clean Air Act prior to calendar year 2000. Those fees shall be assessed on the emissions from such a generating unit commencing in calendar year 2001 based upon the total actual emissions from the generating unit during calendar year 2000 and shall continue to be assessed each subsequent calendar year based on the total actual emissions

from the generating unit during the preceding calendar year.

(4) The director shall issue invoices to owners or operators of air contaminant sources who are required to pay a fee assessed under division (C) or (D) of this section. Any such invoice shall be issued no sooner than the applicable date when the fee first may be collected in a year under the applicable division, shall identify the nature and amount of the fee assessed, and shall indicate that the fee is required to be paid within thirty days after the issuance of the invoice.

(D)(1) Except as provided in division (D)(3) of this section, from January 1, 1994, through December 31, 2003, each person who owns or operates an air contaminant source; who is required to apply for a permit to operate pursuant to rules adopted under division (G), or a variance pursuant to division (H), of section 3704.03 of the Revised Code; and who is not required to apply for and obtain a Title V permit under section 3704.036 of the Revised Code shall pay a single fee based upon the sum of the actual annual emissions from the facility of the regulated pollutants particulate matter, sulfur dioxide, nitrogen oxides, organic compounds, and lead in accordance with the following schedule:

Total tons per year of regulated pollutants emitted	Annual fee per facility
More than 0, but less than 50	\$ 75
50 or more, but less than 100	300
100 or more	700

(2) Except as provided in division (D)(3) of this section, beginning January 1, 2004, each person who owns or operates an air contaminant source; who is required to apply for a permit to operate pursuant to rules adopted under division (G), or a variance pursuant to division (H), of section 3704.03 of the Revised Code; and who is not required to apply for and obtain a Title V permit under section 3704.03 of the Revised Code shall pay a single fee based upon the sum of the actual annual emissions from the facility of the regulated pollutants particulate matter, sulfur dioxide, nitrogen oxides, organic compounds, and lead in accordance with the following schedule:

Total tons per year of regulated pollutants emitted	Annual fee per facility
More than 0, but less than 10	\$ 100
10 or more, but less than 50	200
50 or more, but less than 100	300

100 or more

700

(3)(a) As used in division (D) of this section, "synthetic minor facility" means a facility for which one or more permits to install or permits to operate have been issued for the air contaminant sources at the facility that include terms and conditions that lower the facility's potential to emit air contaminants below the major source thresholds established in rules adopted under section 3704.036 of the Revised Code.

(b) Beginning January 1, 2000, through June 30, ~~2006~~ 2008, each person who owns or operates a synthetic minor facility shall pay an annual fee based on the sum of the actual annual emissions from the facility of particulate matter, sulfur dioxide, nitrogen dioxide, organic compounds, and lead in accordance with the following schedule:

Combined total tons per year of all regulated pollutants emitted	Annual fee per facility
Less than 10	\$ 170
10 or more, but less than 20	340
20 or more, but less than 30	670
30 or more, but less than 40	1,010
40 or more, but less than 50	1,340
50 or more, but less than 60	1,680
60 or more, but less than 70	2,010
70 or more, but less than 80	2,350
80 or more, but less than 90	2,680
90 or more, but less than 100	3,020
100 or more	3,350

(4) The fees assessed under division (D)(1) of this section shall be collected annually no sooner than the fifteenth day of April, commencing in 1995. The fees assessed under division (D)(2) of this section shall be collected annually no sooner than the fifteenth day of April, commencing in 2005. The fees assessed under division (D)(3) of this section shall be collected no sooner than the fifteenth day of April, commencing in 2000. The fees assessed under division (D) of this section in a calendar year shall be based upon the sum of the actual emissions of those regulated pollutants during the preceding calendar year. For the purpose of division (D) of this section, emissions of air contaminants may be calculated using engineering calculations, emission factors, material balance calculations, or performance testing procedures, as authorized by the director. The director, by rule, may require persons who are required to pay the fees assessed under division (D) of this section to pay those fees biennially rather than annually.



(E)(1) Consistent with the need to cover the reasonable costs of the Title V permit program, the director annually shall increase the fees prescribed in division (C)(1) of this section by the percentage, if any, by which the consumer price index for the most recent calendar year ending before the beginning of a year exceeds the consumer price index for calendar year 1989. Upon calculating an increase in fees authorized by division (E)(1) of this section, the director shall compile revised fee schedules for the purposes of division (C)(1) of this section and shall make the revised schedules available to persons required to pay the fees assessed under that division and to the public.

(2) For the purposes of division (E)(1) of this section:

(a) The consumer price index for any year is the average of the consumer price index for all urban consumers published by the United States department of labor as of the close of the twelve-month period ending on the thirty-first day of August of that year.

(b) If the 1989 consumer price index is revised, the director shall use the revision of the consumer price index that is most consistent with that for calendar year 1989.

(F) Each person who is issued a permit to install pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code on or after July 1, 2003, shall pay the fees specified in the following schedules:

(1) Fuel-burning equipment (boilers, furnaces, or process heaters used in the process of burning fuel for the primary purpose of producing heat or power by indirect heat transfer)

Input capacity (maximum) (million British thermal units per hour)	Permit to install
Greater than 0, but less than 10	\$ 200
10 or more, but less than 100	400
100 or more, but less than 300	1000
300 or more, but less than 500	2250
500 or more, but less than 1000	3750
1000 or more, but less than 5000	6000
5000 or more	9000

Units burning exclusively natural gas, number two fuel oil, or both shall be assessed a fee that is one-half the applicable amount shown in division (F)(1) of this section.

(2) Combustion turbines and stationary internal combustion engines designed to generate electricity

Generating capacity (mega watts)	Permit to install
0 or more, but less than 10	\$ 25

10 or more, but less than 25	150
25 or more, but less than 50	300
50 or more, but less than 100	500
100 or more, but less than 250	1000
250 or more	2000

## (3) Incinerators

Input capacity (pounds per hour)	Permit to install
0 to 100	\$ 100
101 to 500	500
501 to 2000	1000
2001 to 20,000	1500
more than 20,000	3750

## (4)(a) Process

Process weight rate (pounds per hour)	Permit to install
0 to 1000	\$ 200
1001 to 5000	500
5001 to 10,000	750
10,001 to 50,000	1000
more than 50,000	1250

In any process where process weight rate cannot be ascertained, the minimum fee shall be assessed. A boiler, furnace, combustion turbine, stationary internal combustion engine, or process heater designed to provide direct heat or power to a process not designed to generate electricity shall be assessed a fee established in division (F)(4)(a) of this section. A combustion turbine or stationary internal combustion engine designed to generate electricity shall be assessed a fee established in division (F)(2) of this section.

(b) Notwithstanding division (F)(3)(4)(a) of this section, any person issued a permit to install pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code shall pay the fees set forth in division (F)(3)(4)(c) of this section for a process used in any of the following industries, as identified by the applicable two-digit, three-digit, or four-digit standard industrial classification code according to the Standard Industrial Classification Manual published by the United States office of management and budget in the executive office of the president, ~~1972~~ 1987, as revised:

- ~~1211 Bituminous coal and lignite mining;~~
- ~~1213 Bituminous coal and lignite mining services;~~
- ~~1411 Dimension stone;~~
- ~~1422 Crushed and broken limestone;~~
- ~~1427 Crushed and broken stone, not elsewhere classified;~~

~~1442 Construction sand and gravel;~~  
~~1446 Industrial sand;~~ Major group 10, metal mining;  
Major group 12, coal mining;  
Major group 14, mining and quarrying of nonmetallic minerals;  
Industry group 204, grain mill products;  
2873 Nitrogen fertilizers;  
2874 Phosphatic fertilizers;  
 3281 Cut stone and stone products;  
 3295 Minerals and earth, ground or otherwise treated;  
4221 Grain elevators (storage only);  
5159 Farm related raw materials;  
5261 Retail nurseries and lawn and garden supply stores.

(c) The fees set forth in the following schedule apply to the issuance of a permit to install pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code for a process identified in division (F)(3)(4)(b) of this section:

Process weight rate (pounds per hour)	Permit to install
0 to 10,000	\$ 200
10,001 to 50,000	400
50,001 to 100,000	500
100,001 to 200,000	600
200,001 to 400,000	750
400,001 or more	900
(5) Storage tanks	
Gallons (maximum useful capacity)	Permit to install
0 to 20,000	\$ 100
20,001 to 40,000	150
40,001 to 100,000	250
100,001 to 500,000	400
500,001 or greater	750
(6) Gasoline/fuel dispensing facilities	
For each gasoline/fuel dispensing facility (includes all units at the facility)	Permit to install \$ 100
(7) Dry cleaning facilities	
For each dry cleaning facility (includes all units at the facility)	Permit to install \$ 100
(8) Registration status	

For each source covered	Permit to install
by registration status	\$ 75

(G) An owner or operator who is responsible for an asbestos demolition or renovation project pursuant to rules adopted under section 3704.03 of the Revised Code shall pay the fees set forth in the following schedule:

Action	Fee
Each notification	\$75
Asbestos removal	\$3/unit
Asbestos cleanup	\$4/cubic yard

For purposes of this division, "unit" means any combination of linear feet or square feet equal to fifty.

(H) A person who is issued an extension of time for a permit to install an air contaminant source pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code shall pay a fee equal to one-half the fee originally assessed for the permit to install under this section, except that the fee for such an extension shall not exceed two hundred dollars.

(I) A person who is issued a modification to a permit to install an air contaminant source pursuant to rules adopted under section 3704.03 of the Revised Code shall pay a fee equal to one-half of the fee that would be assessed under this section to obtain a permit to install the source. The fee assessed by this division only applies to modifications that are initiated by the owner or operator of the source and shall not exceed two thousand dollars.

(J) Notwithstanding division (B) or (F) of this section, a person who applies for or obtains a permit to install pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code after the date actual construction of the source began shall pay a fee for the permit to install that is equal to twice the fee that otherwise would be assessed under the applicable division unless the applicant received authorization to begin construction under division (W) of section 3704.03 of the Revised Code. This division only applies to sources for which actual construction of the source begins on or after July 1, 1993. The imposition or payment of the fee established in this division does not preclude the director from taking any administrative or judicial enforcement action under this chapter, Chapter 3704., 3714., 3734., or 6111. of the Revised Code, or a rule adopted under any of them, in connection with a violation of rules adopted under division (F) of section 3704.03 of the Revised Code.

As used in this division, "actual construction of the source" means the initiation of physical on-site construction activities in connection with improvements to the source that are permanent in nature, including, without

limitation, the installation of building supports and foundations and the laying of underground pipework.

(K) Fifty cents per ton of each fee assessed under division (C) of this section on actual emissions from a source and received by the environmental protection agency pursuant to that division shall be deposited into the state treasury to the credit of the small business assistance fund created in section 3706.19 of the Revised Code. The remainder of the moneys received by the division pursuant to that division and moneys received by the agency pursuant to divisions (D), (F), (G), (H), (I), and (J) of this section shall be deposited in the state treasury to the credit of the clean air fund created in section 3704.035 of the Revised Code.

(L)(1)(a) Except as otherwise provided in division (L)(1)(b) or (c) of this section, a person issued a water discharge permit or renewal of a water discharge permit pursuant to Chapter 6111. of the Revised Code shall pay a fee based on each point source to which the issuance is applicable in accordance with the following schedule:

Design flow discharge (gallons per day)	Fee
0 to 1000	\$ 0
1,001 to 5000	100
5,001 to 50,000	200
50,001 to 100,000	300
100,001 to 300,000	525
over 300,000	750

(b) Notwithstanding the fee schedule specified in division (L)(1)(a) of this section, the fee for a water discharge permit that is applicable to coal mining operations regulated under Chapter 1513. of the Revised Code shall be two hundred fifty dollars per mine.

(c) Notwithstanding the fee schedule specified in division (L)(1)(a) of this section, the fee for a water discharge permit for a public discharger identified by I in the third character of the permittee's NPDES permit number shall not exceed seven hundred fifty dollars.

(2) A person applying for a plan approval for a wastewater treatment works pursuant to section 6111.44, 6111.45, or 6111.46 of the Revised Code shall pay a fee of one hundred dollars plus sixty-five one-hundredths of one per cent of the estimated project cost through June 30, ~~2006~~ 2008, and one hundred dollars plus two-tenths of one per cent of the estimated project cost on and after July 1, ~~2006~~ 2008, except that the total fee shall not exceed fifteen thousand dollars through June 30, ~~2006~~ 2008, and five thousand dollars on and after July 1, ~~2006~~ 2008. The fee shall be paid at the time the application is submitted.

(3) A person issued a modification of a water discharge permit shall pay a fee equal to one-half the fee that otherwise would be charged for a water discharge permit, except that the fee for the modification shall not exceed four hundred dollars.

(4) A person who has entered into an agreement with the director under section 6111.14 of the Revised Code shall pay an administrative service fee for each plan submitted under that section for approval that shall not exceed the minimum amount necessary to pay administrative costs directly attributable to processing plan approvals. The director annually shall calculate the fee and shall notify all persons who have entered into agreements under that section, or who have applied for agreements, of the amount of the fee.

(5)(a)(i) Not later than January 30, ~~2004~~ 2006, and January 30, ~~2005~~ 2007, a person holding an NPDES discharge permit issued pursuant to Chapter 6111. of the Revised Code with an average daily discharge flow of five thousand gallons or more shall pay a nonrefundable annual discharge fee. Any person who fails to pay the fee at that time shall pay an additional amount that equals ten per cent of the required annual discharge fee.

(ii) The billing year for the annual discharge fee established in division (L)(5)(a)(i) of this section shall consist of a twelve-month period beginning on the first day of January of the year preceding the date when the annual discharge fee is due. In the case of an existing source that permanently ceases to discharge during a billing year, the director shall reduce the annual discharge fee, including the surcharge applicable to certain industrial facilities pursuant to division (L)(5)(c) of this section, by one-twelfth for each full month during the billing year that the source was not discharging, but only if the person holding the NPDES discharge permit for the source notifies the director in writing, not later than the first day of October of the billing year, of the circumstances causing the cessation of discharge.

(iii) The annual discharge fee established in division (L)(5)(a)(i) of this section, except for the surcharge applicable to certain industrial facilities pursuant to division (L)(5)(c) of this section, shall be based upon the average daily discharge flow in gallons per day calculated using first day of May through thirty-first day of October flow data for the period two years prior to the date on which the fee is due. In the case of NPDES discharge permits for new sources, the fee shall be calculated using the average daily design flow of the facility until actual average daily discharge flow values are available for the time period specified in division (L)(5)(a)(iii) of this section. The annual discharge fee may be prorated for a new source as described in division (L)(5)(a)(ii) of this section.

(b) An NPDES permit holder that is a public discharger shall pay the fee specified in the following schedule:

Average daily discharge flow	Fee due by January 30, <del>2004</del> <u>2006</u> , and January 30, <del>2005</del> <u>2007</u>
5,000 to 49,999	\$ 200
50,000 to 100,000	500
100,001 to 250,000	1,050
250,001 to 1,000,000	2,600
1,000,001 to 5,000,000	5,200
5,000,001 to 10,000,000	10,350
10,000,001 to 20,000,000	15,550
20,000,001 to 50,000,000	25,900
50,000,001 to 100,000,000	41,400
100,000,001 or more	62,100

Public dischargers owning or operating two or more publicly owned treatment works serving the same political subdivision, as "treatment works" is defined in section 6111.01 of the Revised Code, and that serve exclusively political subdivisions having a population of fewer than one hundred thousand shall pay an annual discharge fee under division (L)(5)(b) of this section that is based on the combined average daily discharge flow of the treatment works.

(c) An NPDES permit holder that is an industrial discharger, other than a coal mining operator identified by P in the third character of the permittee's NPDES permit number, shall pay the fee specified in the following schedule:

Average daily discharge flow	Fee due by January 30, <del>2004</del> <u>2006</u> , and January 30, <del>2005</del> <u>2007</u>
5,000 to 49,999	\$ 250
50,000 to 250,000	1,200
250,001 to 1,000,000	2,950
1,000,001 to 5,000,000	5,850
5,000,001 to 10,000,000	8,800
10,000,001 to 20,000,000	11,700
20,000,001 to 100,000,000	14,050

100,000,001 to 250,000,000	16,400
250,000,001 or more	18,700

In addition to the fee specified in the above schedule, an NPDES permit holder that is an industrial discharger classified as a major discharger during all or part of the annual discharge fee billing year specified in division (L)(5)(a)(ii) of this section shall pay a nonrefundable annual surcharge of seven thousand five hundred dollars not later than January 30, ~~2004~~ 2006, and not later than January 30, ~~2005~~ 2007. Any person who fails to pay the surcharge at that time shall pay an additional amount that equals ten per cent of the amount of the surcharge.

(d) Notwithstanding divisions (L)(5)(b) and (c) of this section, a public discharger identified by I in the third character of the permittee's NPDES permit number and an industrial discharger identified by I, J, L, V, W, X, Y, or Z in the third character of the permittee's NPDES permit number shall pay a nonrefundable annual discharge fee of one hundred eighty dollars not later than January 30, ~~2004~~ 2006, and not later than January 30, ~~2005~~ 2007. Any person who fails to pay the fee at that time shall pay an additional amount that equals ten per cent of the required fee.

(6) Each person obtaining a national pollutant discharge elimination system general or individual permit for municipal storm water discharge shall pay a nonrefundable storm water discharge fee of one hundred dollars per square mile of area permitted. The fee shall not exceed ten thousand dollars and shall be payable on or before January 30, 2004, and the thirtieth day of January of each year thereafter. Any person who fails to pay the fee on the date specified in division (L)(6) of this section shall pay an additional amount per year equal to ten per cent of the annual fee that is unpaid.

(7) The director shall transmit all moneys collected under division (L) of this section to the treasurer of state for deposit into the state treasury to the credit of the surface water protection fund created in section 6111.038 of the Revised Code.

(8) As used in division (L) of this section:

(a) "NPDES" means the federally approved national pollutant discharge elimination system program for issuing, modifying, revoking, reissuing, terminating, monitoring, and enforcing permits and imposing and enforcing pretreatment requirements under Chapter 6111. of the Revised Code and rules adopted under it.

(b) "Public discharger" means any holder of an NPDES permit identified by P in the second character of the NPDES permit number assigned by the director.

(c) "Industrial discharger" means any holder of an NPDES permit



identified by I in the second character of the NPDES permit number assigned by the director.

(d) "Major discharger" means any holder of an NPDES permit classified as major by the regional administrator of the United States environmental protection agency in conjunction with the director.

(M) Through June 30, ~~2006~~ 2008, a person applying for a license or license renewal to operate a public water system under section 6109.21 of the Revised Code shall pay the appropriate fee established under this division at the time of application to the director. Any person who fails to pay the fee at that time shall pay an additional amount that equals ten per cent of the required fee. The director shall transmit all moneys collected under this division to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

Except as provided in division (M)(4) of this section, fees required under this division shall be calculated and paid in accordance with the following schedule:

(1) For the initial license required under division (A)(1) of section 6109.21 of the Revised Code for any public water system that is a community water system as defined in section 6109.01 of the Revised Code, and for each license renewal required for such a system prior to January 31, ~~2006~~ 2008, the fee is:

Number of service connections	Fee amount
Not more than 49	\$ 112
50 to 99	176
Number of service connections	Average cost per connection
100 to 2,499	\$ 1.92
2,500 to 4,999	1.48
5,000 to 7,499	1.42
7,500 to 9,999	1.34
10,000 to 14,999	1.16
15,000 to 24,999	1.10
25,000 to 49,999	1.04
50,000 to 99,999	.92
100,000 to 149,999	.86
150,000 to 199,999	.80
200,000 or more	.76

A public water system may determine how it will pay the total amount of the fee calculated under division (M)(1) of this section, including the assessment of additional user fees that may be assessed on a volumetric basis.

As used in division (M)(1) of this section, "service connection" means the number of active or inactive pipes, goosenecks, pigtails, and any other fittings connecting a water main to any building outlet.

(2) For the initial license required under division (A)(2) of section 6109.21 of the Revised Code for any public water system that is not a community water system and serves a nontransient population, and for each license renewal required for such a system prior to January 31, ~~2006~~ 2008, the fee is:

Population served	Fee amount
Fewer than 150	\$ 112
150 to 299	176
300 to 749	384
750 to 1,499	628
1,500 to 2,999	1,268
3,000 to 7,499	2,816
7,500 to 14,999	5,510
15,000 to 22,499	9,048
22,500 to 29,999	12,430
30,000 or more	16,820

As used in division (M)(2) of this section, "population served" means the total number of individuals receiving water from the water supply during a twenty-four-hour period for at least sixty days during any calendar year. In the absence of a specific population count, that number shall be calculated at the rate of three individuals per service connection.

(3) For the initial license required under division (A)(3) of section 6109.21 of the Revised Code for any public water system that is not a community water system and serves a transient population, and for each license renewal required for such a system prior to January 31, ~~2006~~ 2008, the fee is:

Number of wells supplying system	Fee amount
1	\$112
2	112
3	176
4	278
5	568
System designated as using a surface water source	792

As used in division (M)(3) of this section, "number of wells supplying system" means those wells that are physically connected to the plumbing system serving the public water system.

(4) A public water system designated as using a surface water source shall pay a fee of seven hundred ninety-two dollars or the amount calculated under division (M)(1) or (2) of this section, whichever is greater.

(N)(1) A person applying for a plan approval for a public water supply system under section 6109.07 of the Revised Code shall pay a fee of one hundred fifty dollars plus thirty-five hundredths of one per cent of the estimated project cost, except that the total fee shall not exceed twenty thousand dollars through June 30, ~~2006~~ 2008, and fifteen thousand dollars on and after July 1, ~~2006~~ 2008. The fee shall be paid at the time the application is submitted.

(2) A person who has entered into an agreement with the director under division (A)(2) of section 6109.07 of the Revised Code shall pay an administrative service fee for each plan submitted under that section for approval that shall not exceed the minimum amount necessary to pay administrative costs directly attributable to processing plan approvals. The director annually shall calculate the fee and shall notify all persons that have entered into agreements under that division, or who have applied for agreements, of the amount of the fee.

(3) Through June 30, ~~2006~~ 2008, the following fee, on a per survey basis, shall be charged any person for services rendered by the state in the evaluation of laboratories and laboratory personnel for compliance with accepted analytical techniques and procedures established pursuant to Chapter 6109. of the Revised Code for determining the qualitative characteristics of water:

microbiological	
MMO-MUG	\$2,000
MF	2,100
MMO-MUG and MF	2,550
organic chemical	5,400
trace metals	5,400
standard chemistry	2,800
limited chemistry	1,550

On and after July 1, ~~2006~~ 2008, the following fee, on a per survey basis, shall be charged any such person:

microbiological	\$ 1,650
organic chemicals	3,500
trace metals	3,500
standard chemistry	1,800
limited chemistry	1,000

The fee for those services shall be paid at the time the request for the survey

is made. Through June 30, ~~2006~~ 2008, an individual laboratory shall not be assessed a fee under this division more than once in any three-year period unless the person requests the addition of analytical methods or analysts, in which case the person shall pay eighteen hundred dollars for each additional survey requested.

As used in division (N)(3) of this section:

- (a) "MF" means microfiltration.
- (b) "MMO" means minimal medium ONPG.
- (c) "MUG" means 4-methylumbelliferyl-beta-D-glucuronide.
- (d) "ONPG" means o-nitrophenyl-beta-D-galactopyranoside.

The director shall transmit all moneys collected under this division to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

~~(O) Any person applying to the director for examination for certification as an operator of a water supply system or wastewater system under Chapter 6109. or 6111. of the Revised Code, at the time the application is submitted, shall pay an application fee of twenty-five dollars through November 30, 2003. Upon approval from the director that the applicant is eligible to take the examination therefor, the applicant shall pay a fee in accordance with the following schedule through November 30, 2003:~~

<del>Class I operator</del>	<del>\$45</del>
<del>Class II operator</del>	<del>55</del>
<del>Class III operator</del>	<del>65</del>
<del>Class IV operator</del>	<del>75</del>

~~On and after December 1, 2003, any person applying to the director for examination for certification as an operator of a water supply system or wastewater system under Chapter 6109. or 6111. of the Revised Code, at the time the application is submitted, shall pay an application fee of forty-five dollars through November 30, ~~2006~~ 2008, and twenty-five dollars on and after December 1, ~~2006~~ 2008. Upon approval from the director that the applicant is eligible to take the examination therefor, the applicant shall pay a fee in accordance with the following schedule through November 30, ~~2006~~ 2008:~~

Class A operator	\$35
Class I operator	60
Class II operator	75
Class III operator	85
Class IV operator	100

On and after December 1, ~~2006~~ 2008, the applicant shall pay a fee in accordance with the following schedule:

Class A operator	\$25
Class I operator	\$45
Class II operator	55
Class III operator	65
Class IV operator	75

A person shall pay a biennial certification renewal fee for each applicable class of certification in accordance with the following schedule:

Class A operator	\$25
Class I operator	35
Class II operator	45
Class III operator	55
Class IV operator	65

If a certification renewal fee is received by the director more than thirty days, but not more than one year after the expiration date of the certification, the person shall pay a certification renewal fee in accordance with the following schedule:

Class A operator	\$45
Class I operator	55
Class II operator	65
Class III operator	75
Class IV operator	85

A person who requests a replacement certificate shall pay a fee of twenty-five dollars at the time the request is made.

The director shall transmit all moneys collected under this division to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

(P) Any person submitting an application for an industrial water pollution control certificate under section 6111.31 of the Revised Code, as that section existed before its repeal by H.B. 95 of the 125th general assembly, shall pay a nonrefundable fee of five hundred dollars at the time the application is submitted. The director shall transmit all moneys collected under this division to the treasurer of state for deposit into the surface water protection fund created in section 6111.038 of the Revised Code. A person paying a certificate fee under this division shall not pay an application fee under division (S)(1) of this section. On and after ~~the effective date of this amendment~~ June 26, 2003, persons shall file such applications and pay the fee as required under sections 5709.20 to 5709.27 of the Revised Code, and proceeds from the fee shall be credited as provided in section 5709.212 of the Revised Code.

(Q) Except as otherwise provided in division (R) of this section, a

person issued a permit by the director for a new solid waste disposal facility other than an incineration or composting facility, a new infectious waste treatment facility other than an incineration facility, or a modification of such an existing facility that includes an increase in the total disposal or treatment capacity of the facility pursuant to Chapter 3734. of the Revised Code shall pay a fee of ten dollars per thousand cubic yards of disposal or treatment capacity, or one thousand dollars, whichever is greater, except that the total fee for any such permit shall not exceed eighty thousand dollars. A person issued a modification of a permit for a solid waste disposal facility or an infectious waste treatment facility that does not involve an increase in the total disposal or treatment capacity of the facility shall pay a fee of one thousand dollars. A person issued a permit to install a new, or modify an existing, solid waste transfer facility under that chapter shall pay a fee of two thousand five hundred dollars. A person issued a permit to install a new or to modify an existing solid waste incineration or composting facility, or an existing infectious waste treatment facility using incineration as its principal method of treatment, under that chapter shall pay a fee of one thousand dollars. The increases in the permit fees under this division resulting from the amendments made by Amended Substitute House Bill 592 of the 117th general assembly do not apply to any person who submitted an application for a permit to install a new, or modify an existing, solid waste disposal facility under that chapter prior to September 1, 1987; any such person shall pay the permit fee established in this division as it existed prior to June 24, 1988. In addition to the applicable permit fee under this division, a person issued a permit to install or modify a solid waste facility or an infectious waste treatment facility under that chapter who fails to pay the permit fee to the director in compliance with division (V) of this section shall pay an additional ten per cent of the amount of the fee for each week that the permit fee is late.

Permit and late payment fees paid to the director under this division shall be credited to the general revenue fund.

(R)(1) A person issued a registration certificate for a scrap tire collection facility under section 3734.75 of the Revised Code shall pay a fee of two hundred dollars, except that if the facility is owned or operated by a motor vehicle salvage dealer licensed under Chapter 4738. of the Revised Code, the person shall pay a fee of twenty-five dollars.

(2) A person issued a registration certificate for a new scrap tire storage facility under section 3734.76 of the Revised Code shall pay a fee of three hundred dollars, except that if the facility is owned or operated by a motor vehicle salvage dealer licensed under Chapter 4738. of the Revised Code,

the person shall pay a fee of twenty-five dollars.

(3) A person issued a permit for a scrap tire storage facility under section 3734.76 of the Revised Code shall pay a fee of one thousand dollars, except that if the facility is owned or operated by a motor vehicle salvage dealer licensed under Chapter 4738. of the Revised Code, the person shall pay a fee of fifty dollars.

(4) A person issued a permit for a scrap tire monocell or monofill facility under section 3734.77 of the Revised Code shall pay a fee of ten dollars per thousand cubic yards of disposal capacity or one thousand dollars, whichever is greater, except that the total fee for any such permit shall not exceed eighty thousand dollars.

(5) A person issued a registration certificate for a scrap tire recovery facility under section 3734.78 of the Revised Code shall pay a fee of one hundred dollars.

(6) A person issued a permit for a scrap tire recovery facility under section 3734.78 of the Revised Code shall pay a fee of one thousand dollars.

(7) In addition to the applicable registration certificate or permit fee under divisions (R)(1) to (6) of this section, a person issued a registration certificate or permit for any such scrap tire facility who fails to pay the registration certificate or permit fee to the director in compliance with division (V) of this section shall pay an additional ten per cent of the amount of the fee for each week that the fee is late.

(8) The registration certificate, permit, and late payment fees paid to the director under divisions (R)(1) to (7) of this section shall be credited to the scrap tire management fund created in section 3734.82 of the Revised Code.

(S)(1) Except as provided by divisions (L), (M), (N), (O), (P), and (S)(2) of this section, division (A)(2) of section 3734.05 of the Revised Code, section 3734.79 of the Revised Code, and rules adopted under division (T)(1) of this section, any person applying for a registration certificate under section 3734.75, 3734.76, or 3734.78 of the Revised Code or a permit, variance, or plan approval under Chapter 3734. of the Revised Code shall pay a nonrefundable fee of fifteen dollars at the time the application is submitted.

Except as otherwise provided, any person applying for a permit, variance, or plan approval under Chapter 6109. or 6111. of the Revised Code shall pay a nonrefundable fee of one hundred dollars at the time the application is submitted through June 30, ~~2006~~ 2008, and a nonrefundable fee of fifteen dollars at the time the application is submitted on and after July 1, ~~2006~~ 2008. Through June 30, ~~2006~~ 2008, any person applying for a national pollutant discharge elimination system permit under Chapter 6111.

of the Revised Code shall pay a nonrefundable fee of two hundred dollars at the time of application for the permit. On and after July 1, ~~2006~~ 2008, such a person shall pay a nonrefundable fee of fifteen dollars at the time of application.

In addition to the application fee established under division (S)(1) of this section, any person applying for a national pollutant discharge elimination system general storm water construction permit shall pay a nonrefundable fee of twenty dollars per acre for each acre that is permitted above five acres at the time the application is submitted. However, the per acreage fee shall not exceed three hundred dollars. In addition, any person applying for a national pollutant discharge elimination system general storm water industrial permit shall pay a nonrefundable fee of one hundred fifty dollars at the time the application is submitted.

The director shall transmit all moneys collected under division (S)(1) of this section pursuant to Chapter 6109. of the Revised Code to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

The director shall transmit all moneys collected under division (S)(1) of this section pursuant to Chapter 6111. of the Revised Code to the treasurer of state for deposit into the surface water protection fund created in section 6111.038 of the Revised Code.

If a registration certificate is issued under section 3734.75, 3734.76, or 3734.78 of the Revised Code, the amount of the application fee paid shall be deducted from the amount of the registration certificate fee due under division (R)(1), (2), or (5) of this section, as applicable.

If a person submits an electronic application for a registration certificate, permit, variance, or plan approval for which an application fee is established under division (S)(1) of this section, the person shall pay the applicable application fee as expeditiously as possible after the submission of the electronic application. An application for a registration certificate, permit, variance, or plan approval for which an application fee is established under division (S)(1) of this section shall not be reviewed or processed until the applicable application fee, and any other fees established under this division, are paid.

(2) Division (S)(1) of this section does not apply to an application for a registration certificate for a scrap tire collection or storage facility submitted under section 3734.75 or 3734.76 of the Revised Code, as applicable, if the owner or operator of the facility or proposed facility is a motor vehicle salvage dealer licensed under Chapter 4738. of the Revised Code.

(T) The director may adopt, amend, and rescind rules in accordance



with Chapter 119. of the Revised Code that do all of the following:

(1) Prescribe fees to be paid by applicants for and holders of any license, permit, variance, plan approval, or certification required or authorized by Chapter 3704., 3734., 6109., or 6111. of the Revised Code that are not specifically established in this section. The fees shall be designed to defray the cost of processing, issuing, revoking, modifying, denying, and enforcing the licenses, permits, variances, plan approvals, and certifications.

The director shall transmit all moneys collected under rules adopted under division (T)(1) of this section pursuant to Chapter 6109. of the Revised Code to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

The director shall transmit all moneys collected under rules adopted under division (T)(1) of this section pursuant to Chapter 6111. of the Revised Code to the treasurer of state for deposit into the surface water protection fund created in section 6111.038 of the Revised Code.

(2) Exempt the state and political subdivisions thereof, including education facilities or medical facilities owned by the state or a political subdivision, or any person exempted from taxation by section 5709.07 or 5709.12 of the Revised Code, from any fee required by this section;

(3) Provide for the waiver of any fee, or any part thereof, otherwise required by this section whenever the director determines that the imposition of the fee would constitute an unreasonable cost of doing business for any applicant, class of applicants, or other person subject to the fee;

(4) Prescribe measures that the director considers necessary to carry out this section.

(U) When the director reasonably demonstrates that the direct cost to the state associated with the issuance of a permit to install, license, variance, plan approval, or certification exceeds the fee for the issuance or review specified by this section, the director may condition the issuance or review on the payment by the person receiving the issuance or review of, in addition to the fee specified by this section, the amount, or any portion thereof, in excess of the fee specified under this section. The director shall not so condition issuances for which fees are prescribed in divisions (B)(7) and (L)(1)(b) of this section.

(V) Except as provided in divisions (L), (M), and (P) of this section or unless otherwise prescribed by a rule of the director adopted pursuant to Chapter 119. of the Revised Code, all fees required by this section are payable within thirty days after the issuance of an invoice for the fee by the director or the effective date of the issuance of the license, permit, variance,

plan approval, or certification. If payment is late, the person responsible for payment of the fee shall pay an additional ten per cent of the amount due for each month that it is late.

(W) As used in this section, "fuel-burning equipment," "fuel-burning equipment input capacity," "incinerator," "incinerator input capacity," "process," "process weight rate," "storage tank," "gasoline dispensing facility," "dry cleaning facility," "design flow discharge," and "new source treatment works" have the meanings ascribed to those terms by applicable rules or standards adopted by the director under Chapter 3704. or 6111. of the Revised Code.

(X) As used in divisions (B), (C), (D), (E), (F), (H), (I), and (J) of this section, and in any other provision of this section pertaining to fees paid pursuant to Chapter 3704. of the Revised Code:

(1) "Facility," "federal Clean Air Act," "person," and "Title V permit" have the same meanings as in section 3704.01 of the Revised Code.

(2) "Title V permit program" means the following activities as necessary to meet the requirements of Title V of the federal Clean Air Act and 40 C.F.R. part 70, including at least:

(a) Preparing and adopting, if applicable, generally applicable rules or guidance regarding the permit program or its implementation or enforcement;

(b) Reviewing and acting on any application for a Title V permit, permit revision, or permit renewal, including the development of an applicable requirement as part of the processing of a permit, permit revision, or permit renewal;

(c) Administering the permit program, including the supporting and tracking of permit applications, compliance certification, and related data entry;

(d) Determining which sources are subject to the program and implementing and enforcing the terms of any Title V permit, not including any court actions or other formal enforcement actions;

(e) Emission and ambient monitoring;

(f) Modeling, analyses, or demonstrations;

(g) Preparing inventories and tracking emissions;

(h) Providing direct and indirect support to small business stationary sources to determine and meet their obligations under the federal Clean Air Act pursuant to the small business stationary source technical and environmental compliance assistance program required by section 507 of that act and established in sections 3704.18, 3704.19, and 3706.19 of the Revised Code.

(Y)(1) Except as provided in divisions (Y)(2), (3), and (4) of this section, each sewage sludge facility shall pay a nonrefundable annual sludge fee equal to three dollars and fifty cents per dry ton of sewage sludge, including the dry tons of sewage sludge in materials derived from sewage sludge, that the sewage sludge facility treats or disposes of in this state. The annual volume of sewage sludge treated or disposed of by a sewage sludge facility shall be calculated using the first day of January through the thirty-first day of December of the calendar year preceding the date on which payment of the fee is due.

(2)(a) Except as provided in division (Y)(2)(d) of this section, each sewage sludge facility shall pay a minimum annual sewage sludge fee of one hundred dollars.

(b) The annual sludge fee required to be paid by a sewage sludge facility that treats or disposes of exceptional quality sludge in this state shall be thirty-five per cent less per dry ton of exceptional quality sludge than the fee assessed under division (Y)(1) of this section, subject to the following exceptions:

(i) Except as provided in division (Y)(2)(d) of this section, a sewage sludge facility that treats or disposes of exceptional quality sludge shall pay a minimum annual sewage sludge fee of one hundred dollars.

(ii) A sewage sludge facility that treats or disposes of exceptional quality sludge shall not be required to pay the annual sludge fee for treatment or disposal in this state of exceptional quality sludge generated outside of this state and contained in bags or other containers not greater than one hundred pounds in capacity.

A thirty-five per cent reduction for exceptional quality sludge applies to the maximum annual fees established under division (Y)(3) of this section.

(c) A sewage sludge facility that transfers sewage sludge to another sewage sludge facility in this state for further treatment prior to disposal in this state shall not be required to pay the annual sludge fee for the tons of sewage sludge that have been transferred. In such a case, the sewage sludge facility that disposes of the sewage sludge shall pay the annual sludge fee. However, the facility transferring the sewage sludge shall pay the one-hundred-dollar minimum fee required under division (Y)(2)(a) of this section.

In the case of a sewage sludge facility that treats sewage sludge in this state and transfers it out of this state to another entity for disposal, the sewage sludge facility in this state shall be required to pay the annual sludge fee for the tons of sewage sludge that have been transferred.

(d) A sewage sludge facility that generates sewage sludge resulting from

an average daily discharge flow of less than five thousand gallons per day is not subject to the fees assessed under division (Y) of this section.

(3) No sewage sludge facility required to pay the annual sludge fee shall be required to pay more than the maximum annual fee for each disposal method that the sewage sludge facility uses. The maximum annual fee does not include the additional amount that may be charged under division (Y)(5) of this section for late payment of the annual sludge fee. The maximum annual fee for the following methods of disposal of sewage sludge is as follows:

(a) Incineration: five thousand dollars;

(b) Preexisting land reclamation project or disposal in a landfill: five thousand dollars;

(c) Land application, land reclamation, surface disposal, or any other disposal method not specified in division (Y)(3)(a) or (b) of this section: twenty thousand dollars.

(4)(a) In the case of an entity that generates sewage sludge or a sewage sludge facility that treats sewage sludge and transfers the sewage sludge to an incineration facility for disposal, the incineration facility, and not the entity generating the sewage sludge or the sewage sludge facility treating the sewage sludge, shall pay the annual sludge fee for the tons of sewage sludge that are transferred. However, the entity or facility generating or treating the sewage sludge shall pay the one-hundred-dollar minimum fee required under division (Y)(2)(a) of this section.

(b) In the case of an entity that generates sewage sludge and transfers the sewage sludge to a landfill for disposal or to a sewage sludge facility for land reclamation or surface disposal, the entity generating the sewage sludge, and not the landfill or sewage sludge facility, shall pay the annual sludge fee for the tons of sewage sludge that are transferred.

(5) Not later than the first day of April of the calendar year following March 17, 2000, and each first day of April thereafter, the director shall issue invoices to persons who are required to pay the annual sludge fee. The invoice shall identify the nature and amount of the annual sludge fee assessed and state the first day of May as the deadline for receipt by the director of objections regarding the amount of the fee and the first day of July as the deadline for payment of the fee.

Not later than the first day of May following receipt of an invoice, a person required to pay the annual sludge fee may submit objections to the director concerning the accuracy of information regarding the number of dry tons of sewage sludge used to calculate the amount of the annual sludge fee or regarding whether the sewage sludge qualifies for the exceptional quality

sludge discount established in division (Y)(2)(b) of this section. The director may consider the objections and adjust the amount of the fee to ensure that it is accurate.

If the director does not adjust the amount of the annual sludge fee in response to a person's objections, the person may appeal the director's determination in accordance with Chapter 119. of the Revised Code.

Not later than the first day of June, the director shall notify the objecting person regarding whether the director has found the objections to be valid and the reasons for the finding. If the director finds the objections to be valid and adjusts the amount of the annual sludge fee accordingly, the director shall issue with the notification a new invoice to the person identifying the amount of the annual sludge fee assessed and stating the first day of July as the deadline for payment.

Not later than the first day of July, any person who is required to do so shall pay the annual sludge fee. Any person who is required to pay the fee, but who fails to do so on or before that date shall pay an additional amount that equals ten per cent of the required annual sludge fee.

(6) The director shall transmit all moneys collected under division (Y) of this section to the treasurer of state for deposit into the surface water protection fund created in section 6111.038 of the Revised Code. The moneys shall be used to defray the costs of administering and enforcing provisions in Chapter 6111. of the Revised Code and rules adopted under it that govern the use, storage, treatment, or disposal of sewage sludge.

(7) Beginning in fiscal year 2001, and every two years thereafter, the director shall review the total amount of moneys generated by the annual sludge fees to determine if that amount exceeded six hundred thousand dollars in either of the two preceding fiscal years. If the total amount of moneys in the fund exceeded six hundred thousand dollars in either fiscal year, the director, after review of the fee structure and consultation with affected persons, shall issue an order reducing the amount of the fees levied under division (Y) of this section so that the estimated amount of moneys resulting from the fees will not exceed six hundred thousand dollars in any fiscal year.

If, upon review of the fees under division (Y)(7) of this section and after the fees have been reduced, the director determines that the total amount of moneys collected and accumulated is less than six hundred thousand dollars, the director, after review of the fee structure and consultation with affected persons, may issue an order increasing the amount of the fees levied under division (Y) of this section so that the estimated amount of moneys resulting from the fees will be approximately six hundred thousand dollars. Fees shall

never be increased to an amount exceeding the amount specified in division (Y)(7) of this section.

Notwithstanding section 119.06 of the Revised Code, the director may issue an order under division (Y)(7) of this section without the necessity to hold an adjudicatory hearing in connection with the order. The issuance of an order under this division is not an act or action for purposes of section 3745.04 of the Revised Code.

(8) As used in division (Y) of this section:

(a) "Sewage sludge facility" means an entity that performs treatment on or is responsible for the disposal of sewage sludge.

(b) "Sewage sludge" means a solid, semi-solid, or liquid residue generated during the treatment of domestic sewage in a treatment works as defined in section 6111.01 of the Revised Code. "Sewage sludge" includes, but is not limited to, scum or solids removed in primary, secondary, or advanced wastewater treatment processes. "Sewage sludge" does not include ash generated during the firing of sewage sludge in a sewage sludge incinerator, grit and screenings generated during preliminary treatment of domestic sewage in a treatment works, animal manure, residue generated during treatment of animal manure, or domestic septage.

(c) "Exceptional quality sludge" means sewage sludge that meets all of the following qualifications:

(i) Satisfies the class A pathogen standards in 40 C.F.R. 503.32(a);

(ii) Satisfies one of the vector attraction reduction requirements in 40 C.F.R. 503.33(b)(1) to (b)(8);

(iii) Does not exceed the ceiling concentration limitations for metals listed in table one of 40 C.F.R. 503.13;

(iv) Does not exceed the concentration limitations for metals listed in table three of 40 C.F.R. 503.13.

(d) "Treatment" means the preparation of sewage sludge for final use or disposal and includes, but is not limited to, thickening, stabilization, and dewatering of sewage sludge.

(e) "Disposal" means the final use of sewage sludge, including, but not limited to, land application, land reclamation, surface disposal, or disposal in a landfill or an incinerator.

(f) "Land application" means the spraying or spreading of sewage sludge onto the land surface, the injection of sewage sludge below the land surface, or the incorporation of sewage sludge into the soil for the purposes of conditioning the soil or fertilizing crops or vegetation grown in the soil.

(g) "Land reclamation" means the returning of disturbed land to productive use.

(h) "Surface disposal" means the placement of sludge on an area of land for disposal, including, but not limited to, monofills, surface impoundments, lagoons, waste piles, or dedicated disposal sites.

(i) "Incinerator" means an entity that disposes of sewage sludge through the combustion of organic matter and inorganic matter in sewage sludge by high temperatures in an enclosed device.

(j) "Incineration facility" includes all incinerators owned or operated by the same entity and located on a contiguous tract of land. Areas of land are considered to be contiguous even if they are separated by a public road or highway.

(k) "Annual sludge fee" means the fee assessed under division (Y)(1) of this section.

(l) "Landfill" means a sanitary landfill facility, as defined in rules adopted under section 3734.02 of the Revised Code, that is licensed under section 3734.05 of the Revised Code.

(m) "Preexisting land reclamation project" means a property-specific land reclamation project that has been in continuous operation for not less than five years pursuant to approval of the activity by the director and includes the implementation of a community outreach program concerning the activity.

Sec. 3745.114. (A) A person that applies for a section 401 water quality certification under Chapter 6111. of the Revised Code and rules adopted under it shall pay an application fee of two hundred dollars at the time of application plus any of the following fees, as applicable:

(1) If the water resource to be impacted is a wetland, a review fee of five hundred dollars per acre of wetland to be impacted;

(2) If the water resource to be impacted is a stream one of the following fees, as applicable:

(a) For an ephemeral stream, a review fee of five dollars per linear foot of stream to be impacted, or two hundred dollars, whichever is greater;

(b) For an intermittent stream, a review fee of ten dollars per linear foot of stream to be impacted, or two hundred dollars, whichever is greater;

(c) For a perennial stream, a review fee of fifteen dollars per linear foot of stream to be impacted, or two hundred dollars, whichever is greater.

(3) If the water resource to be impacted is a lake, a review fee of three dollars per cubic yard of dredged or fill material to be moved.

(B) One-half of all applicable review fees levied under this section shall be due at the time of application for a section 401 water quality certification. The remainder of the fees shall be paid upon the final disposition of the application for a section 401 water quality certification. The total fee to be

paid under this section shall not exceed twenty-five thousand dollars per application. However, if the applicant is a county, township, or municipal corporation in this state, the total fee to be paid shall not exceed five thousand dollars per application.

(C) All money collected under this section shall be transmitted to the treasurer of state for deposit into the state treasury to the credit of the surface water protection fund created in section 6111.038 of the Revised Code.

(D) The fees established under this section do not apply to any state agency as defined in section 119.01 of the Revised Code.

(E) The fees established under this section do not apply to projects that are authorized by the environmental protection agency's general certifications of nationwide permits or general permits issued by the United States army corps of engineers. As used in this division, "general permit" and "nationwide permit" have the same meanings as in rules adopted under Chapter 6111. of the Revised Code.

(F) Coal mining and reclamation operations that are authorized under Chapter 1513. of the Revised Code are exempt from the fees established under this section for one year after the effective date of this section.

(G) As used in this section:

(1) "Ephemeral stream" means a stream that flows only in direct response to precipitation in the immediate watershed or in response to the melting of a cover of snow and ice and that has channel bottom that is always above the local water table.

(2) "Intermittent stream" means a stream that is below the local water table and flows for at least a part of each year and that obtains its flow from both surface runoff and ground water discharge.

(3) "Perennial stream" means a stream or a part of a stream that flows continuously during all of the calendar year as a result of ground water discharge or surface water runoff. "Perennial stream" does not include an intermittent stream or an ephemeral stream.

Sec. 3745.12. (A) There is hereby created in the state treasury the immediate removal fund, which shall be administered by the director of environmental protection. The fund may be used for both of the following purposes:

(1) To pay costs incurred by the environmental protection agency in investigating, mitigating, minimizing, removing, or abating any unauthorized spill, release, or discharge of material into or upon the environment that requires emergency action to protect the public health or safety or the environment;



(2) Conducting remedial actions under section 3752.13 of the Revised Code.

(B) Any person responsible for causing or allowing the unauthorized spill, release, or discharge is liable to the director for the costs incurred by the agency regardless of whether those costs were paid out of the fund created under division (A) of this section or any other fund of the agency. Upon the request of the director, the attorney general shall bring a civil action against the responsible person to recover those costs. Moneys recovered under this division shall be paid into the state treasury to the credit of the immediate removal fund, except that moneys recovered for costs paid from the hazardous waste clean-up fund created in section 3734.28 of the Revised Code shall be credited to the hazardous waste clean-up fund.

Sec. 3746.04. Within one year after September 28, 1994, the director of environmental protection, in accordance with Chapter 119. of the Revised Code and with the advice of the multidisciplinary council appointed under section 3746.03 of the Revised Code, shall adopt, and subsequently may amend, suspend, or rescind, rules that do both of the following:

(A) Revise the rules adopted under Chapters 3704., 3714., 3734., 6109., and 6111. of the Revised Code to incorporate the provisions necessary to conform those rules to the requirements of this chapter. The amended rules adopted under this division also shall establish response times for all submittals to the environmental protection agency required under this chapter or rules adopted under it.

(B) Establish requirements and procedures that are reasonably necessary for the implementation and administration of this chapter, including, without limitation, all of the following:

(1) Appropriate generic numerical clean-up standards for the treatment or removal of soils, sediments, and water media for hazardous substances and petroleum. The rules shall establish separate generic numerical clean-up standards based upon the intended use of properties after the completion of voluntary actions, including industrial, commercial, and residential uses and such other categories of land use as the director considers to be appropriate. The generic numerical clean-up standards established for each category of land use shall be the concentration of each contaminant that may be present on a property that shall ensure protection of public health and safety and the environment for the reasonable exposure for that category of land use. When developing the standards, the director shall consider such factors as all of the following:

(a) Scientific information, including, without limitation, toxicological

information and realistic assumptions regarding human and environmental exposure to hazardous substances or petroleum;

- (b) Climatic factors;
- (c) Human activity patterns;
- (d) Current statistical techniques;
- (e) For petroleum at industrial property, alternatives to the use of total petroleum hydrocarbons.

The generic numerical clean-up standards established in the rules adopted under division (B)(1) of this section shall be consistent with and equivalent in scope, content, and coverage to any applicable standard established by federal environmental laws and regulations adopted under them, including, without limitation, the "Federal Water Pollution Control Act Amendments of 1972," 86 Stat. 886, 33 U.S.C.A. 1251, as amended; the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended; the "Toxic Substances Control Act," 90 Stat. 2003 (1976), 15 U.S.C.A. 2601, as amended; the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," 94 Stat. 2779, 42 U.S.C.A. 9601, as amended; and the "Safe Drinking Water Act," 88 Stat. 1660 (1974), 42 U.S.C.A. 300f, as amended.

In order for the rules adopted under division (B)(1) of this section to require that any such federal environmental standard apply to a property, the property shall meet the requirements of the particular federal statute or regulation involved in the manner specified by the statute or regulation.

The generic numerical clean-up standards for petroleum at commercial or residential property shall be the standards established in rules adopted under division (B) of section 3737.882 of the Revised Code.

(2)(a) Procedures for performing property-specific risk assessments that would be performed at a property to demonstrate that the remedy evaluated in a risk assessment results in protection of public health and safety and the environment instead of complying with the generic numerical clean-up standards established in the rules adopted under division (B)(1) of this section. The risk assessment procedures shall describe a methodology to establish, on a property-specific basis, allowable levels of contamination to remain at a property to ensure protection of public health and safety and the environment on the property and off the property when the contamination is emanating off the property, taking into account all of the following:

- (i) The implementation of treatment, storage, or disposal, or a combination thereof, of hazardous substances or petroleum;
- (ii) The existence of institutional controls or activity and use limitations that eliminate or mitigate exposure to hazardous substances or petroleum

through the restriction of access to hazardous substances or petroleum;

(iii) The existence of engineering controls that eliminate or mitigate exposure to hazardous substances or petroleum through containment of, control of, or restrictions of access to hazardous substances or petroleum, including, without limitation, fences, cap systems, cover systems, and landscaping.

(b) The risk assessment procedures and levels of acceptable risk set forth in the rules adopted under division (B)(2) of this section shall be based upon all of the following:

(i) Scientific information, including, without limitation, toxicological information and actual or proposed human and environmental exposure;

(ii) Locational and climatic factors;

(iii) Surrounding land use and human activities;

(iv) Differing levels of remediation that may be required when an existing land use is continued compared to when a different land use follows the remediation.

(c) Any standards established pursuant to rules adopted under division (B)(2) of this section shall be no more stringent than standards established under the environmental statutes of this state and rules adopted under them for the same contaminant in the same environmental medium that are in effect at the time the risk assessment is conducted.

(3) Minimum standards for phase I property assessments. The standards shall specify the information needed to demonstrate that there is no reason to believe that contamination exists on a property. The rules adopted under division (B)(3) of this section, at a minimum, shall require that a phase I property assessment include all of the following:

(a) A review and analysis of deeds, mortgages, easements of record, and similar documents relating to the chain of title to the property that are publicly available or that are known to and reasonably available to the owner or operator;

(b) A review and analysis of any previous environmental assessments, property assessments, environmental studies, or geologic studies of the property and any land within two thousand feet of the boundaries of the property that are publicly available or that are known to and reasonably available to the owner or operator;

(c) A review of current and past environmental compliance histories of persons who owned or operated the property;

(d) A review of aerial photographs of the property that indicate prior uses of the property;

(e) Interviews with managers of activities conducted at the property who

have knowledge of environmental conditions at the property;

(f) Conducting an inspection of the property consisting of a walkover;

(g) Identifying the current and past uses of the property, adjoining tracts of land, and the area surrounding the property, including, without limitation, interviews with persons who reside or have resided, or who are or were employed, within the area surrounding the property regarding the current and past uses of the property and adjacent tracts of land.

The rules adopted under division (B)(3) of this section shall establish criteria to determine when a phase II property assessment shall be conducted when a phase I property assessment reveals facts that establish a reason to believe that hazardous substances or petroleum have been treated, stored, managed, or disposed of on the property if the person undertaking the phase I property assessment wishes to obtain a covenant not to sue under section 3746.12 of the Revised Code.

(4) Minimum standards for phase II property assessments. The standards shall specify the information needed to demonstrate that any contamination present at the property does not exceed applicable standards or that the remedial activities conducted at the property have achieved compliance with applicable standards. The rules adopted under division (B)(4) of this section, at a minimum, shall require that a phase II property assessment include all of the following:

(a) A review and analysis of all documentation prepared in connection with a phase I property assessment conducted within the one hundred eighty days before the phase II property assessment begins. The rules adopted under division (B)(4)(a) of this section shall require that if a period of more than one hundred eighty days has passed between the time that the phase I assessment of the property was completed and the phase II assessment begins, the phase II assessment shall include a reasonable inquiry into the change in the environmental condition of the property during the intervening period.

(b) Quality assurance objectives for measurements taken in connection with a phase II assessment;

(c) Sampling procedures to ensure the representative sampling of potentially contaminated environmental media;

(d) Quality assurance and quality control requirements for samples collected in connection with phase II assessments;

(e) Analytical and data assessment procedures;

(f) Data objectives to ensure that samples collected in connection with phase II assessments are biased toward areas where information indicates that contamination by hazardous substances or petroleum is likely to exist.

(5) Standards governing the conduct of certified professionals, criteria and procedures for the certification of professionals to issue no further action letters under section 3746.11 of the Revised Code, and criteria for the suspension and revocation of those certifications. The director shall take an action regarding a certification as a final action. The issuance, denial, renewal, suspension, and revocation of those certifications are subject to Chapter 3745. of the Revised Code, ~~and the director shall take any such action regarding a certification as a final action~~ except that, in lieu of publishing an action regarding a certification in a newspaper of general circulation as required in section 3745.07 of the Revised Code, such an action shall be published on the environmental protection agency's web site and in the agency's weekly review not later than fifteen days after the date of the issuance, denial, renewal, suspension, or revocation of the certification and not later than thirty days before a hearing or public meeting concerning the action.

The rules adopted under division (B)(5) of this section shall do all of the following:

(a) Provide for the certification of environmental professionals to issue no further action letters pertaining to investigations and remedies in accordance with the criteria and procedures set forth in the rules. The rules adopted under division (B)(5)(a) of this section shall do at least all of the following:

(i) Authorize the director to consider such factors as an environmental professional's previous performance record regarding such investigations and remedies and the environmental professional's environmental compliance history when determining whether to certify the environmental professional;

(ii) Ensure that an application for certification is reviewed in a timely manner;

(iii) Require the director to certify any environmental professional who the director determines complies with those criteria;

(iv) Require the director to deny certification for any environmental professional who does not comply with those criteria.

(b) Establish an annual fee to be paid by environmental professionals certified pursuant to the rules adopted under division (B)(5)(a) of this section. The fee shall be established at an amount calculated to defray the costs to the ~~environmental protection~~ agency for the required reviews of the qualifications of environmental professionals for certification and for the issuance of the certifications.

(c) Develop a schedule for and establish requirements governing the

review by the director of the credentials of environmental professionals who were deemed to be certified professionals under division (D) of section 3746.07 of the Revised Code in order to determine if they comply with the criteria established in rules adopted under division (B)(5) of this section. The rules adopted under division (B)(5)(c) of this section shall do at least all of the following:

- (i) Ensure that the review is conducted in a timely fashion;
- (ii) Require the director to certify any such environmental professional who the director determines complies with those criteria;
- (iii) Require any such environmental professional initially to pay the fee established in the rules adopted under division (B)(5)(b) of this section at the time that the environmental professional is so certified by the director;
- (iv) Establish a time period within which any such environmental professional who does not comply with those criteria may obtain the credentials that are necessary for certification;
- (v) Require the director to deny certification for any such environmental professional who does not comply with those criteria and who fails to obtain the necessary credentials within the established time period.
- (d) Require that any information submitted to the director for the purposes of the rules adopted under division (B)(5)(a) or (c) of this section comply with division (A) of section 3746.20 of the Revised Code;
- (e) Authorize the director to suspend or revoke the certification of an environmental professional if the director finds that the environmental professional's performance has resulted in the issuance of no further action letters under section 3746.11 of the Revised Code that are not consistent with applicable standards or finds that the certified environmental professional has not substantially complied with section 3746.31 of the Revised Code;
- (f) Authorize the director to suspend for a period of not more than five years or to permanently revoke a certified environmental professional's certification for any violation of or failure to comply with an ethical standard established in rules adopted under division (B)(5) of this section;
- (g) Require the director to revoke the certification of an environmental professional if the director finds that the environmental professional falsified any information on the environmental professional's application for certification regarding the environmental professional's credentials or qualifications or any other information generated for the purposes of or use under this chapter or rules adopted under it;
- (h) Require the director permanently to revoke the certification of an environmental professional who has violated or is violating division (A) of

section 3746.18 of the Revised Code;

(i) Preclude the director from revoking the certification of an environmental professional who only conducts investigations and remedies at property contaminated solely with petroleum unless the director first consults with the director of commerce.

(6) Criteria and procedures for the certification of laboratories to perform analyses under this chapter and rules adopted under it. The issuance, denial, suspension, and revocation of those certifications are subject to Chapter 3745. of the Revised Code, and the director of environmental protection shall take any such action regarding a certification as a final action.

The rules adopted under division (B)(6) of this section shall do all of the following:

(a) Provide for the certification to perform analyses of laboratories in accordance with the criteria and procedures established in the rules adopted under division (B)(6)(a) of this section and establish an annual fee to be paid by those laboratories. The fee shall be established at an amount calculated to defray the costs to the agency for the review of the qualifications of those laboratories for certification and for the issuance of the certifications. The rules adopted under division (B)(6)(a) of this section may provide for the certification of those laboratories to perform only particular types or categories of analyses, specific test parameters or group of test parameters, or a specific matrix or matrices under this chapter.

(b) Develop a schedule for and establish requirements governing the review by the director of the operations of laboratories that were deemed to be certified laboratories under division (E) of section 3746.07 of the Revised Code in order to determine if they comply with the criteria established in rules adopted under division (B)(6) of this section. The rules adopted under division (B)(6)(b) of this section shall do at least all of the following:

(i) Ensure that the review is conducted in a timely fashion;

(ii) Require the director to certify any such laboratory that the director determines complies with those criteria;

(iii) Require any such laboratory initially to pay the fee established in the rules adopted under division (B)(6)(a) of this section at the time that the laboratory is so certified by the director;

(iv) Establish a time period within which any such laboratory that does not comply with those criteria may make changes in its operations necessary for the performance of analyses under this chapter and rules adopted under it in order to be certified by the director;

(v) Require the director to deny certification for any such laboratory that

does not comply with those criteria and that fails to make the necessary changes in its operations within the established time period.

(c) Require that any information submitted to the director for the purposes of the rules adopted under division (B)(6)(a) or (b) of this section comply with division (A) of section 3746.20 of the Revised Code;

(d) Authorize the director to suspend or revoke the certification of a laboratory if the director finds that the laboratory's performance has resulted in the issuance of no further action letters under section 3746.11 of the Revised Code that are not consistent with applicable standards;

(e) Authorize the director to suspend or revoke the certification of a laboratory if the director finds that the laboratory falsified any information on its application for certification regarding its credentials or qualifications;

(f) Require the director permanently to revoke the certification of a laboratory that has violated or is violating division (A) of section 3746.18 of the Revised Code.

(7) Information to be included in a no further action letter prepared under section 3746.11 of the Revised Code, including, without limitation, all of the following:

(a) A summary of the information required to be submitted to the certified environmental professional preparing the no further action letter under division (C) of section 3746.10 of the Revised Code;

(b) Notification that a risk assessment was performed in accordance with rules adopted under division (B)(2) of this section if such an assessment was used in lieu of generic numerical clean-up standards established in rules adopted under division (B)(1) of this section;

(c) The contaminants addressed at the property, if any, their source, if known, and their levels prior to remediation;

(d) The identity of any other person who performed work to support the request for the no further action letter as provided in division (B)(2) of section 3746.10 of the Revised Code and the nature and scope of the work performed by that person;

(e) A list of the data, information, records, and documents relied upon by the certified environmental professional in preparing the no further action letter.

(8) Methods for determining fees to be paid for the following services provided by the agency under this chapter and rules adopted under it:

(a) Site- or property-specific technical assistance in developing or implementing plans in connection with a voluntary action;

(b) Reviewing applications for and issuing consolidated standards permits under section 3746.15 of the Revised Code and monitoring



compliance with those permits;

(c) Negotiating, preparing, and entering into agreements necessary for the implementation and administration of this chapter and rules adopted under it;

(d) Reviewing no further action letters, issuing covenants not to sue, and monitoring compliance with any terms and conditions of those covenants and with operation and maintenance agreements entered into pursuant to those covenants, including, without limitation, conducting audits of properties where voluntary actions are being or were conducted under this chapter and rules adopted under it.

The fees established pursuant to the rules adopted under division (B)(8) of this section shall be at a level sufficient to defray the direct and indirect costs incurred by the agency for the administration and enforcement of this chapter and rules adopted under it other than the provisions regarding the certification of professionals and laboratories.

(9) Criteria for selecting the no further action letters issued under section 3746.11 of the Revised Code that will be audited under section 3746.17 of the Revised Code, and the scope and procedures for conducting those audits. The rules adopted under division (B)(9) of this section, at a minimum, shall require the director to establish priorities for auditing no further action letters to which any of the following applies:

(a) The letter was prepared by an environmental professional who was deemed to be a certified professional under division (D) of section 3746.07 of the Revised Code, but who does not comply with the criteria established in rules adopted under division (B)(5) of this section as determined pursuant to rules adopted under division (B)(5)(d) of this section;

(b) The letter was submitted fraudulently;

(c) The letter was prepared by a certified environmental professional whose certification subsequently was revoked in accordance with rules adopted under division (B)(5) of this section, or analyses were performed for the purposes of the no further action letter by a certified laboratory whose certification subsequently was revoked in accordance with rules adopted under division (B)(6) of this section;

(d) A covenant not to sue that was issued pursuant to the letter was revoked under this chapter;

(e) The letter was for a voluntary action that was conducted pursuant to a risk assessment in accordance with rules adopted under division (B)(2) of this section;

(f) The letter was for a voluntary action that included as remedial activities engineering controls or institutional controls or activity and use

limitations authorized under section 3746.05 of the Revised Code.

The rules adopted under division (B)(9) of this section shall provide for random audits of no further action letters to which the rules adopted under divisions (B)(9)(a) to (f) of this section do not apply.

(10) A classification system to characterize ground water according to its capability to be used for human use and its impact on the environment and a methodology that shall be used to determine when ground water that has become contaminated from sources on a property for which a covenant not to sue is requested under section 3746.11 of the Revised Code shall be remediated to the standards established in the rules adopted under division (B)(1) or (2) of this section.

(a) In adopting rules under division (B)(10) of this section to characterize ground water according to its capability for human use, the director shall consider all of the following:

(i) The presence of legally enforceable, reliable restrictions on the use of ground water, including, without limitation, local rules or ordinances;

(ii) The presence of regional commingled contamination from multiple sources that diminishes the quality of ground water;

(iii) The natural quality of ground water;

(iv) Regional availability of ground water and reasonable alternative sources of drinking water;

(v) The productivity of the aquifer;

(vi) The presence of restrictions on the use of ground water implemented under this chapter and rules adopted under it;

(vii) The existing use of ground water.

(b) In adopting rules under division (B)(10) of this section to characterize ground water according to its impacts on the environment, the director shall consider both of the following:

(i) The risks posed to humans, fauna, surface water, sediments, soil, air, and other resources by the continuing presence of contaminated ground water;

(ii) The availability and feasibility of technology to remedy ground water contamination.

(11) Governing the application for and issuance of variances under section 3746.09 of the Revised Code;

(12)(a) In the case of voluntary actions involving contaminated ground water, specifying the circumstances under which the generic numerical clean-up standards established in rules adopted under division (B)(1) of this section and standards established through a risk assessment conducted pursuant to rules adopted under division (B)(2) of this section shall be

inapplicable to the remediation of contaminated ground water and under which the standards for remediating contaminated ground water shall be established on a case-by-case basis prior to the commencement of the voluntary action pursuant to rules adopted under division (B)(12)(b) of this section;

(b) Criteria and procedures for the case-by-case establishment of standards for the remediation of contaminated ground water under circumstances in which the use of the generic numerical clean-up standards and standards established through a risk assessment are precluded by the rules adopted under division (B)(12)(a) of this section. The rules governing the procedures for the case-by-case development of standards for the remediation of contaminated ground water shall establish application, public participation, adjudication, and appeals requirements and procedures that are equivalent to the requirements and procedures established in section 3746.09 of the Revised Code and rules adopted under division (B)(11) of this section, except that the procedural rules shall not require an applicant to make the demonstrations set forth in divisions (A)(1) to (3) of section 3746.09 of the Revised Code.

(13) A definition of the evidence that constitutes sufficient evidence for the purpose of division (A)(5) of section 3746.02 of the Revised Code.

At least thirty days before filing the proposed rules required to be adopted under this section with the secretary of state, director of the legislative service commission, and joint committee on agency rule review in accordance with divisions (B) and (H) of section 119.03 of the Revised Code, the director of environmental protection shall hold at least one public meeting on the proposed rules in each of the five districts into which the agency has divided the state for administrative purposes.

Sec. 3746.071. (A) As used in this section, "certified professional" means a certified professional deemed to be certified under division (D) of section 3746.07 of the Revised Code.

(B) A certified professional shall do all of the following:

(1) Protect the safety, health, and welfare of the public in the performance of ~~his~~ professional duties. If a circumstance arises where the certified professional faces a situation where the safety, health, or welfare of the public would not be protected, ~~he~~ the certified professional shall do all of the following:

(a) Sever ~~his~~ the relationship with ~~his~~ the certified professional's employer or client;

(b) Refuse to accept responsibility for the design, report, or statement involved;

(c) Notify the director of environmental protection if, in the opinion of the certified professional, the situation is sufficiently important.

(2) Undertake to perform assignments only when ~~he~~ the certified professional or ~~his~~ the certified professional's consulting support is qualified by training and experience in the specific technical fields involved;

(3) Be completely objective in any professional report, statement, or testimony. ~~He~~ The certified professional shall include all relevant and pertinent information in the report, statement, or testimony when the result of an omission would or reasonably could lead to a fallacious conclusion.

(4) Express an opinion as a technical or expert witness before any court, commission, or other tribunal only when it is founded upon adequate knowledge of the facts in issue, upon a background of technical competence in the subject matter, and upon honest conviction of the accuracy and propriety of ~~his~~ the testimony.

(C) A certified professional shall not issue statements, criticisms, or arguments on matters connected with public policy that are inspired or paid for by an interested party, unless ~~he~~ the certified professional has prefaced ~~his~~ the remarks by explicitly identifying ~~himself~~ the certified professional, by disclosing the identity of the parties on whose behalf ~~he~~ the certified professional is speaking, and by revealing the existence of any pecuniary interest ~~he~~ the certified professional may have in the instant matters.

(D)(1) A certified professional shall conscientiously avoid any conflict of interest with ~~his~~ the certified professional's employer or client.

(2) A certified professional promptly shall inform ~~his~~ the certified professional's employer or client of any business association, interests, or circumstances that could influence ~~his~~ the certified professional's judgment or the quality of ~~his~~ the certified professional's service to ~~his~~ the employer or client.

(3) A certified professional shall not accept compensation, financial or otherwise, from more than one party for services on or pertaining to the same project, unless the circumstances are fully disclosed to, and agreed to, by all interested parties or their duly authorized agents.

(4) A certified professional shall not solicit or accept financial or other valuable considerations from material or equipment suppliers for specifying their products.

(5) A certified professional shall not solicit or accept gratuities, directly or indirectly, from contractors, their agents, or other parties dealing directly with ~~his~~ the certified professional's employer or client in connection with the work for which ~~he~~ the certified professional is responsible.

(E)(1) A certified professional shall not pay, solicit, or offer, directly or

indirectly, any bribe or commission for professional employment with the exception of ~~his~~ payment of the usual commission for securing salaried positions through licensed employment agencies.

(2) A certified professional shall seek professional employment on the basis of qualification and competence for proper accomplishment of the work. A certified professional may submit proposed fee information prior to ~~his~~ selection to serve as a certified professional under this chapter and rules adopted under it.

(3) A certified professional shall not falsify or permit misrepresentation of ~~his~~ the certified professional's or ~~his~~ the certified professional's associates' academic or professional qualifications. ~~He~~ The certified professional shall not misrepresent or exaggerate ~~his~~ the certified professional's degree of responsibility in or for the subject matter of prior assignments.

(4) Brochures or other presentations incident to the solicitation of employment by a certified professional shall not misrepresent pertinent facts concerning ~~his~~ the certified professional's employers, employees, associates, or joint ventures, or ~~his or their~~ the past accomplishments of any of them, with the intent and purpose of enhancing ~~his~~ the certified professional's qualifications for ~~his~~ the certified professional's work.

(F)(1) A certified professional shall not sign or seal professional work for which ~~he~~ the certified professional does not have personal professional knowledge and direct supervisory control and responsibility.

(2) A certified professional shall not knowingly associate with, or permit the use of ~~his~~ the certified professional's own name or ~~his firm's~~ the name of the certified professional's firm in, a business venture by any person or firm that ~~he~~ the certified professional knows, or has reason to believe, is engaging in business or professional practices of a fraudulent or dishonest nature.

(3) If a certified professional has knowledge or reason to believe that another person or firm has violated any of the provisions of this chapter or any requirement of this section, ~~he~~ the certified professional shall present the information to the director in writing.

(G) The director, in accordance with ~~Chapter 3745.~~ rules adopted under section 3746.04 of the Revised Code, may suspend for a period of not more than five years or permanently revoke a certified professional's certification for a violation of or failure to comply with any requirement or obligation set forth in this section.

Sec. 3748.07. (A) Every facility that proposes to handle radioactive material or radiation-generating equipment for which licensure or registration, respectively, by its handler is required shall apply in writing to

the director of health on forms prescribed and provided by the director for licensure or registration. Terms and conditions of licenses and certificates of registration may be amended in accordance with rules adopted under section 3748.04 of the Revised Code or orders issued by the director pursuant to section 3748.05 of the Revised Code.

(B) Until rules are adopted under section 3748.04 of the Revised Code, an application for a certificate of registration shall be accompanied by a biennial registration fee of two hundred eighteen dollars. On and after the effective date of those rules, an applicant for a license, registration certificate, or renewal of either shall pay the appropriate fee established in those rules.

All fees collected under this section shall be deposited in the state treasury to the credit of the general operations fund created in section 3701.83 of the Revised Code. The fees shall be used solely to administer and enforce this chapter and rules adopted under it.

Any fee required under this section that has not been paid within ninety days after the invoice date shall be assessed at two times the original invoiced fee. Any fee that has not been paid within one hundred eighty days after the invoice date shall be assessed at five times the original invoiced fee.

(C) The director shall grant a license or registration to any applicant who has paid the required fee and is in compliance with this chapter and rules adopted under it.

Until rules are adopted under section 3748.04 of the Revised Code, certificates of registration shall be effective for two years from the date of issuance. On and after the effective date of those rules, licenses and certificates of registration shall be effective for the applicable period established in those rules. Licenses and certificates of registration shall be renewed in accordance with the standard renewal procedure established in Chapter 4745. of the Revised Code.

Sec. 3748.13. (A) The director of health shall inspect sources of radiation for which licensure or registration by the handler is required, and the sources' shielding and surroundings, according to the schedule established in rules adopted under division (D) of section 3748.04 of the Revised Code. In accordance with rules adopted under that section, the director shall inspect all records and operating procedures of handlers that install sources of radiation and all sources of radiation for which licensure of radioactive material or registration of radiation-generating equipment by the handler is required. The director may make other inspections upon receiving complaints or other evidence of violation of this chapter or rules adopted

under it.

The director shall require any hospital registered under division (A) of section 3701.07 of the Revised Code to develop and maintain a quality assurance program for all sources of radiation-generating equipment. A certified radiation expert shall conduct oversight and maintenance of the program and shall file a report of audits of the program with the director on forms prescribed by the director. The audit reports shall become part of the inspection record.

(B) Until rules are adopted under division (A)(8) of section 3748.04 of the Revised Code, a facility shall pay inspection fees according to the following schedule and categories:

First dental x-ray tube	\$ <del>118.00</del> <u>129.00</u>
Each additional dental x-ray tube at the same location	\$ <del>59.00</del> <u>64.00</u>
First medical x-ray tube	\$ <del>235.00</del> <u>256.00</u>
Each additional medical x-ray tube at the same location	\$ <del>125.00</del> <u>136.00</u>
Each unit of ionizing radiation-generating equipment capable of operating at or above 250 kilovoltage peak	\$ <del>466.00</del> <u>508.00</u>
First nonionizing radiation-generating equipment of any kind	\$ <del>235.00</del> <u>256.00</u>
Each additional nonionizing radiation-generating equipment of any kind at the same location	\$ <del>125.00</del> <u>136.00</u>
Assembler-maintainer inspection consisting of an inspection of records and operating procedures of handlers that install sources of radiation	\$ <del>291.00</del> <u>317.00</u>

Until rules are adopted under division (A)(8) of section 3748.04 of the Revised Code, the fee for an inspection to determine whether violations cited in a previous inspection have been corrected is fifty per cent of the fee applicable under the schedule in this division. Until those rules are adopted, the fee for the inspection of a facility that is not licensed or registered and for which no license or registration application is pending at the time of inspection is three hundred ~~sixty-three~~ ninety-five dollars plus the fee applicable under the schedule in this division.

The director may conduct a review of shielding plans or the adequacy of shielding on the request of a licensee or registrant or an applicant for licensure or registration or during an inspection when the director considers a review to be necessary. Until rules are adopted under division (A)(8) of section 3748.04 of the Revised Code, the fee for the review is ~~five~~ six hundred ~~eighty-three~~ thirty-five dollars for each room where a source of radiation is used and is in addition to any other fee applicable under the schedule in this division.

All fees shall be paid to the department of health no later than thirty days after the invoice for the fee is mailed. Fees shall be deposited in the general operations fund created in section 3701.83 of the Revised Code. The fees shall be used solely to administer and enforce this chapter and rules adopted under it.

Any fee required under this section that has not been paid within ninety days after the invoice date shall be assessed at two times the original invoiced fee. Any fee that has not been paid within one hundred eighty days after the invoice date shall be assessed at five times the original invoiced fee.

(C) If the director determines that a board of health of a city or general health district is qualified to conduct inspections of radiation-generating equipment, the director may delegate to the board, by contract, the authority to conduct such inspections. In making a determination of the qualifications of a board of health to conduct those inspections, the director shall evaluate the credentials of the individuals who are to conduct the inspections of radiation-generating equipment and the radiation detection and measuring equipment available to them for that purpose. If a contract is entered into, the board shall have the same authority to make inspections of radiation-generating equipment as the director has under this chapter and rules adopted under it. The contract shall stipulate that only individuals approved by the director as qualified shall be permitted to inspect radiation-generating equipment under the contract's provisions. The contract shall provide for such compensation for services as is agreed to by the director and the board of health of the contracting health district. The director may reevaluate the credentials of the inspection personnel and their radiation detecting and measuring equipment as often as the director considers necessary and may terminate any contract with the board of health of any health district that, in the director's opinion, is not satisfactorily performing the terms of the contract.

(D) The director may enter at all reasonable times upon any public or private property to determine compliance with this chapter and rules



adopted under it.

Sec. 3770.061. There is hereby created in the state treasury the charitable gaming oversight fund. The state lottery commission shall credit to the fund any money it receives from the office of the attorney general under any agreement the commission and the office have entered into under division (I) of section 2915.08 of the Revised Code. The commission shall use money in the fund to provide oversight, licensing, and monitoring of charitable gaming activities in this state in accordance with the agreement and Chapter 2915. of the Revised Code. Not later than the first day of July of each fiscal year, or as soon as possible thereafter, the commission may certify to the office of budget and management any unobligated fund balances not necessary to be used under this section. The commission may request the office of budget and management to transfer these balances to the lottery profits education fund for use in accordance with section 3770.06 of the Revised Code.

Sec. 3773.34. (A) The Ohio athletic commission shall adopt and may amend or rescind rules in accordance with Chapter 119. of the Revised Code, prescribing the conditions under which prize fights and public boxing or wrestling matches or exhibitions may be conducted, classifying professional boxers by weight, and providing for the administration of sections 3773.31 to 3773.57 of the Revised Code. The rules may require that an applicant for a contestant's license to participate in a public boxing match or exhibition take an HIV test, as defined in section 3701.24 of the Revised Code, before being issued the contestant's license and may require that a licensed contestant take such an HIV test before participating in a public boxing match or exhibition. The commission, or the commission's executive director when authorized by the commission, may issue, deny, suspend, or revoke permits to hold prize fights and public boxing or wrestling matches or exhibitions, ~~and. The commission~~ may issue, deny, suspend, or revoke licenses to persons engaged in any public boxing match or exhibition as authorized by sections 3773.31 to 3773.57 of the Revised Code.

(B) In addition to the duties set forth in this chapter, the Ohio athletic commission shall take action as necessary to carry out the provisions of Chapter 4771. of the Revised Code governing athlete agents.

(C) On or before the thirty-first day of December of each year, the commission shall make a report to the governor of its proceedings for the year ending on the first day of December of that calendar year, and may include in the report any recommendations pertaining to its duties.

Sec. 3773.38. Each person who holds a promoter's license issued under section 3773.36 of the Revised Code who desires to conduct a public boxing

or wrestling match or exhibition where one or more contests are to be held shall obtain a permit from the Ohio athletic commission or the commission's executive director when the executive director is authorized by the commission to issue those types of permits. Application for such a permit shall be made in writing and on forms prescribed by the commission, shall be filed with the commission, and shall be accompanied by the permit fee prescribed in section 3773.43 of the Revised Code.

The application for a permit issued under this section shall include the date and starting time of the match or exhibition, the address of the place where the match or exhibition is to be held, the names of the contestants, the seating capacity of the building or hall where the exhibition is to be held, the admission charge or any other charges, the amount of compensation or the percentage of gate receipts to be paid to each contestant, the name and address of the applicant, a copy of the current official rules that govern the particular sport, and the serial number of the applicant's promoter's license.

The commission, or the commission's executive director when authorized by the commission, may require the applicant to deposit with the commission before a public boxing match or exhibition a cash bond, certified check, bank draft, or surety bond in an amount equal to five per cent of the estimated gross receipts from the match or exhibition.

Sec. 3773.39. (A) Upon receipt of an application for a permit to hold a public boxing or wrestling match or exhibition under section 3773.38 of the Revised Code, the Ohio athletic commission, or the commission's executive director when authorized by the commission, shall determine if the applicant holds a valid promoter's license issued pursuant to section 3773.36 of the Revised Code. Upon receipt of an application for a permit to hold a public boxing match or exhibition, the commission, or the commission's executive director when authorized by the commission, also shall determine if the contestants are evenly and fairly matched according to skill, experience, and weight so as to produce a fair and sportsmanlike contest, and whether the applicant is financially responsible and is able to pay to each contestant the compensation or percentage of the gate receipts named in the application. The commission, or the commission's executive director when authorized by the commission, may, if applicable, require the applicant to deposit with it within forty-eight hours before the match or exhibition the total compensation or estimated portion of gate receipts to be paid all contestants named in the application made under section 3773.38 of the Revised Code.

(B) If the commission, or the commission's executive director when authorized by the commission, determines that the applicant has met all the requirements specified in division (A) of this section, ~~it~~ the commission or

executive director shall issue the applicant a permit to conduct the match or exhibition. If the applicant fails to deposit any compensation or portion of gate receipts required by the commission, or executive director before the first contest of the match or exhibition is held, the commission, or the commission's executive director when authorized by the commission, may revoke the permit and order the applicant not to conduct the match or exhibition described in the permit.

(C) Each permit issued pursuant to this section shall bear the name and post office address of the applicant, the address of the place where the public boxing or wrestling match or exhibition is to be held, the date and starting time of the match or exhibition, and a serial number designated by the commission.

A permit issued under this section shall allow the permit holder to conduct only the match or exhibition named in the permit. A permit is not transferable.

Sec. 3773.40. No person who holds a promoter's license to conduct a public boxing match or exhibition under section 3773.36 of the Revised Code shall:

(A) Hold any match or exhibition at any time or place other than that stated on a permit issued under section 3773.38 of the Revised Code;

(B) Allow any contestant to participate in the match or exhibition unless the contestant is the licensed contestant named in the application for such permit or a licensed contestant authorized to compete as a substitute for such a contestant by the inspector assigned to the facility where the match or exhibition is held for that match or exhibition;

(C) Charge a higher admission price for a match or exhibition than that stated in the application;

(D) Pay a greater compensation or percentage of the gate receipts to any contestant than that stated in the application.

The Ohio athletic commission, or the commission's executive director when authorized by the commission, upon application by a holder of a permit under section 3773.38 of the Revised Code, may allow the permit holder to hold the match or exhibition for which the permit was issued at an alternative site that is within the same municipal corporation or township and that offers substantially similar seating facilities, or allow the permit holder to substitute contestants or seconds, provided that the substitute contestants are evenly matched with their opponents in skill, experience, and weight.

Sec. 3773.57. The Ohio athletic commission and the commission's executive director shall not issue a license or permit to conduct public

boxing or wrestling matches or exhibitions in a municipal corporation or the unincorporated portion of a township if the commission or the commission's executive director determines that the legislative authority of the municipal corporation or board of township trustees has in effect an ordinance or resolution prohibiting such matches or exhibitions.

Sec. 3781.07. There is hereby established in the department of commerce a board of building standards consisting of ~~ten~~ eleven members appointed by the governor with the advice and consent of the senate. The board shall appoint a secretary who shall serve in the unclassified civil service for a term of six years at a salary fixed pursuant to Chapter 124. of the Revised Code. The board may employ additional staff in the classified civil service. The secretary may be removed by the board under the rules the board adopts. Terms of office shall be for four years, commencing on the fourteenth day of October and ending on the thirteenth day of October. Each member shall hold office from the date of appointment until the end of the term for which the member was appointed. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of such term. Any member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first. One of the members appointed to the board shall be an attorney at law, admitted to the bar of this state; two shall be registered architects; two shall be professional engineers, one in the field of mechanical and one in the field of structural engineering, each of whom shall be duly licensed to practice such profession in this state; one shall be a person of recognized ability, broad training, and fifteen years experience in problems and practice incidental to the construction and equipment of buildings specified in section 3781.06 of the Revised Code; one shall be a person with recognized ability and experience in the manufacture and construction of industrialized units as defined in section 3781.06 of the Revised Code; one shall be a member of the fire service with recognized ability and broad training in the field of fire protection and suppression; one shall be a person with at least ten years of experience and recognized expertise in building codes and standards and the manufacture of construction materials; ~~and~~ one shall be a general contractor with experience in residential and commercial construction; and one, chosen from a list of three names the Ohio municipal league submits to the governor, shall be the mayor of a municipal corporation in which the Ohio residential and nonresidential building codes are being enforced in the municipal corporation by a certified building department. Each member of the board,

not otherwise required to take an oath of office, shall take the oath prescribed by the constitution. Each member shall receive as compensation an amount fixed pursuant to division (J) of section 124.15 of the Revised Code, and shall receive actual and necessary expenses in the performance of official duties. The amount of such expenses shall be certified by the secretary of the board and paid in the same manner as the expenses of employees of the department of commerce are paid.

Sec. 3781.10. (A)(1) The board of building standards shall formulate and adopt rules governing the erection, construction, repair, alteration, and maintenance of all buildings or classes of buildings specified in section 3781.06 of the Revised Code, including land area incidental to those buildings, the construction of industrialized units, the installation of equipment, and the standards or requirements for materials used in connection with those buildings. The board shall incorporate those rules into separate residential and nonresidential building codes. The standards shall relate to the conservation of energy and the safety and sanitation of those buildings.

(2) The rules governing nonresidential buildings are the lawful minimum requirements specified for those buildings and industrialized units, except that no rule other than as provided in division (C) of section 3781.108 of the Revised Code that specifies a higher requirement than is imposed by any section of the Revised Code is enforceable. The rules governing residential buildings are uniform requirements for residential buildings in any area with a building department certified to enforce the state residential building code. In no case shall any local code or regulation differ from the state residential building code unless that code or regulation addresses subject matter not addressed by the state residential building code or is adopted pursuant to section 3781.01 of the Revised Code.

(3) The rules adopted pursuant to this section are complete, lawful alternatives to any requirements specified for buildings or industrialized units in any section of the Revised Code. The board shall, on its own motion or on application made under sections 3781.12 and 3781.13 of the Revised Code, formulate, propose, adopt, modify, amend, or repeal the rules to the extent necessary or desirable to effectuate the purposes of sections 3781.06 to 3781.18 of the Revised Code.

(B) The board shall report to the general assembly proposals for amendments to existing statutes relating to the purposes declared in section 3781.06 of the Revised Code that public health and safety and the development of the arts require and shall recommend any additional legislation to assist in carrying out fully, in statutory form, the purposes

declared in that section. The board shall prepare and submit to the general assembly a summary report of the number, nature, and disposition of the petitions filed under sections 3781.13 and 3781.14 of the Revised Code.

(C) On its own motion or on application made under sections 3781.12 and 3781.13 of the Revised Code, and after thorough testing and evaluation, the board shall determine by rule that any particular fixture, device, material, process of manufacture, manufactured unit or component, method of manufacture, system, or method of construction complies with performance standards adopted pursuant to section 3781.11 of the Revised Code. The board shall make its determination with regard to adaptability for safe and sanitary erection, use, or construction, to that described in any section of the Revised Code, wherever the use of a fixture, device, material, method of manufacture, system, or method of construction described in that section of the Revised Code is permitted by law. The board shall amend or annul any rule or issue an authorization for the use of a new material or manufactured unit on any like application. No department, officer, board, or commission of the state other than the board of building standards or the board of building appeals shall permit the use of any fixture, device, material, method of manufacture, newly designed product, system, or method of construction at variance with what is described in any rule the board of building standards adopts or issues or that is authorized by any section of the Revised Code. Nothing in this section shall be construed as requiring approval, by rule, of plans for an industrialized unit that conforms with the rules the board of building standards adopts pursuant to section 3781.11 of the Revised Code.

(D) The board shall recommend rules, codes, and standards to help carry out the purposes of section 3781.06 of the Revised Code and to help secure uniformity of state administrative rulings and local legislation and administrative action to the bureau of workers' compensation, the director of commerce, any other department, officer, board, or commission of the state, and to legislative authorities and building departments of counties, townships, and municipal corporations, and shall recommend that they audit those recommended rules, codes, and standards by any appropriate action that they are allowed pursuant to law or the constitution.

(E)(1) The board shall certify municipal, township, and county building departments and the personnel of those building departments, and persons and employees of individuals, firms, or corporations as described in division (E)(7) of this section to exercise enforcement authority, to accept and approve plans and specifications, and to make inspections, pursuant to sections 3781.03, 3791.04, and 4104.43 of the Revised Code.

(2) The board shall certify departments, personnel, and persons to enforce the state residential building code, to enforce the nonresidential building code, or to enforce both the residential and the nonresidential building codes. Any department, personnel, or person may enforce only the type of building code for which certified.

(3) The board shall not require a building department, its personnel, or any persons that it employs to be certified for residential building code enforcement if that building department does not enforce the state residential building code. The board shall specify, in rules adopted pursuant to Chapter 119. of the Revised Code, the requirements for certification for residential and nonresidential building code enforcement, which shall be consistent with this division. The requirements for residential and nonresidential certification may differ. Except as otherwise provided in this division, the requirements shall include, but are not limited to, the satisfactory completion of an initial examination and, to remain certified, the completion of a specified number of hours of continuing building code education within each three-year period following the date of certification which shall be not less than thirty hours. The rules shall provide that continuing education credits and certification issued by the council of American building officials, national model code organizations, and agencies or entities the board recognizes are acceptable for purposes of this division. The rules shall specify requirements that are compatible, to the extent possible, with requirements the council of American building officials and national model code organizations establish.

(4) The board shall establish and collect a certification and renewal fee for building department personnel, and persons and employees of persons, firms, or corporations as described in this section, who are certified pursuant to this division.

(5) Any individual certified pursuant to this division shall complete the number of hours of continuing building code education that the board requires or, for failure to do so, forfeit certification.

(6) This division does not require or authorize the board to certify personnel of municipal, township, and county building departments, and persons and employees of persons, firms, or corporations as described in this section, whose responsibilities do not include the exercise of enforcement authority, the approval of plans and specifications, or making inspections under the state residential and nonresidential building codes.

(7) Enforcement authority for approval of plans and specifications and enforcement authority for inspections may be exercised, and plans and specifications may be approved and inspections may be made on behalf of a

municipal corporation, township, or county, by any of the following who the board of building standards certifies:

(a) Officers or employees of the municipal corporation, township, or county;

(b) Persons, or employees of persons, firms, or corporations, pursuant to a contract to furnish architectural ~~or~~ engineering, or other services to the municipal corporation, township, or county;

(c) Officers or employees of, and persons under contract with, a municipal corporation, township, county, health district, or other political subdivision, pursuant to a contract to furnish architectural ~~or~~ engineering, or other services.

(8) Municipal, township, and county building departments have jurisdiction within the meaning of sections 3781.03, 3791.04, and 4104.43 of the Revised Code, only with respect to the types of buildings and subject matters for which they are certified under this section.

(9) Certification shall be granted upon application by the municipal corporation, the board of township trustees, or the board of county commissioners and approval of that application by the board of building standards. The application shall set forth:

(a) Whether the certification is requested for residential or nonresidential buildings, or both;

(b) The number and qualifications of the staff composing the building department;

(c) The names, addresses, and qualifications of persons, firms, or corporations contracting to furnish work or services pursuant to division (E)(7)(b) of this section;

(d) The names of any other municipal corporation, township, county, health district, or political subdivision under contract to furnish work or services pursuant to division (E)(7) of this section;

(e) The proposed budget for the operation of the building department.

(10) The board of building standards shall adopt rules governing all of the following:

(a) The certification of building department personnel and persons and employees of persons, firms, or corporations exercising authority pursuant to division (E)(7) of this section. The rules shall disqualify any employee of the department or person who contracts for services with the department from performing services for the department when that employee or person would have to pass upon, inspect, or otherwise exercise authority over any labor, material, or equipment the employee or person furnishes for the construction, alteration, or maintenance of a building or the preparation of



working drawings or specifications for work within the jurisdictional area of the department. The department shall provide other similarly qualified personnel to enforce the residential and nonresidential building codes as they pertain to that work.

(b) The minimum services to be provided by a certified building department.

(11) The board of building standards may revoke or suspend certification to enforce the residential and nonresidential building codes, on petition to the board by any person affected by that enforcement or approval of plans, or by the board on its own motion. Hearings shall be held and appeals permitted on any proceedings for certification or revocation or suspension of certification in the same manner as provided in section 3781.101 of the Revised Code for other proceedings of the board of building standards.

(12) Upon certification, and until that authority is revoked, any county or township building department shall enforce the residential and nonresidential building codes for which it is certified without regard to limitation upon the authority of boards of county commissioners under Chapter 307. of the Revised Code or boards of township trustees under Chapter 505. of the Revised Code.

(F) In addition to hearings sections 3781.06 to 3781.18 and 3791.04 of the Revised Code require, the board of building standards shall make investigations and tests, and require from other state departments, officers, boards, and commissions information the board considers necessary or desirable to assist it in the discharge of any duty or the exercise of any power mentioned in this section or in sections 3781.06 to 3781.18, 3791.04, and 4104.43 of the Revised Code.

(G) The board shall adopt rules and establish reasonable fees for the review of all applications submitted where the applicant applies for authority to use a new material, assembly, or product of a manufacturing process. The fee shall bear some reasonable relationship to the cost of the review or testing of the materials, assembly, or products and for the notification of approval or disapproval as provided in section 3781.12 of the Revised Code.

(H) The residential construction advisory committee shall provide the board with a proposal for a state residential building code that the committee recommends pursuant to division (C)(1) of section 4740.14 of the Revised Code. Upon receiving a recommendation from the committee that is acceptable to the board, the board shall adopt rules establishing that code as the state residential building code.

(I) The board shall cooperate with the director of job and family services when the director promulgates rules pursuant to section 5104.05 of the Revised Code regarding safety and sanitation in type A family day-care homes.

(J) The board shall adopt rules to implement the requirements of section 3781.108 of the Revised Code.

Sec. 3781.102. (A) Any county or municipal building department certified pursuant to division (E) of section 3781.10 of the Revised Code as of September 14, 1970, and that, as of that date, was inspecting single-family, two-family, and three-family residences, and any township building department certified pursuant to division (E) of section 3781.10 of the Revised Code, is hereby declared to be certified to inspect single-family, two-family, and three-family residences containing industrialized units, and shall inspect the buildings or classes of buildings subject to division (E) of section 3781.10 of the Revised Code.

(B) Each board of county commissioners may adopt, by resolution, rules establishing standards and providing for the licensing of electrical and heating, ventilating, and air conditioning contractors who are not required to hold a valid and unexpired license pursuant to Chapter 4740. of the Revised Code.

Rules adopted by a board of county commissioners pursuant to this division may be enforced within the unincorporated areas of the county and within any municipal corporation where the legislative authority of the municipal corporation has contracted with the board for the enforcement of the county rules within the municipal corporation pursuant to section 307.15 of the Revised Code. The rules shall not conflict with rules adopted by the board of building standards pursuant to section 3781.10 of the Revised Code or by the department of commerce pursuant to Chapter 3703. of the Revised Code. This division does not impair or restrict the power of municipal corporations under Section 3 of Article XVIII, Ohio Constitution, to adopt rules concerning the erection, construction, repair, alteration, and maintenance of buildings and structures or of establishing standards and providing for the licensing of specialty contractors pursuant to section 715.27 of the Revised Code.

A board of county commissioners, pursuant to this division, may require all electrical contractors and heating, ventilating, and air conditioning contractors, other than those who hold a valid and unexpired license issued pursuant to Chapter 4740. of the Revised Code, to successfully complete an examination, test, or demonstration of technical skills, and may impose a fee and additional requirements for a license to engage in their respective

occupations within the jurisdiction of the board's rules under this division.

(C) No board of county commissioners shall require any specialty contractor who holds a valid and unexpired license issued pursuant to Chapter 4740. of the Revised Code to successfully complete an examination, test, or demonstration of technical skills in order to engage in the type of contracting for which the license is held, within the unincorporated areas of the county and within any municipal corporation whose legislative authority has contracted with the board for the enforcement of county regulations within the municipal corporation, pursuant to section 307.15 of the Revised Code.

(D) A board may impose a fee for registration of a specialty contractor who holds a valid and unexpired license issued pursuant to Chapter 4740. of the Revised Code before that specialty contractor may engage in the type of contracting for which the license is held within the unincorporated areas of the county and within any municipal corporation whose legislative authority has contracted with the board for the enforcement of county regulations within the municipal corporation, pursuant to section 307.15 of the Revised Code, provided that the fee is the same for all specialty contractors who wish to engage in that type of contracting. If a board imposes such a fee, the board immediately shall permit a specialty contractor who presents proof of holding a valid and unexpired license and pays the required fee to engage in the type of contracting for which the license is held within the unincorporated areas of the county and within any municipal corporation whose legislative authority has contracted with the board for the enforcement of county regulations within the municipal corporation, pursuant to section 307.15 of the Revised Code.

(E) The political subdivision associated with each municipal, township, and county building department the board of building standards certifies pursuant to division (E) of section 3781.10 of the Revised Code may prescribe fees to be paid by persons, political subdivisions, or any department, agency, board, commission, or institution of the state, for the acceptance and approval of plans and specifications, and for the making of inspections, pursuant to sections 3781.03 and 3791.04 of the Revised Code.

(F) Each political subdivision that prescribes fees pursuant to division (E) of this section shall collect, on behalf of the board of building standards, fees equal to the following:

(1) Three per cent of the fees the political subdivision collects in connection with nonresidential buildings;

(2) One per cent of the fees the political subdivision collects in connection with residential buildings.

(G)(1) The board shall adopt rules, in accordance with Chapter 119. of the Revised Code, specifying the manner in which the fee assessed pursuant to division (F) of this section shall be collected and remitted monthly to the board. The board shall pay the fees into the state treasury to the credit of the industrial compliance operating fund created in section 121.084 of the Revised Code.

(2) All money credited to the industrial compliance operating fund under this division shall be used exclusively for the following:

(a) Operating costs of the board;

(b) Providing services, including educational programs, for the building departments that are certified by the board pursuant to division (E) of section 3781.10 of the Revised Code;

(c) Paying the expenses of the residential construction advisory committee, including the expenses of committee members as provided in section 4740.14 of the Revised Code.

(H) A board of county commissioners that adopts rules providing for the licensing of electrical and heating, ventilating, and air conditioning contractors, pursuant to division (B) of this section, may accept, for purposes of satisfying the requirements of rules adopted under that division, a valid and unexpired license issued pursuant to Chapter 4740. of the Revised Code that is held by an electrical or heating, ventilating, and air conditioning contractor, for the construction, replacement, maintenance, or repair of one-family, two-family, or three-family dwelling houses or accessory structures incidental to those dwelling houses.

(I) A board of county commissioners shall not register a specialty contractor who is required to hold a license under Chapter 4740. of the Revised Code but does not hold a valid license issued under that chapter.

(J) As used in this section, "specialty contractor" means a heating, ventilating, and air conditioning contractor, refrigeration contractor, electrical contractor, plumbing contractor, or hydronics contractor, as those contractors are described in Chapter 4740. of the Revised Code.

Sec. 3781.191. The Ohio board of building appeals has no authority to hear any case based on the Ohio residential building code or to grant any variance to the Ohio residential building code.

Sec. 3793.09. (A) There is hereby created the council on alcohol and drug addiction services which shall consist of the public officials specified in division (B) of this section, or their designees, and thirteen members appointed by the governor with the advice and consent of the senate. The members appointed by the governor shall be representatives of the following: boards of alcohol, drug addiction, and mental health services; the

criminal and juvenile justice systems; and alcohol and drug addiction programs. At least four of the appointed members shall be persons who have received or are receiving alcohol or drug addiction services or are parents or other relatives of such persons; of these at least two shall be women and at least one shall be a member of a minority group.

The governor shall make initial appointments to the council not later than thirty days after October 10, 1989. Of the initial appointments, six shall be for terms ending July 31, 1991, and seven shall be for terms ending July 31, 1992. Thereafter, terms of office shall be two years, with each term ending on the same day of the same month as the term it succeeds. Each member shall hold office from the date of the member's appointment until the end of the term for which the member was appointed. Members may be reappointed. Vacancies shall be filled in the same manner as original appointments. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office as a member for the remainder of the term. A member shall continue in office subsequent to the expiration of the member's term until the member's successor takes office or until a period of sixty days has elapsed, whichever occurs first.

(B) The directors of health, public safety, mental health, rehabilitation and correction, and youth services; the superintendents of public instruction and liquor control; the attorney general; the adjutant general; and the executive director of the office division of criminal justice services in the department of public safety shall be voting members of the council, except that any of these officials may designate an individual to serve in the official's place as a voting member of the council. The director of alcohol and drug addiction services shall serve as a nonvoting member of the council.

(C) The governor shall annually appoint a ~~chairman~~ chairperson from among the members of the council. The council shall meet quarterly and at other times the ~~chairman~~ chairperson considers necessary. In addition to other duties specified in this chapter, the council shall review the development of the comprehensive statewide plan for alcohol and drug addiction services, revisions of the plan, and other actions taken to implement the purposes of this chapter by the department of alcohol and drug addiction services and shall act as an advisory council to the director of alcohol and drug addiction services.

(D) Members of the council shall serve without compensation, but shall be paid actual and necessary expenses incurred in the performance of their duties.

Sec. 3901.021. (A) Three-fourths of all appointment and other fees collected under section 3905.10, and division (B) of section 3905.20, and division (A)(6) of section 3905.40 of the Revised Code shall be paid into the state treasury to the credit of the department of insurance operating fund, which is hereby created. The remaining one-fourth shall be credited to the general revenue fund. All Other revenues collected by the superintendent of insurance, such as registration fees for sponsored seminars or conferences and grants from private entities, shall be paid into the state treasury to the credit of the department of insurance operating fund.

(B) Seven-tenths of all fees collected under divisions (A)(2), (A)(3), and (A)(6) of section 3905.40 of the Revised Code shall be paid into the state treasury to the credit of the department of insurance operating fund. The remaining three-tenths shall be credited to the general revenue fund.

(C) All operating expenses of the department of insurance except those expenses defined under section 3901.07 of the Revised Code shall be paid from the department of insurance operating fund.

Sec. 3901.17. (A) As used in this section:

(1) "Captive insurer" has the meaning defined in section 3905.36 of the Revised Code.

(2) "Insurer" includes, but is not limited to, any person that is an affiliate of or affiliated with the insurer, as defined in division (A) of section 3901.32 of the Revised Code, and any person that is a subsidiary of the insurer as defined in division (F) of section 3901.32 of the Revised Code.

~~(2)~~(3) "Laws of this state relating to insurance" has the meaning defined in division (A)(1) of section 3901.04 of the Revised Code.

~~(3)~~(4) "Person" has the meaning defined in division (A) of section 3901.19 of the Revised Code.

(B) Any of the following acts in this state, effected by mail or otherwise, by any foreign or alien insurer not authorized to transact business within this state, any nonresident person acting on behalf of an insurer, or any nonresident insurance agent subjects the insurer, person, or agent to the exercise of personal jurisdiction over the insurer, person, or agent to the extent permitted by the constitutions of this state and of the United States:

(1) Issuing or delivering contracts of insurance to residents of this state or to corporations authorized to do business therein;

(2) Making or proposing to make any insurance contracts;

(3) Soliciting, taking, or receiving any application for insurance;

(4) Receiving or collecting any premium, commission, membership fee, assessment, dues, or other consideration for any insurance contract or any part thereof;

(5) Disseminating information as to coverage or rates, forwarding applications, inspecting risks, fixing rates, investigating or adjusting claims or losses, transacting any matters subsequent to effecting a contract of insurance and arising out of it;

(6) Doing any kind of business recognized as constituting the doing of an insurance business under Title XXXIX of the Revised Code or subject to regulation by the superintendent of insurance under the laws of this state relating to insurance.

Any such act shall be considered to be the doing of an insurance business in this state by such insurer, person, or agent and shall be its agreement that service of any lawful subpoena, notice, order, or process is of the same legal force and validity as personal service of the subpoena, notice, order, or process in this state upon the insurer, person, or agent.

(C) Service of process in judicial proceedings shall be as provided by the Rules of Civil Procedure. Service in or out of this state of notice, orders, or subpoenas in administrative proceedings before the superintendent shall be as provided in section 3901.04 of the Revised Code.

(D) Service of any notice, order, subpoena, or process in any such action, suit, or proceeding shall, in addition to the manner provided in division (C) of this section, be valid if served upon any person within this state who, in this state on behalf of such insurer, person, or agent is or has been:

- (1) Soliciting, procuring, effecting, or negotiating for insurance;
- (2) Making, issuing, or delivering any contract of insurance;
- (3) Collecting or receiving any premium, membership fees, assessment, dues, or other consideration for insurance;
- (4) Disseminating information as to coverage or rates, forwarding applications, inspecting risks, fixing rates, investigating or adjusting claims or losses, or transacting any matters subsequent to effecting a contract of insurance and arising out of it.

(E) Nothing in this section shall limit or abridge the right to serve any subpoena, order, process, notice, or demand upon any insurer, person, or agent in any other manner permitted by law.

(F) Every person investigating or adjusting any loss or claim under a policy of insurance not excepted under division (I) of this section and issued by any such insurer and covering a subject of insurance that was resident, located, or to be performed in this state at the time of issuance shall immediately report the policy to the superintendent.

(G) Each such insurer that does any of the acts set forth in division (B) of this section in this state by mail or otherwise shall be subject to a tax of

five per cent on the gross premiums, membership fees, assessments, dues, and other considerations received on all contracts of insurance covering subjects of insurance resident, located, or to be performed within this state. Such insurer shall annually, on or before the first day of July, pay such tax to the treasurer of state, as calculated on a form prescribed by the treasurer of state. If the tax is not paid when due, the tax shall be increased by a penalty of twenty-five per cent. An interest charge computed as set forth in section 5725.221 of the Revised Code shall be made on the entire sum of the tax plus penalty, which interest shall be computed from the date the tax is due until it is paid. The treasurer of state shall determine and report all claims for penalties and interest accruing under this section to the attorney general for collection.

For purposes of this division, payment is considered made when it is received by the treasurer of state, irrespective of any United States postal service marking or other stamp or mark indicating the date on which the payment may have been mailed.

(H) No contract of insurance effected in this state by mail or otherwise by any such insurer is enforceable by the insurer.

(I) This section does not apply to:

(1) Insurance obtained pursuant to sections 3905.30 to 3905.36 of the Revised Code;

(2) The transaction of reinsurance by insurers;

(3) Transactions in this state involving a policy solicited, written, and delivered outside this state covering only subjects of insurance not resident, located, or to be performed in this state at the time of issuance, provided such transactions are subsequent to the issuance of the policy;

(4) Transactions in this state involving a policy of group life or group accident and sickness insurance solicited, written, and delivered outside this state;

(5) Transactions involving contracts of insurance independently procured through negotiations occurring entirely outside this state which are reported to the superintendent and with respect to which the tax provided by section 3905.36 of the Revised Code is paid;

(6) An attorney at law acting on behalf of the attorney's clients in the adjustment of claims or losses;

(7) ~~Any~~ Except as provided in division (G) of this section, any insurance company underwriter issuing contracts of insurance to employer insureds or contracts of insurance issued to an employer insured. For purposes of this section, an "employer insured" is an insured to whom all of the following apply:



(a) The insured procures the insurance of any risk or risks by use of the services of a full-time employee acting as an insurance manager or buyer or the services of a regularly and continuously qualified insurance consultant. As used in division (I)(7)(a) of this section, a "regularly and continuously qualified insurance consultant" does not include any person licensed under Chapter 3905. of the Revised Code.

(b) The insured's aggregate annual premiums for insurance on all risks total at least twenty-five thousand dollars; and

(c) The insured has at least twenty-five full-time employees.

(8) Ocean marine insurance;

(9) Transactions involving policies issued by a captive insurer.

Sec. 3901.3814. Sections 3901.38 and 3901.381 to 3901.3813 of the Revised Code do not apply to the following:

(A) Policies offering coverage that is regulated under Chapters 3935. and 3937. of the Revised Code;

(B) An employer's self-insurance plan and any of its administrators, as defined in section 3959.01 of the Revised Code, to the extent that federal law supersedes, preempts, prohibits, or otherwise precludes the application of any provisions of those sections to the plan and its administrators;

~~(C)(1) A third-party payer for coverage provided under the medicare plus choice or medicare programs~~ advantage program operated under Title XVIII and XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended;

(2) A third-party payer for coverage provided under the medicaid program operated under Title XIX of the Social Security Act, except that if a federal waiver applied for under section 5101.93 of the Revised Code is granted or the director of job and family services determines that this provision can be implemented without a waiver, sections 3901.38 and 3901.381 to 3901.3813 of the Revised Code apply to claims submitted electronically or non-electronically that are made with respect to coverage of medicaid recipients by health insuring corporations licensed under Chapter 1751. of the Revised Code.

(D) A third-party payer for coverage provided under the tricare program offered by the United States department of defense.

~~Sec. 3901.78. Upon the filing of each of its annual statements, or as soon thereafter as practicable, the superintendent of insurance shall issue to each insurance company or association authorized to do business in this state but not incorporated under the laws of this state a certificate of compliance, an original of which must be published in accordance with section 3901.781 of the Revised Code in every county where the insurance~~

~~company or association has an agency.~~ Upon request or in any other circumstance that the superintendent of insurance determines to be appropriate, the superintendent may issue ~~other~~ certificates of compliance; ~~which certificates are not subject to section 3901.781 of the Revised Code,~~ to insurance companies and associations authorized to do business in this state. ~~Certificates of compliance either must,~~ which shall be on either forms established by the national association of insurance commissioners or on such other forms as the superintendent may prescribe.

Sec. 3903.14. (A) The superintendent of insurance as rehabilitator may appoint one or more special deputies, who shall have all the powers and responsibilities of the rehabilitator granted under this section, and the superintendent may employ such clerks and assistants as considered necessary. The compensation of the special deputies, clerks, and assistants and all expenses of taking possession of the insurer and of conducting the proceedings shall be fixed by the superintendent, with the approval of the court and shall be paid out of the funds or assets of the insurer. The persons appointed under this section shall serve at the pleasure of the superintendent. In the event that the property of the insurer does not contain sufficient cash or liquid assets to defray the costs incurred, the superintendent may advance the costs so incurred out of any appropriation for the maintenance of the department of insurance. Any amounts so advanced for expenses of administration shall be repaid to the superintendent for the use of the department out of the first available money of the insurer.

(B) The rehabilitator may take such action as ~~he~~ the rehabilitator considers necessary or appropriate to reform and revitalize the insurer. ~~He~~ The rehabilitator shall have all the powers of the directors, officers, and managers, whose authority shall be suspended, except as they are redelegated by the rehabilitator. ~~He~~ The rehabilitator shall have full power to direct and manage, to hire and discharge employees subject to any contract rights they may have, and to deal with the property and business of the insurer.

(C) If it appears to the rehabilitator that there has been criminal or tortious conduct, or breach of any contractual or fiduciary obligation detrimental to the insurer by any officer, manager, agent, director, trustee, broker, employee, or other person, ~~he~~ the rehabilitator may pursue all appropriate legal remedies on behalf of the insurer.

(D) If the rehabilitator determines that reorganization, consolidation, conversion, reinsurance, merger, or other transformation of the insurer is appropriate, ~~he~~ the rehabilitator shall prepare a plan to effect such changes. Upon application of the rehabilitator for approval of the plan, and after such

notice and hearings as the court may prescribe, the court may either approve or disapprove the plan proposed, or may modify it and approve it as modified. Any plan approved under this section shall be, in the judgment of the court, fair and equitable to all parties concerned. If the plan is approved, the rehabilitator shall carry out the plan. In the case of a life insurer, the plan proposed may include the imposition of liens upon the policies of the company, if all rights of shareholders are first relinquished. A plan for a life insurer may also propose imposition of a moratorium upon loan and cash surrender rights under policies, for such period and to such an extent as may be necessary.

(E) In the case of a medicaid health insuring corporation that has posted a bond or deposited securities in accordance with section 1751.271 of the Revised Code, the plan proposed under division (D) of this section may include the use of the proceeds of the bond or securities to first pay the claims of contracted providers for covered health care services provided to medicaid recipients, then next to pay other claimants with any remaining funds, consistent with the priorities set forth in sections 3903.421 and 3903.42 of the Revised Code.

(F) The rehabilitator shall have the power under sections 3903.26 and 3903.27 of the Revised Code to avoid fraudulent transfers.

(G) As used in this section:

(1) "Contracted provider" means a provider with a contract with a medicaid health insuring corporation to provide covered health care services to medicaid recipients.

(2) "Medicaid recipient" means a person eligible for assistance under the medicaid program operated pursuant to Chapter 5111. of the Revised Code.

Sec. 3903.42. The priority of distribution of claims from the insurer's estate shall be in accordance with the order in which each class of claims is set forth in this section. Every claim in each class shall be paid in full or adequate funds retained for such payment before the members of the next class receive any payment. No subclasses shall be established within any class. The order of distribution of claims shall be:

(A) Class 1. The costs and expenses of administration, including but not limited to the following:

(1) The actual and necessary costs of preserving or recovering the assets of the insurer;

(2) Compensation for all services rendered in the liquidation;

(3) Any necessary filing fees;

(4) The fees and mileage payable to witnesses;

(5) Reasonable attorney's fees;

(6) The reasonable expenses of a guaranty association or foreign guaranty association in handling claims.

(B) Class 2. All claims under policies for losses incurred, including third party claims, all claims of contracted providers against a medicaid health insuring corporation for covered health care services provided to medicaid recipients, all claims against the insurer for liability for bodily injury or for injury to or destruction of tangible property that are not under policies, and all claims of a guaranty association or foreign guaranty association. All claims under life insurance and annuity policies, whether for death proceeds, annuity proceeds, or investment values, shall be treated as loss claims. That portion of any loss, indemnification for which is provided by other benefits or advantages recovered by the claimant, shall not be included in this class, other than benefits or advantages recovered or recoverable in discharge of familial obligations of support or by way of succession at death or as proceeds of life insurance, or as gratuities. No payment by an employer to an employee shall be treated as a gratuity. Claims under nonassessable policies for unearned premium or other premium refunds.

(C) Class 3. Claims of the federal government.

(D) Class 4. Debts due to employees for services performed to the extent that they do not exceed one thousand dollars and represent payment for services performed within one year before the filing of the complaint for liquidation. Officers and directors shall not be entitled to the benefit of this priority. Such priority shall be in lieu of any other similar priority that may be authorized by law as to wages or compensation of employees.

(E) Class 5. Claims of general creditors.

(F) Class 6. Claims of any state or local government. Claims, including those of any state or local governmental body for a penalty or forfeiture, shall be allowed in this class only to the extent of the pecuniary loss sustained from the act, transaction, or proceeding out of which the penalty or forfeiture arose, with reasonable and actual costs occasioned thereby. The remainder of such claims shall be postponed to the class of claims under division (I) of this section.

(G) Class 7. Claims filed late or any other claims other than claims under divisions (H) and (I) of this section.

(H) Class 8. Surplus or contribution notes, or similar obligations, and premium refunds on assessable policies. Payments to members of domestic mutual insurance companies shall be limited in accordance with law.

(I) Class 9. The claims of shareholders or other owners.

If any provision of this section or the application of any provision of this section to any person or circumstance is held invalid, the invalidity does not

affect other provisions or applications of this section, and to this end the provisions are severable.

(J) As used in sections 3903.42 and 3903.421 of the Revised Code, "contracted provider" and "medicaid recipient" have the same meanings as in section 3903.14 of the Revised Code.

Sec. 3903.421. (A) Notwithstanding section 3903.42 of the Revised Code, both of the following apply to medicaid health insuring corporation performance bonds and securities:

(1) Proceeds from the bond issued or securities held pursuant to section 1751.271 of the Revised Code that have been paid to or deposited with the department of insurance shall be considered special deposits for purposes of satisfying claims of contracted providers for covered health care services provided to medicaid recipients;

(2) Contracted providers that have claims against a health insuring corporation for covered health care services provided to medicaid recipients shall be given first priority against the proceeds of the bond or securities held pursuant to section 1751.27 of the Revised Code, to the exclusion of other creditors, except as provided for in this section.

(B) If the amount of the proceeds of the bond or securities are not sufficient to satisfy all of the allowed claims of contracted providers for covered health care services provided to medicaid recipients, payment shall proceed as follows:

(1) Contracted providers shall share in the proceeds of the bond or securities pro rata based on the allowed amount of the providers' claims against the health insuring corporation for covered health care services provided to medicaid recipients;

(2) After payments are made under division (B)(1) of this section, the net unpaid balance of the claims of contracted providers shall be allowed for payment from the general assets of the estate in accordance with the priorities set forth in section 3903.42 of the Revised Code.

(C) If the amount of the proceeds of the bond or securities exceeds the allowed claims of contracted providers for covered health care services provided to medicaid recipients, the excess amount shall be considered a general asset of the health insuring corporation's estate to be distributed to other claimants in accordance with the priorities set forth in section 3903.42 of the Revised Code.

Sec. 3905.04. (A) Except as otherwise provided in section 3905.041 of the Revised Code, a resident individual applying for an insurance agent license for any of the lines of authority described in division (B) of this section shall take a written examination. The examination shall test the

knowledge of the individual with respect to the lines of authority for which application is made, the duties and responsibilities of an insurance agent, and the insurance laws of this state. Before admission to the examination, each individual shall pay the nonrefundable fee required under division ~~(D)~~(C) of section 3905.40 of the Revised Code.

(B) The examination described in division (A) of this section shall be required for the following lines of authority:

(1) Any of the lines of authority set forth in divisions (B)(1) to (6) of section 3905.06 of the Revised Code;

(2) Title insurance;

(3) Surety bail bonds as provided in sections 3905.83 to 3905.95 of the Revised Code;

(4) Any other line of authority designated by the superintendent of insurance.

(C) An individual shall not be permitted to take the examination described in division (A) of this section unless one or both of the following apply:

(1) The individual has earned a bachelor's or associate's degree in insurance from an accredited institution.

(2) The individual has completed, for each line of authority for which the individual has applied, twenty hours of study in a program of insurance education approved by the superintendent, in consultation with the insurance agent education advisory council, under criteria established by the superintendent. Division (C) of this section does not apply with respect to title insurance or any other line of authority designated by the superintendent.

(D) An individual who fails to appear for an examination as scheduled, or fails to pass an examination, may reapply for the examination if the individual pays the required fee and submits any necessary forms prior to being rescheduled for the examination.

(E)(1) The superintendent may, in accordance with Chapter 119. of the Revised Code, adopt any rule necessary for the implementation of this section.

(2) The superintendent may make any necessary arrangements, including contracting with an outside testing service, for the administration of the examinations and the collection of the fees required by this section.

Sec. 3905.36. ~~Every~~ (A) Except as provided in divisions (B) and (C) of this section, every insured association, company, corporation, or other person that enters, directly or indirectly, into any agreements with any insurance company, association, individual, firm, underwriter, or Lloyd, not

authorized to do business in this state, whereby the insured shall procure, continue, or renew contracts of insurance covering subjects of insurance resident, located, or to be performed within this state, with such unauthorized insurance company, association, individual, firm, underwriter, or Lloyd, for which insurance there is a gross premium, membership fee, assessment, dues, or other consideration charged or collected, shall annually, on or before the thirty-first day of January, return to the superintendent of insurance a statement under oath showing the name and address of the insured, name and address of the insurer, subject of the insurance, general description of the coverage, and amount of gross premium, fee, assessment, dues, or other consideration for such insurance for the preceding twelve-month period and shall at the same time pay to the treasurer of state a tax of five per cent of such gross premium, fee, assessment, dues, or other consideration, after a deduction for return premium, if any, as calculated on a form prescribed by the treasurer of state. All taxes collected under this section by the treasurer of state shall be paid into the general revenue fund. If the tax is not paid when due, the tax shall be increased by a penalty of twenty-five per cent. An interest charge computed as set forth in section 5725.221 of the Revised Code shall be made on the entire sum of the tax plus penalty, which interest shall be computed from the date the tax is due until it is paid. For purposes of this section, payment is considered made when it is received by the treasurer of state, irrespective of any United States postal service marking or other stamp or mark indicating the date on which the payment may have been mailed. ~~This~~

(B) ~~This~~ section does not apply to:

~~(A) Insurance obtained pursuant to sections 3905.30 to 3905.35 of the Revised Code;~~

~~(B)(1)~~ Transactions in this state involving a policy solicited, written, and delivered outside this state covering only subjects of insurance not resident, located, or to be performed in this state at the time of issuance, provided such transactions are subsequent to the issuance of the policy;

~~(C)(2)~~ Attorneys-at-law acting on behalf of their clients in the adjustment of claims or losses;

~~(D) Any insurance company underwriter issuing contracts of insurance to employer insureds or contracts of insurance issued to an employer insured. For purposes of this section an "employer insured" is an insured:~~

~~(1) Who procures the insurance of any risk or risks by use of the services of a full-time employee acting as an insurance manager or buyer or the services of a regularly and continuously qualified insurance consultant. As used in division (D)(1) of this section, a "regularly and continuously~~

~~qualified insurance consultant" does not include any person licensed under Chapter 3905. of the Revised Code.~~

~~(2) Whose aggregate annual premiums for insurance on all risks total at least twenty-five thousand dollars; and~~

~~(3) Who has at least twenty-five full-time employees.~~

(3) Transactions involving policies issued by a captive insurer. For this purpose, a "captive insurer" means any of the following:

(a) An insurer owned by one or more individuals or organizations, whose exclusive purpose is to insure risks of one or more of the parent organizations or individual owners and risks of one or more affiliates of the parent organizations or individual owners;

(b) In the case of groups and associations, insurers owned by the group or association whose exclusive purpose is to insure risks of members of the group or association and affiliates of the members;

(c) Other types of insurers, licensed and operated in accordance with the captive insurance laws of their jurisdictions of domicile and operated in a manner so as to self-insure risks of their owners and insureds.

(4) Professional or medical liability insurance procured by a hospital organized under Chapter 3701. of the Revised Code.

Each (C) In transactions that are subject to sections 3905.30 to 3905.35 of the Revised Code, each person licensed under section 3905.30 of the Revised Code shall pay to the treasurer of state, on or before the thirty-first day of January of each year, five per cent of the balance of the gross premiums charged for insurance placed or procured under the license after a deduction for return premiums, as reported on a form prescribed by the treasurer of state. The tax shall be collected from the insured by the surplus line broker who placed or procured the policy of insurance at the time the policy is delivered to the insured. No license issued under section 3905.30 of the Revised Code shall be renewed until payment is made. If the tax is not paid when due, the tax shall be increased by a penalty of twenty-five per cent. An interest charge computed as set forth in section 5725.221 of the Revised Code shall be made on the entire sum of the tax plus penalty, which interest shall be computed from the date the tax is due until it is paid. For purposes of this section, payment is considered made when it is received by the treasurer of state, irrespective of any United States postal service marking or other stamp or mark indicating the date on which the payment may have been mailed.

Sec. 3905.40. There shall be paid to the superintendent of insurance the following fees:

(A) Each insurance company doing business in this state shall pay:



(1) For filing a copy of its charter or deed of settlement, two hundred fifty dollars;

(2) For filing each statement, ~~twenty-five~~ one hundred seventy-five dollars;

(3) For each certificate of authority or license, one hundred seventy-five, and for each certified copy thereof, five dollars;

(4) For each copy of a paper filed in the superintendent's office, twenty cents per page;

(5) For issuing certificates of deposits or certified copies thereof, five dollars for the first certificate or copy and one dollar for each additional certificate or copy;

(6) For issuing certificates of compliance or certified copies thereof, ~~twenty~~ sixty dollars;

(7) For affixing the seal of office and certifying documents, other than those enumerated herein, two dollars.

(B) Each domestic life insurance company doing business in this state shall pay for annual valuation of its policies, one cent on every one thousand dollars of insurance.

~~(C) Each foreign insurance company doing business in this state shall pay for making and forwarding annually, semiannually, and quarterly the interest checks and coupons accruing upon bonds and securities deposited, fifty dollars each year on each one hundred thousand dollars deposited.~~

~~(D)~~ Each applicant for licensure as an insurance agent shall pay ten dollars before admission to any examination required by the superintendent. Such fee shall not be paid by the appointing insurance company.

~~(E)~~~~(D)~~ Each domestic mutual life insurance company shall pay for verifying that any amendment to its articles of incorporation was regularly adopted, two hundred fifty dollars with each application for verification. Any such amendment shall be considered to have been regularly adopted when approved by the affirmative vote of two-thirds of the policyholders present in person or by proxy at any annual meeting of policyholders or at a special meeting of policyholders called for that purpose.

Sec. 3923.27. No policy of sickness and accident insurance delivered, issued for delivery, or renewed in this state after ~~the effective date of this section~~ August 26, 1976, including both individual and group policies, that provides hospitalization coverage for mental illness shall exclude such coverage for the reason that the insured is hospitalized in an institution or facility receiving tax support from the state, any municipal corporation, county, or joint county board, whether such institution or facility is deemed charitable or otherwise, provided the institution or facility or portion thereof

is fully accredited by the joint commission on accreditation of hospitals or certified under Titles XVIII and XIX of the "Social Security Act of 1935," 79 Stat. 291, 42 U.S.C.A. 1395, as amended. The insurance coverage shall provide payment amounting to the lesser of either the full amount of the statutory charge for the cost of the services pursuant to ~~division (B)(8) of section 5121.04~~ section 5121.33 of the Revised Code or the benefits payable for the services under the applicable insurance policy. Insurance benefits for the coverage shall be paid so long as patients and their liable relatives retain their statutory liability pursuant to ~~the requirements of sections 5121.01 to 5121.10~~ section 5121.33 of the Revised Code. Only that portion or per cent of the benefits shall be payable that has been assigned, or ordered to be paid, to the state or other appropriate provider for services rendered by the institution or facility.

Sec. 4112.12. (A) There is hereby created the commission on African-American males, which shall consist of not more than forty-one members as follows: the directors or their designees of the departments of health, development, alcohol and drug addiction services, job and family services, rehabilitation and correction, mental health, and youth services; the adjutant general or the adjutant general's designee; the equal employment opportunity officer of the department of administrative services or the equal employment opportunity officer's designee; the executive director or the executive director's designee of the Ohio civil rights commission; the executive director or the executive director's designee of the office division of criminal justice services in the department of public safety; the superintendent of public instruction; the chancellor or the chancellor's designee of the Ohio board of regents; two members of the house of representatives appointed by the speaker of the house of representatives; three members of the senate appointed by the president of the senate; and not more than twenty-three members appointed by the governor. The members appointed by the governor shall include an additional member of the governor's cabinet and at least one representative of each of the following: the national association for the advancement of colored people; the urban league; an organization representing black elected officials; an organization representing black attorneys; the black religious community; the black business community; the nonminority business community; and organized labor; at least one black medical doctor, one black elected member of a school board, and one black educator; and at least two representatives of local private industry councils. The remaining members that may be appointed by the governor shall be selected from elected officials, civic and community leaders, and representatives of the

employment, criminal justice, education, and health communities.

(B) Terms of office shall be for three years, with each term ending on the same day of the same month as did the term that it succeeds. Each member shall hold office from the date of appointment until the end of the term for which the member was appointed. Members may be reappointed. Vacancies shall be filled in the manner provided for original appointments. Any member appointed to fill a vacancy occurring prior to the expiration date of the term for which the member's predecessor was appointed shall hold office as a member for the remainder of that term. A member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office or until a period of sixty days has elapsed, whichever occurs first.

The commission annually shall elect a chairperson from among its members.

(C) Members of the commission and members of subcommittees appointed under division (B) of section 4112.13 of the Revised Code shall not be compensated, but shall be reimbursed for their necessary and actual expenses incurred in the performance of their official duties.

(D)(1) The Ohio civil rights commission shall serve as the commission on African-American males' fiscal agent and shall perform all of the following services:

(a) Prepare and process payroll and other personnel documents that the commission on African-American males approves;

(b) Maintain ledgers of accounts and reports of account balances, and monitor budgets and allotment plans in consultation with the commission on African-American males;

(c) Perform other routine support services that the executive director of the Ohio civil rights commission or the executive director's designee and the Commission on African-American males or its designee consider appropriate to achieve efficiency.

(2) The Ohio civil rights commission shall not approve any payroll or other personnel-related documents or any biennial budget, grant, expenditure, audit, or fiscal-related document without the advice and consent of the commission on African-American males.

(3) The Ohio civil rights commission shall determine fees to be charged to the commission on African-American males for services performed under this division, which shall be in proportion to the services performed for the commission on African-American males.

(4) The commission on African-American males or its designee has:

(a) Sole authority to draw funds for any federal program in which the

commission is authorized to participate;

(b) Sole authority to expend funds from accounts for programs and any other necessary expenses the commission on African-American males may incur;

(c) The duty to cooperate with the Ohio civil rights commission to ensure that the Ohio civil rights commission is fully apprised of all financial transactions.

(E) The commission on African-American males shall appoint an executive director, who shall be in the unclassified civil service. The executive director shall supervise the commission's activities and report to the commission on the progress of those activities. The executive director shall do all things necessary for the efficient and effective implementation of the duties of the commission.

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

(F) The commission on African-American males shall:

(1) Employ, promote, supervise, and remove all employees, as needed, in connection with the performance of its duties under this section;

(2) Maintain its office in Columbus;

(3) Acquire facilities, equipment, and supplies necessary to house the commission, its employees, and files and records under its control, and to discharge any duty imposed upon it by law. The expense of these acquisitions shall be audited and paid for in the same manner as other state expenses.

(4) Prepare and submit to the office of budget and management a budget for each biennium in accordance with sections 101.55 and 107.03 of the Revised Code. The budget submitted shall cover the costs of the commission and its staff in the discharge of any duty imposed upon the commission by law. The commission shall pay its own payroll and other operating expenses from appropriation items designated by the general assembly. The commission shall not delegate any authority to obligate funds.

(5) Establish the overall policy and management of the commission in accordance with this chapter;

(6) Follow all state procurement requirements;

(7) Pay fees owed to the Ohio civil rights commission under division (D) of this section from the commission on African-American males' general revenue fund or from any other fund from which the operating expenses of the commission on African-American males are paid. Any

amounts set aside for a fiscal year for the payment of such fees shall be used only for the services performed for the commission on African-American males by the Ohio civil rights commission in that fiscal year.

(G) The commission on African-American males may:

- (1) Hold sessions at any place within the state;
- (2) Establish, change, or abolish positions, and assign and reassign duties and responsibilities of any employee of the commission on African-American males as necessary to achieve the most efficient performance of its functions.

Sec. 4115.32. (A) ~~There~~ Subject to section 4115.36 of the Revised Code, there is hereby created the state committee for the purchase of products and services provided by persons with severe disabilities. The committee shall be composed ex officio of the following persons, or their designees:

- (1) The directors of administrative services, mental health, mental retardation and developmental disabilities, transportation, natural resources, and commerce;
- (2) The administrators of the rehabilitation services commission and the bureau of workers' compensation;
- (3) The secretary of state;
- (4) One representative of a purchasing department of a political subdivision who is designated by the governor.

The governor shall appoint two representatives of a qualified nonprofit agency for persons with severe disabilities, and a person with a severe disability to the committee.

(B) Within thirty days after September 29, 1995, the governor shall appoint the representatives of a qualified nonprofit agency for persons with severe disabilities to the committee for a term ending August 31, 1996. Thereafter, terms for such representatives are for three years, each term ending on the same day of the same month of the year as did the term that it succeeds. Each committee member shall serve from the date of the member's appointment until the end of the term for which the member was appointed. Vacancies shall be filled in the same manner provided for original appointments. Any member appointed to fill a vacancy occurring prior to the expiration date of the term for which the member's predecessor was appointed shall serve as a member for the remainder of that term. A member shall serve subsequent to the expiration of the member's term and shall continue to serve until the member's successor takes office.

(C) Members of the committee shall serve without compensation. Except as otherwise provided in divisions (C)(1) and (2) of this section,

members shall be reimbursed for actual and necessary expenses, including travel expenses, incurred while away from their homes or regular places of business and incurred while performing services for the committee.

(1) The members listed in divisions (A)(1) to (3) of this section, or their designees, shall not be reimbursed for any expenses.

(2) No member of the committee who is entitled to receive reimbursement for the performance of services for the committee from another agency or entity shall receive reimbursement from the committee.

(D) The committee shall elect from among its members a chairperson. The committee may request from any agency of the state, political subdivision, or instrumentality of the state any information necessary to enable it to carry out the intent of sections 4115.31 to 4115.35 of the Revised Code. Upon request of the committee, the agency, subdivision, or instrumentality shall furnish the information to the chairperson of the committee.

(E) The committee shall not later than one hundred eighty days following the close of each fiscal year transmit to the governor, the general assembly, and each qualified nonprofit agency for persons with severe disabilities a report that includes the names of the committee members serving during the preceding fiscal year, the dates of committee meetings in that year, and any recommendations for changes in sections 4115.31 to 4115.35 of the Revised Code that the committee determines are necessary.

(F) The director of ~~mental retardation and developmental disabilities~~ administrative services shall designate a subordinate to act as executive director of the committee and shall furnish other staff and clerical assistance, office space, and supplies required by the committee.

Sec. 4115.34. (A) ~~If~~ Except as provided in section 4115.36 of the Revised Code, if any state agency, political subdivision, or instrumentality of the state intends to procure any product or service, it shall determine whether the product or service is on the procurement list published pursuant to section 4115.33 of the Revised Code; and it shall, in accordance with rules of the state committee for the purchase of products and services provided by persons with severe disabilities, procure such product or service at the fair market price established by the committee from a qualified nonprofit agency for persons with severe disabilities, if the product or service is on the procurement list and is available within the period required by that agency, subdivision, or instrumentality, notwithstanding any law requiring the purchase of products and services on a competitive bid basis. Sections 4115.31 to 4115.35 of the Revised Code do not apply if the products or services are available for procurement from any state agency,

political subdivision, or instrumentality of the state and procurement from such agency, subdivision, or instrumentality is required under any law in effect on August 13, 1976.

(B) The committee and any state agency, political subdivision, or instrumentality of the state may enter into contractual agreements, cooperative working relationships, or other arrangements determined necessary for effective coordination and efficient realization of the objectives of sections 4115.31 to 4115.35 of the Revised Code and any other law requiring procurement of products or services from any state agency, political subdivision, or instrumentality of the state.

(C) Notwithstanding any other section of the Revised Code, or any appropriations act, that may require a state agency, political subdivision, or instrumentality of the state to purchase supplies, services, or materials by means of a competitive bid procedure, state agencies, political subdivisions, or instrumentalities of the state need not utilize the required bidding procedures if the supplies, services, or materials are to be purchased from a qualified nonprofit agency pursuant to sections 4115.31 to 4115.35 of the Revised Code.

Sec. 4115.36. Sections 4115.31 to 4115.35 of the Revised Code have no effect after the director of administrative services abolishes the state committee for the purchase of products and services provided by persons with severe disabilities. Upon abolishment of the committee, sections 125.60 to 125.6012 of the Revised Code shall govern the procurement of products and services provided by persons with work-limiting disabilities from qualified nonprofit agencies.

Sec. 4117.03. (A) Public employees have the right to:

(1) Form, join, assist, or participate in, or refrain from forming, joining, assisting, or participating in, except as otherwise provided in Chapter 4117. of the Revised Code, any employee organization of their own choosing;

(2) Engage in other concerted activities for the purpose of collective bargaining or other mutual aid and protection;

(3) Representation by an employee organization;

(4) Bargain collectively with their public employers to determine wages, hours, terms and other conditions of employment and the continuation, modification, or deletion of an existing provision of a collective bargaining agreement, and enter into collective bargaining agreements;

(5) Present grievances and have them adjusted, without the intervention of the bargaining representative, as long as the adjustment is not inconsistent with the terms of the collective bargaining agreement then in effect and as long as the bargaining representatives have the opportunity to be present at

the adjustment.

(B) Persons on active duty or acting in any capacity as members of the organized militia do not have collective bargaining rights.

(C) Except as provided in division (D) of this section, nothing in Chapter 4117. of the Revised Code prohibits public employers from electing to engage in collective bargaining, to meet and confer, to hold discussions, or to engage in any other form of collective negotiations with public employees who are not subject to Chapter 4117. of the Revised Code pursuant to division (C) of section 4117.01 of the Revised Code.

(D) A public employer shall not engage in collective bargaining or other forms of collective negotiations with the employees of county boards of elections referred to in division (C)(12) of section 4117.01 of the Revised Code.

(E)(1) Employees of public school may bargain collectively for health care benefits; however, all health care benefits shall be provided through school employees health care board medical plans, in accordance with section 9.901 of the Revised Code. If a school district provides its employees with health care benefits pursuant to collective bargaining, the employees shall be permitted to choose a plan option from among the school employees health care board plans agreed to during collective bargaining.

(2) During collective bargaining, employees of public schools may agree to pay a higher percentage of the premium for health benefit coverage under the plans designed by the school employees health care board pursuant to section 9.901 of the Revised Code than the percentage designated as the employees' contribution level by the board. A collective bargaining agreement, however, shall not permit the employees to contribute a lesser percentage of the premium than that set as the employees' contribution level by the school employees health care board, unless, in so doing, the participating school board is able to remain in compliance with the aggregate goal set pursuant to division (G)(3) of section 9.901 of the Revised Code.

Sec. 4117.08. (A) All matters pertaining to wages, hours, or terms and other conditions of employment and the continuation, modification, or deletion of an existing provision of a collective bargaining agreement are subject to collective bargaining between the public employer and the exclusive representative, except as otherwise specified in this section and division (E) of section 4117.03 of the Revised Code.

(B) The conduct and grading of civil service examinations, the rating of candidates, the establishment of eligible lists from the examinations, and the original appointments from the eligible lists are not appropriate subjects for



collective bargaining.

(C) Unless a public employer agrees otherwise in a collective bargaining agreement, nothing in Chapter 4117. of the Revised Code impairs the right and responsibility of each public employer to:

(1) Determine matters of inherent managerial policy which include, but are not limited to areas of discretion or policy such as the functions and programs of the public employer, standards of services, its overall budget, utilization of technology, and organizational structure;

(2) Direct, supervise, evaluate, or hire employees;

(3) Maintain and improve the efficiency and effectiveness of governmental operations;

(4) Determine the overall methods, process, means, or personnel by which governmental operations are to be conducted;

(5) Suspend, discipline, demote, or discharge for just cause, or lay off, transfer, assign, schedule, promote, or retain employees;

(6) Determine the adequacy of the work force;

(7) Determine the overall mission of the employer as a unit of government;

(8) Effectively manage the work force;

(9) Take actions to carry out the mission of the public employer as a governmental unit.

The employer is not required to bargain on subjects reserved to the management and direction of the governmental unit except as affect wages, hours, terms and conditions of employment, and the continuation, modification, or deletion of an existing provision of a collective bargaining agreement. A public employee or exclusive representative may raise a legitimate complaint or file a grievance based on the collective bargaining agreement.

Sec. 4117.10. (A) An agreement between a public employer and an exclusive representative entered into pursuant to this chapter governs the wages, hours, and terms and conditions of public employment covered by the agreement. If the agreement provides for a final and binding arbitration of grievances, public employers, employees, and employee organizations are subject solely to that grievance procedure and the state personnel board of review or civil service commissions have no jurisdiction to receive and determine any appeals relating to matters that were the subject of a final and binding grievance procedure. Where no agreement exists or where an agreement makes no specification about a matter, the public employer and public employees are subject to all applicable state or local laws or ordinances pertaining to the wages, hours, and terms and conditions of

employment for public employees. Laws pertaining to civil rights, affirmative action, unemployment compensation, workers' compensation, the retirement of public employees, and residency requirements, the minimum educational requirements contained in the Revised Code pertaining to public education including the requirement of a certificate by the fiscal officer of a school district pursuant to section 5705.41 of the Revised Code, the provisions of division (A) of section 124.34 of the Revised Code governing the disciplining of officers and employees who have been convicted of a felony, and the minimum standards promulgated by the state board of education pursuant to division (D) of section 3301.07 of the Revised Code prevail over conflicting provisions of agreements between employee organizations and public employers. The law pertaining to the leave of absence and compensation provided under section 5923.05 of the Revised Code prevails over any conflicting provisions of such agreements if the terms of the agreement contain benefits which are less than those contained in that section or the agreement contains no such terms and the public authority is the state or any agency, authority, commission, or board of the state or if the public authority is another entity listed in division (B) of section 4117.01 of the Revised Code that elects to provide leave of absence and compensation as provided in section 5923.05 of the Revised Code. Except for sections 306.08, 306.12, 306.35, and 4981.22 of the Revised Code and arrangements entered into thereunder, and section 4981.21 of the Revised Code as necessary to comply with section 13(c) of the "Urban Mass Transportation Act of 1964," 87 Stat. 295, 49 U.S.C.A. 1609(c), as amended, and arrangements entered into thereunder, this chapter prevails over any and all other conflicting laws, resolutions, provisions, present or future, except as otherwise specified in this chapter or as otherwise specified by the general assembly. Nothing in this section prohibits or shall be construed to invalidate the provisions of an agreement establishing supplemental workers' compensation or unemployment compensation benefits or exceeding minimum requirements contained in the Revised Code pertaining to public education or the minimum standards promulgated by the state board of education pursuant to division (D) of section 3301.07 of the Revised Code.

(B) The public employer shall submit a request for funds necessary to implement an agreement and for approval of any other matter requiring the approval of the appropriate legislative body to the legislative body within fourteen days of the date on which the parties finalize the agreement, unless otherwise specified, but if the appropriate legislative body is not in session at the time, then within fourteen days after it convenes. The legislative body

must approve or reject the submission as a whole, and the submission is deemed approved if the legislative body fails to act within thirty days after the public employer submits the agreement. The parties may specify that those provisions of the agreement not requiring action by a legislative body are effective and operative in accordance with the terms of the agreement, provided there has been compliance with division (C) of this section. If the legislative body rejects the submission of the public employer, either party may reopen all or part of the entire agreement.

As used in this section, "legislative body" includes ~~the general assembly~~, the governing board of a municipal corporation, school district, college or university, village, township, or board of county commissioners or any other body that has authority to approve the budget of their public jurisdiction and, with regard to the state, "legislative body" means the controlling board.

(C) The chief executive officer, or the chief executive officer's representative, of each municipal corporation, the designated representative of the board of education of each school district, college or university, or any other body that has authority to approve the budget of their public jurisdiction, the designated representative of the board of county commissioners and of each elected officeholder of the county whose employees are covered by the collective negotiations, and the designated representative of the village or the board of township trustees of each township is responsible for negotiations in the collective bargaining process; except that the legislative body may accept or reject a proposed collective bargaining agreement. When the matters about which there is agreement are reduced to writing and approved by the employee organization and the legislative body, the agreement is binding upon the legislative body, the employer, and the employee organization and employees covered by the agreement.

(D) There is hereby established an office of collective bargaining in the department of administrative services for the purpose of negotiating with and entering into written agreements between state agencies, departments, boards, and commissions and the exclusive representative on matters of wages, hours, terms and other conditions of employment and the continuation, modification, or deletion of an existing provision of a collective bargaining agreement. Nothing in any provision of law to the contrary shall be interpreted as excluding the bureau of workers' compensation and the industrial commission from the preceding sentence. This office shall not negotiate on behalf of other statewide elected officials or boards of trustees of state institutions of higher education who shall be

considered as separate public employers for the purposes of this chapter; however, the office may negotiate on behalf of these officials or trustees where authorized by the officials or trustees. The staff of the office of collective bargaining are in the unclassified service. The director of administrative services shall fix the compensation of the staff.

The office of collective bargaining shall:

(1) Assist the director in formulating management's philosophy for public collective bargaining as well as planning bargaining strategies;

(2) Conduct negotiations with the exclusive representatives of each employee organization;

(3) Coordinate the state's resources in all mediation, fact-finding, and arbitration cases as well as in all labor disputes;

(4) Conduct systematic reviews of collective bargaining agreements for the purpose of contract negotiations;

(5) Coordinate the systematic compilation of data by all agencies that is required for negotiating purposes;

(6) Prepare and submit an annual report and other reports as requested to the governor and the general assembly on the implementation of this chapter and its impact upon state government.

Sec. 4117.103. Notwithstanding any provision of section 4117.08 or 4117.10 of the Revised Code to the contrary, no agreement entered into under this chapter on or after the effective date of this section shall prohibit a school district board of education from utilizing volunteers to assist the district and its schools in performing any of their functions, other than functions for which a license, permit, or certificate issued by the state board of education under section 3301.074 or Chapter 3319. of the Revised Code or a certificate issued under division (A) or (B) of section 3327.10 of the Revised Code is required.

Sec. 4117.24. The training ~~and~~, publications, ~~and~~ grants fund is hereby created in the state treasury. The state employment relations board shall deposit into the training ~~and~~, publications, ~~and~~ grants fund all ~~payments~~ moneys received from the following sources:

(A) Payments received by the board for copies of documents, rulebooks, and other publications; ~~fees~~

(B) ~~Fees~~ received from seminar participants; ~~and receipts~~

(C) ~~Receipts~~ from the sale of clearinghouse data;

(D) Moneys received from grants, donations, awards, bequests, gifts, reimbursements, and similar funds;

(E) Reimbursement received for professional services and expenses related to professional services;

(F) Funds received to support the development of labor relations services and programs. The state employment relations board shall use all moneys deposited into the training ~~and~~, publications, and grants fund to defray the costs of furnishing and making available copies of documents, rulebooks, and other publications; the costs of planning, organizing, and conducting training seminars; the costs associated with grant projects, innovative labor-management cooperation programs, research projects related to these grants and programs, and the advancement in professionalism of public sector relations; the professional development of board employees; and the costs of compiling clearinghouse data.

The board may seek, solicit, apply for, receive, and accept grants, gifts, and contributions of money, property, labor, and other things of value to be held for, used for, and applied to only the purpose for which the grants, gifts, and contributions are made, from individuals, private and public corporations, the United States or any agency thereof, the state or any agency thereof, and any political subdivision of the state, and may enter into any contract with any such public or private source in connection therewith to be held for, used for, and applied to only the purposes for which such grants are made and contracts are entered into, all subject to and in accordance with the purposes of this chapter. Any money received from the grants, gifts, contributions, or contracts shall be deposited into the training, publications, and grants fund.

Sec. 4121.12. (A) There is hereby created the workers' compensation oversight commission consisting of ~~nine~~ eleven members, of which members the governor shall appoint five with the advice and consent of the senate. Of the five members the governor appoints, two shall be individuals who, on account of their previous vocation, employment, or affiliations, can be classed as representative of employees, at least one of whom is representative of employees who are members of an employee organization; two shall be individuals who, on account of their previous vocation, employment, or affiliations, can be classed as representative of employers, one of whom represents self-insuring employers and one of whom has experience as an employer in compliance with section 4123.35 of the Revised Code other than a self-insuring employer, and one of those two representatives also shall represent employers whose employees are not members of an employee organization; and one shall represent the public and also be an individual who, on account of the individual's previous vocation, employment, or affiliations, cannot be classed as either predominantly representative of employees or of employers. The governor shall select the chairperson of the commission who shall serve as

chairperson at the pleasure of the governor. No more than three members appointed by the governor shall belong to or be affiliated with the same political party.

Each of these five members shall have at least three years' experience in the field of insurance, finance, workers' compensation, law, accounting, actuarial, personnel, investments, or data processing, or in the management of an organization whose size is commensurate with that of the bureau of workers' compensation. At least one of these five members shall be an attorney licensed under Chapter 4705. of the Revised Code to practice law in this state.

(B) Of the initial appointments made to the commission, the governor shall appoint one member who represents employees to a term ending one year after September 1, 1995, one member who represents employers to a term ending two years after September 1, 1995, the member who represents the public to a term ending three years after September 1, 1995, one member who represents employees to a term ending four years after September 1, 1995, and one member who represents employers to a term ending five years after September 1, 1995. Thereafter, terms of office shall be for ~~five~~ three years, with each term ending on the same day of the same month as did the term that it succeeds. Each member shall hold office from the date of the member's appointment until the end of the term for which the member was appointed.

The governor shall not appoint any person to more than two full terms of office on the commission. This restriction does not prevent the governor from appointing a person to fill a vacancy caused by the death, resignation, or removal of a commission member and also appointing that person twice to full terms on the commission, or from appointing a person previously appointed to fill less than a full term twice to full terms on the commission. Any member appointed to fill a vacancy occurring prior to the expiration date of the term for which the member's predecessor was appointed shall hold office as a member for the remainder of that term. A member shall continue in office subsequent to the expiration date of the member's term until a successor takes office or until a period of sixty days has elapsed, whichever occurs first.

(C) In making appointments to the commission, the governor shall select the members from the list of names submitted by the workers' compensation oversight commission nominating committee pursuant to this division. Within fourteen days after the governor calls the initial meeting of the nominating committee pursuant to division (C) of section 4121.123 of the Revised Code, the nominating committee shall submit to the governor,

for the initial appointments, a list containing four separate names for each of the members on the commission. Within fourteen days after the submission of the list, the governor shall appoint individuals from the list.

For the appointment of the member who is representative of employees who are members of an employee organization, both for initial appointments and for the filling of vacancies, the list of four names submitted by the nominating committee shall be comprised of four individuals who are members of the executive committee of the largest statewide labor federation.

Thereafter, within sixty days after a vacancy occurring as a result of the expiration of a term and within thirty days after other vacancies occurring on the commission, the nominating committee shall submit a list containing four names for each vacancy. Within fourteen days after the submission of the list, the governor shall appoint individuals from the list. With respect to the filling of vacancies, the nominating committee shall provide the governor with a list of four individuals who are, in the judgment of the nominating committee, the most fully qualified to accede to membership on the commission. The nominating committee shall not include the name of an individual upon the list for the filling of vacancies if the appointment of that individual by the governor would result in more than three members of the commission belonging to or being affiliated with the same political party. The committee shall include on the list for the filling of vacancies only the names of attorneys admitted to practice law in this state if, to fulfill the requirement of division (A) of section 4121.12 of the Revised Code, the vacancy must be filled by an attorney.

In order for the name of an individual to be submitted to the governor under this division, the nominating committee shall approve the individual by an affirmative vote of a majority of its members.

(D) The commission shall also consist of two members, known as the investment expert members. One investment expert member shall be appointed by the treasurer of state and one investment expert member shall be jointly appointed by the speaker of the house of representatives and the president of the senate. Each investment expert member shall have the following qualifications:

(1) Be a resident of this state;

(2) Within the three years immediately preceding the appointment, not have been employed by the bureau of workers' compensation or by any person, partnership, or corporation that has provided to the bureau services of a financial or investment nature, including the management, analysis, supervision, or investment of assets;

(3) Have direct experience in the management, analysis, supervision, or investment of assets.

Terms of office of the investment expert members shall be for three years, with each term ending on the same day of the same month as did the term that it succeeds. Each member shall hold office for the date of the member's appointment until the end of the term for which the member was appointed. The president, speaker, and treasurer shall not appoint any person to more than two full terms of office on the commission. This restriction does not prevent the president, speaker, and treasurer from appointing a person to fill a vacancy caused by the death, resignation, or removal of a commission member and also appointing that person twice to full terms on the commission, or from appointing a person previously appointed to fill less than a full term twice to full terms on the commission. Any investment expert member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office until the end of that term. The member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office or until a period of sixty days has elapsed, whichever occurs first.

The investment expert members of the oversight commission shall vote only on investment matters.

(E) The remaining four members of the commission shall be the chairperson and ranking minority member of the standing committees of the house of representatives and of the senate to which legislation concerning this chapter and Chapters 4123., 4127., and 4131. of the Revised Code normally are referred, or a designee of the chairperson or ranking minority member, provided that the designee is a member of the standing committee. Legislative members shall serve during the session of the general assembly to which they are elected and for as long as they are members of the general assembly. Legislative members shall serve in an advisory capacity to the commission and shall have no voting rights on matters coming before the commission. Membership on the commission by legislative members shall not be deemed as holding a public office.

~~(E)(F)~~ All members of the commission shall receive their reasonable and necessary expenses pursuant to section 126.31 of the Revised Code while engaged in the performance of their duties as members. ~~Legislative members also shall receive fifty dollars per meeting that they attend.~~ Members appointed by the governor and the investment expert members also shall receive an annual salary as follows:

~~(1) On and before August 31, 1998, not to exceed six thousand dollars~~



~~payable at the rate of five hundred dollars per month. A member shall receive the monthly five hundred dollar salary only if the member has attended at least one meeting of the commission during that month. A member may receive no more than the monthly five hundred dollar salary regardless of the number of meetings held by the commission during a month or the number of meetings in excess of one within a month that the member attends.~~

~~(2) After August 31, 1998,~~ not to exceed eighteen thousand dollars payable on the following basis:

~~(a)(1)~~ Except as provided in division ~~(F)(2)(b)~~ of this section, a member shall receive two thousand dollars during a month in which the member attends one or more meetings of the commission and shall receive no payment during a month in which the member attends no meeting of the commission.

~~(b)(2)~~ A member may receive no more than the annual eighteen thousand dollar salary regardless of the number of meetings held by the commission during a year or the number of meetings in excess of nine within a year that the member attends.

The chairperson of the commission shall set the meeting dates of the commission as necessary to perform the duties of the commission under this chapter and Chapters 4123., 4127., and 4131. of the Revised Code. The commission shall meet at least nine times during the period commencing on the first day of September and ending on the thirty-first day of August of the following year. The administrator of workers' compensation shall provide professional and clerical assistance to the commission, as the commission considers appropriate.

~~(F)(G)~~ The commission shall:

(1) Review progress of the bureau in meeting its cost and quality objectives and in complying with this chapter and Chapters 4123., 4127., and 4131. of the Revised Code;

(2) Issue an annual report on the cost and quality objectives of the bureau to the president of the senate, the speaker of the house of representatives, and the governor;

(3) Review all independent financial audits of the bureau. The administrator shall provide access to records of the bureau to facilitate the review required under this division.

(4) Study issues as requested by the administrator or the governor;

(5) Contract with an independent actuarial firm to assist the commission in making recommendations to the administrator regarding premium rates;

(6) Establish objectives, policies, and criteria for the administration of

the investment program that include asset allocation targets and ranges, risk factors, asset class benchmarks, time horizons, total return objectives, and performance evaluation guidelines, and monitor the administrator's progress in implementing the objectives, policies, and criteria on a quarterly basis. The commission shall review and publish the objectives, policies, and criteria no less than annually and shall make copies available to interested parties. The commission shall prohibit, on a prospective basis, any specific investment ~~activity~~ it finds to be contrary to its investment objectives, policies, and criteria.

~~The investment policy in existence on March 7, 1997, shall continue until the commission approves objectives, policies, and criteria for the administration of the investment program pursuant to this section.~~

The objectives, policies, and criteria adopted by the commission for the operation of the investment program shall prohibit investing assets of funds, directly or indirectly, in vehicles that target any of the following:

- (a) Coins;
- (b) Artwork;
- (c) Horses;
- (d) Jewelry or gems;
- (e) Stamps;
- (f) Antiques;
- (g) Artifacts;
- (h) Collectibles;
- (i) Memorabilia;

(j) Similar unregulated investments that are not commonly part of an institutional portfolio, that lack liquidity, and that lack readily determinable valuation.

(7) Specify in the objectives, policies, and criteria for the investment program that the administrator is permitted to invest in an investment class only if the commission, by a majority vote, opens that class. After the commission opens a class but prior to the administrator investing in that class, the commission shall adopt rules establishing due diligence standards for employees' of the bureau to follow when investing in that class and shall establish policies and procedures to review and monitor the performance and value of each investment class. The commission shall submit a report annually on the performance and value of each investment class to the governor, the president and minority leader of the senate, and the speaker and minority leader of the house of representatives. The commission may vote to close any investment class.

(8) Advise and consent on all of the following:

(a) Administrative rules the administrator submits to it pursuant to division (B)(5) of section 4121.121 of the Revised Code for the classification of occupations or industries, for premium rates and contributions, for the amount to be credited to the surplus fund, for rules and systems of rating, rate revisions, and merit rating;

(b) The overall policy of the bureau of workers' compensation as set by the administrator;

(c) The duties and authority conferred upon the administrator pursuant to section 4121.37 of the Revised Code;

(d) Rules the administrator adopts for the health partnership program and the qualified health plan system, as provided in sections 4121.44, 4121.441, and 4121.442 of the Revised Code;

(e) Rules the administrator submits to it pursuant to Chapter 4167. of the Revised Code regarding the public employment risk reduction program and the protection of public health care workers from exposure incidents.

As used in this division, "public health care worker" and "exposure incident" have the same meanings as in section 4167.25 of the Revised Code.

~~(8)~~(9) Perform all duties required under section 4121.125 of the Revised Code.

~~(G)~~(H) The office of a member of the commission who is convicted of or pleads guilty to a felony, a theft offense as defined in section 2913.01 of the Revised Code, or a violation of section 102.02, 102.03, 102.04, 2921.02, 2921.11, 2921.13, 2921.31, 2921.41, 2921.42, 2921.43, or 2921.44 of the Revised Code shall be deemed vacant. The vacancy shall be filled in the same manner as the original appointment. A person who has pleaded guilty to or been convicted of an offense of that nature is ineligible to be a member of the commission. A member who receives a bill of indictment for any of the offenses specified in this section shall be automatically suspended from the commission pending resolution of the criminal matter.

(I) As used in this section, "employee organization" means any labor or bona fide organization in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, hours, terms and other conditions of employment.

Sec. 4121.121. (A) There is hereby created the bureau of workers' compensation, which shall be administered by the administrator of workers' compensation. A person appointed to the position of administrator shall possess significant management experience in effectively managing an organization or organizations of substantial size and complexity. The

governor shall appoint the administrator as provided in section 121.03 of the Revised Code, and the administrator shall serve at the pleasure of the governor. The governor shall fix the administrator's salary on the basis of the administrator's experience and the administrator's responsibilities and duties under this chapter and Chapters 4123., 4127., 4131., and 4167. of the Revised Code. The governor shall not appoint to the position of administrator any person who has, or whose spouse has, given a contribution to the campaign committee of the governor in an amount greater than one thousand dollars during the two-year period immediately preceding the date of the appointment of the administrator.

The administrator shall hold no other public office and shall devote full time to the duties of administrator. Before entering upon the duties of the office, the administrator shall take an oath of office as required by sections 3.22 and 3.23 of the Revised Code, and shall file in the office of the secretary of state, a bond signed by the administrator and by surety approved by the governor, for the sum of fifty thousand dollars payable to the state, conditioned upon the faithful performance of the administrator's duties.

(B) The administrator is responsible for the management of the bureau of workers' compensation and for the discharge of all administrative duties imposed upon the administrator in this chapter and Chapters 4123., 4127., 4131., and 4167. of the Revised Code, and in the discharge thereof shall do all of the following:

(1) Establish the overall administrative policy of the bureau for the purposes of this chapter and Chapters 4123., 4127., 4131., and 4167. of the Revised Code, and perform all acts and exercise all authorities and powers, discretionary and otherwise that are required of or vested in the bureau or any of its employees in this chapter and Chapters 4123., 4127., 4131., and 4167. of the Revised Code, except the acts and the exercise of authority and power that is required of and vested in the oversight commission or the industrial commission pursuant to those chapters. The treasurer of state shall honor all warrants signed by the administrator, or by one or more of the administrator's employees, authorized by the administrator in writing, or bearing the facsimile signature of the administrator or such employee under sections 4123.42 and 4123.44 of the Revised Code.

(2) Employ, direct, and supervise all employees required in connection with the performance of the duties assigned to the bureau by this chapter and Chapters 4123., 4127., 4131., and 4167. of the Revised Code, and may establish job classification plans and compensation for all employees of the bureau provided that this grant of authority shall not be construed as affecting any employee for whom the state employment relations board has

established an appropriate bargaining unit under section 4117.06 of the Revised Code. All positions of employment in the bureau are in the classified civil service except those employees the administrator may appoint to serve at the administrator's pleasure in the unclassified civil service pursuant to section 124.11 of the Revised Code. The administrator shall fix the salaries of employees the administrator appoints to serve at the administrator's pleasure, including the chief operating officer, staff physicians, and other senior management personnel of the bureau and shall establish the compensation of staff attorneys of the bureau's legal section and their immediate supervisors, and take whatever steps are necessary to provide adequate compensation for other staff attorneys.

The administrator may appoint a person holding a certified position in the classified service to any state position in the unclassified service of the bureau of workers' compensation. A person so appointed shall retain the right to resume the position and status held by the person in the classified service immediately prior to the person's appointment in the unclassified service. If the position the person previously held has been filled or placed in the unclassified service, or is otherwise unavailable, the person shall be appointed to a position in the classified service within the bureau that the department of administrative services certifies is comparable in compensation to the position the person previously held. Reinstatement to a position in the classified service shall be to a position substantially equal to that held previously, as certified by the department of administrative services. Service in the position in the unclassified service shall be counted as service in the position in the classified service held by the person immediately prior to the person's appointment in the unclassified service. When a person is reinstated to a position in the classified service as provided in this section, the person is entitled to all rights, status, and benefits accruing to the position during the person's time of service in the position in the unclassified service.

(3) Reorganize the work of the bureau, its sections, departments, and offices to the extent necessary to achieve the most efficient performance of its functions and to that end may establish, change, or abolish positions and assign and reassign duties and responsibilities of every employee of the bureau. All persons employed by the commission in positions that, after November 3, 1989, are supervised and directed by the administrator under this section are transferred to the bureau in their respective classifications but subject to reassignment and reclassification of position and compensation as the administrator determines to be in the interest of efficient administration. The civil service status of any person employed by

the commission is not affected by this section. Personnel employed by the bureau or the commission who are subject to Chapter 4117. of the Revised Code shall retain all of their rights and benefits conferred pursuant to that chapter as it presently exists or is hereafter amended and nothing in this chapter or Chapter 4123. of the Revised Code shall be construed as eliminating or interfering with Chapter 4117. of the Revised Code or the rights and benefits conferred under that chapter to public employees or to any bargaining unit.

(4) Provide offices, equipment, supplies, and other facilities for the bureau.

(5) Prepare and submit to the oversight commission information the administrator considers pertinent or the oversight commission requires, together with the administrator's recommendations, in the form of administrative rules, for the advice and consent of the oversight commission, for classifications of occupations or industries, for premium rates and contributions, for the amount to be credited to the surplus fund, for rules and systems of rating, rate revisions, and merit rating. The administrator shall obtain, prepare, and submit any other information the oversight commission requires for the prompt and efficient discharge of its duties.

(6) Keep the accounts required by division (A) of section 4123.34 of the Revised Code and all other accounts and records necessary to the collection, administration, and distribution of the workers' compensation funds and shall obtain the statistical and other information required by section 4123.19 of the Revised Code.

(7) Exercise the investment powers vested in the administrator by section 4123.44 of the Revised Code in accordance with the investment objectives, policies, and criteria established by the oversight commission pursuant to section 4121.12 of the Revised Code and in consultation with the chief investment officer of the bureau of workers' compensation. The administrator shall not engage in any prohibited investment activity specified by the oversight commission pursuant to division ~~(F)~~(G)(6) of section 4121.12 of the Revised Code and shall not invest in any type of investment specified in division (G)(6)(a) to (j) of that section. All business shall be transacted, all funds invested, all warrants for money drawn and payments made, and all cash and securities and other property held, in the name of the bureau, or in the name of its nominee, provided that nominees are authorized by the administrator solely for the purpose of facilitating the transfer of securities, and restricted to the administrator and designated employees.

(8) Make contracts for and supervise the construction of any project or improvement or the construction or repair of buildings under the control of the bureau.

(9) Purchase supplies, materials, equipment, and services; make contracts for, operate, and superintend the telephone, other telecommunication, and computer services for the use of the bureau; and make contracts in connection with office reproduction, forms management, printing, and other services. Notwithstanding sections 125.12 to 125.14 of the Revised Code, the administrator may transfer surplus computers and computer equipment directly to an accredited public school within the state. The computers and computer equipment may be repaired or refurbished prior to the transfer.

(10) Separately from the budget the industrial commission submits, prepare and submit to the director of budget and management a budget for each biennium. The budget submitted shall include estimates of the costs and necessary expenditures of the bureau in the discharge of any duty imposed by law.

(11) As promptly as possible in the course of efficient administration, decentralize and relocate such of the personnel and activities of the bureau as is appropriate to the end that the receipt, investigation, determination, and payment of claims may be undertaken at or near the place of injury or the residence of the claimant and for that purpose establish regional offices, in such places as the administrator considers proper, capable of discharging as many of the functions of the bureau as is practicable so as to promote prompt and efficient administration in the processing of claims. All active and inactive lost-time claims files shall be held at the service office responsible for the claim. A claimant, at the claimant's request, shall be provided with information by telephone as to the location of the file pertaining to the claimant's claim. The administrator shall ensure that all service office employees report directly to the director for their service office.

(12) Provide a written binder on new coverage where the administrator considers it to be in the best interest of the risk. The administrator, or any other person authorized by the administrator, shall grant the binder upon submission of a request for coverage by the employer. A binder is effective for a period of thirty days from date of issuance and is nonrenewable. Payroll reports and premium charges shall coincide with the effective date of the binder.

(13) Set standards for the reasonable and maximum handling time of claims payment functions, ensure, by rules, the impartial and prompt

treatment of all claims and employer risk accounts, and establish a secure, accurate method of time stamping all incoming mail and documents hand delivered to bureau employees.

(14) Ensure that all employees of the bureau follow the orders and rules of the commission as such orders and rules relate to the commission's overall adjudicatory policy-making and management duties under this chapter and Chapters 4123., 4127., and 4131. of the Revised Code.

(15) Manage and operate a data processing system with a common data base for the use of both the bureau and the commission and, in consultation with the commission, using electronic data processing equipment, shall develop a claims tracking system that is sufficient to monitor the status of a claim at any time and that lists appeals that have been filed and orders or determinations that have been issued pursuant to section 4123.511 or 4123.512 of the Revised Code, including the dates of such filings and issuances.

(16) Establish and maintain a medical section within the bureau. The medical section shall do all of the following:

(a) Assist the administrator in establishing standard medical fees, approving medical procedures, and determining eligibility and reasonableness of the compensation payments for medical, hospital, and nursing services, and in establishing guidelines for payment policies which recognize usual, customary, and reasonable methods of payment for covered services;

(b) Provide a resource to respond to questions from claims examiners for employees of the bureau;

(c) Audit fee bill payments;

(d) Implement a program to utilize, to the maximum extent possible, electronic data processing equipment for storage of information to facilitate authorizations of compensation payments for medical, hospital, drug, and nursing services;

(e) Perform other duties assigned to it by the administrator.

(17) Appoint, as the administrator determines necessary, panels to review and advise the administrator on disputes arising over a determination that a health care service or supply provided to a claimant is not covered under this chapter or Chapter 4123. of the Revised Code or is medically unnecessary. If an individual health care provider is involved in the dispute, the panel shall consist of individuals licensed pursuant to the same section of the Revised Code as such health care provider.

(18) Pursuant to section 4123.65 of the Revised Code, approve applications for the final settlement of claims for compensation or benefits



under this chapter and Chapters 4123., 4127., and 4131. of the Revised Code as the administrator determines appropriate, except in regard to the applications of self-insuring employers and their employees.

(19) Comply with section 3517.13 of the Revised Code, and except in regard to contracts entered into pursuant to the authority contained in section 4121.44 of the Revised Code, comply with the competitive bidding procedures set forth in the Revised Code for all contracts into which the administrator enters provided that those contracts fall within the type of contracts and dollar amounts specified in the Revised Code for competitive bidding and further provided that those contracts are not otherwise specifically exempt from the competitive bidding procedures contained in the Revised Code.

(20) Adopt, with the advice and consent of the oversight commission, rules for the operation of the bureau.

(21) Prepare and submit to the oversight commission information the administrator considers pertinent or the oversight commission requires, together with the administrator's recommendations, in the form of administrative rules, for the advice and consent of the oversight commission, for the health partnership program and the qualified health plan system, as provided in sections 4121.44, 4121.441, and 4121.442 of the Revised Code.

(C) The administrator, with the advice and consent of the senate, shall appoint a chief operating officer who has significant experience in the field of workers' compensation insurance or other similar insurance industry experience if the administrator does not possess such experience. The chief operating officer shall not commence the chief operating officer's duties until after the senate consents to the chief operating officer's appointment. The chief operating officer shall serve in the unclassified civil service of the state.

Sec. 4121.125. (A) The workers' compensation oversight commission may contract with one or more outside actuarial firms and other professional persons, as the oversight commission determines necessary, to assist the oversight commission in measuring the performance of Ohio's workers' compensation system and in comparing Ohio's workers' compensation system to other state and private workers' compensation systems. The oversight commission, actuarial firm or firms, and professional persons shall make such measurements and comparisons using accepted insurance industry standards, including, but not limited to, standards promulgated by the National Council on Compensation Insurance.

(B) The oversight commission may contract with one or more outside

firms to conduct management and financial audits of the workers' compensation system, including audits of the reserve fund belonging to the state insurance fund, and to establish objective quality management principles and methods by which to review the performance of the workers' compensation system.

(C) The administrator and the industrial commission shall compile information and provide access to records of the bureau and the industrial commission to the oversight commission to the extent necessary for fulfillment of both of the following requirements:

(1) Conduct of the measurements and comparisons described in division (A) of this section;

(2) Conduct of the management and financial audits and establishment of the principles and methods described in division (B) of this section.

(D) The oversight commission shall have an independent auditor, at least once every ten years, conduct a fiduciary performance audit of the investment program of the bureau of workers' compensation. That audit shall include an audit of the investment policies of the oversight commission and investment procedures of the bureau. The oversight commission shall submit a copy of that audit to the auditor of state.

(E) The bureau of workers' compensation, with the advice and consent of the oversight commission, shall employ an internal auditor who shall report directly to the oversight commission on investment matters. The oversight commission may request and review internal audits conducted by the internal auditor.

(F) The administrator shall pay the expenses incurred by the oversight commission to effectively fulfill its duties and exercise its powers under this section as the administrator pays other operating expenses of the bureau.

Sec. 4121.126. Except as provided in this chapter, no member of the workers' compensation oversight commission or employee of the bureau of workers' compensation shall have any direct or indirect interest in the gains or profits of any investment made by the administrator of workers' compensation or shall receive directly or indirectly any pay or emolument for the member's or employee's services. No member or person connected with the bureau directly or indirectly, for self or as an agent or partner of others, shall borrow any of its funds or deposits or in any manner use the funds or deposits except to make current and necessary payments that are authorized by the administrator. No member of the oversight commission or employee of the bureau shall become an indorser or surety or become in any manner an obligor for moneys loaned by or borrowed from the bureau.

The administrator shall make no investments through or purchases from,

or otherwise do any business with, any individual who is, or any partnership, association, or corporation that is owned or controlled by, a person who within the preceding three years was employed by the bureau, a board member of, or an officer of the oversight commission, or a person who within the preceding three years was employed by or was an officer holding a fiduciary, administrative, supervisory, or trust position, or any other position in which such person would be involved, on behalf of the person's employer, in decisions or recommendations affecting the investment policy of the bureau, and in which such person would benefit by any monetary gain.

Sec. 4121.127. (A) Except as provided in division (B) of this section, a fiduciary shall not cause the bureau of workers' compensation to engage in a transaction, if the fiduciary knows or should know that such transaction constitutes any of the following, whether directly or indirectly:

(1) The sale, exchange, or leasing of any property between the bureau and a party in interest;

(2) Lending of money or other extension of credit between the bureau and a party in interest;

(3) Furnishing of goods, services, or facilities between the bureau and a party in interest;

(4) Transfer to, or use by or for the benefit of a party in interest, of any assets of the bureau;

(5) Acquisition, on behalf of the bureau, of any employer security or employer real property.

(B) Nothing in this section shall prohibit any transaction between the bureau and any fiduciary or party in interest if both of the following occur:

(1) All the terms and conditions of the transaction are comparable to the terms and conditions that might reasonably be expected in a similar transaction between similar parties who are not parties in interest.

(2) The transaction is consistent with fiduciary duties under this chapter and Chapters 4123., 4127., and 4131. of the Revised Code.

(C) A fiduciary shall not do any of the following:

(1) Deal with the assets of the bureau in the fiduciary's own interest or for the fiduciary's own account;

(2) In the fiduciary's individual capacity or in any other capacity, act in any transaction involving the bureau on behalf of a party, or represent a party, whose interests are adverse to the interests of the bureau or to the injured employees served by the bureau;

(3) Receive any consideration for the fiduciary's own personal account from any party dealing with the bureau in connection with a transaction

involving the assets of the bureau.

(D) In addition to any liability that a fiduciary may have under any other provision, a fiduciary, with respect to bureau, shall be liable for a breach of fiduciary responsibility in any the following circumstances:

(1) If the fiduciary knowingly participates in or knowingly undertakes to conceal an act or omission of another fiduciary, knowing such act or omission is a breach;

(2) If, by the fiduciary's failure to comply with this chapter or Chapter 4123., 4127., or 4131. of the Revised Code, the fiduciary has enabled another fiduciary to commit a breach;

(3) If the fiduciary has knowledge of a breach by another fiduciary of that fiduciary's duties under this chapter and Chapters 4123., 4127., and 4131. of the Revised Code, unless the fiduciary makes reasonable efforts under the circumstances to remedy the breach.

(E) Every fiduciary of the bureau shall be bonded or insured for an amount of not less than one million dollars for loss by reason of acts of fraud or dishonesty.

(F) As used in this section, "fiduciary" means a person who does any of the following:

(1) Exercises discretionary authority or control with respect to the management of the bureau or with respect to the management or disposition of its assets;

(2) Renders investment advice for a fee, directly or indirectly, with respect to money or property of the bureau;

(3) Has discretionary authority or responsibility in the administration of the bureau.

Sec. 4121.128. The attorney general shall be the legal adviser of the workers' compensation oversight commission.

Sec. 4123.27. Information contained in the annual statement provided for in section 4123.26 of the Revised Code, and such other information as may be furnished to the bureau of workers' compensation by employers in pursuance of that section, is for the exclusive use and information of the bureau in the discharge of its official duties, and shall not be open to the public nor be used in any court in any action or proceeding pending therein unless the bureau is a party to the action or proceeding; but the information contained in the statement may be tabulated and published by the bureau in statistical form for the use and information of other state departments and the public. No person in the employ of the bureau, except those who are authorized by the administrator of workers' compensation, shall divulge any information secured by the person while in the employ of the bureau in

respect to the transactions, property, claim files, records, or papers of the bureau or in respect to the business or mechanical, chemical, or other industrial process of any company, firm, corporation, person, association, partnership, or public utility to any person other than the administrator or to the superior of such employee of the bureau.

Notwithstanding the restrictions imposed by this section, the governor, select or standing committees of the general assembly, the auditor of state, the attorney general, or their designees, pursuant to the authority granted in this chapter and Chapter 4121. of the Revised Code, may examine any records, claim files, or papers in possession of the industrial commission or the bureau. They also are bound by the privilege that attaches to these papers.

The administrator shall report to the director of job and family services or to the county director of job and family services the name, address, and social security number or other identification number of any person receiving workers' compensation whose name or social security number or other identification number is the same as that of a person required by a court or child support enforcement agency to provide support payments to a recipient or participant of public assistance, and whose name is submitted to the administrator by the director under section 5101.36 of the Revised Code. The administrator also shall inform the director of the amount of workers' compensation paid to the person during such period as the director specifies.

Within fourteen days after receiving from the director of job and family services a list of the names and social security numbers of recipients or participants of public assistance pursuant to section 5101.181 of the Revised Code, the administrator shall inform the auditor of state of the name, current or most recent address, and social security number of each person receiving workers' compensation pursuant to this chapter whose name and social security number are the same as that of a person whose name or social security number was submitted by the director. The administrator also shall inform the auditor of state of the amount of workers' compensation paid to the person during such period as the director specifies.

The bureau and its employees, except for purposes of furnishing the auditor of state with information required by this section, shall preserve the confidentiality of recipients or participants of public assistance in compliance with division (A) of section 5101.181 of the Revised Code.

For the purposes of this section, "public assistance" means medical assistance provided through the medical assistance program established under section 5111.01 of the Revised Code, Ohio works first provided under Chapter 5107. of the Revised Code, prevention, retention, and contingency

benefits and services provided under Chapter 5108. of the Revised Code, or disability financial assistance provided under Chapter 5115. of the Revised Code, or disability medical assistance provided under Chapter 5115. of the Revised Code.

Sec. 4123.44. The voting members of the workers' compensation oversight commission, the administrator of workers' compensation, and the bureau of workers' compensation chief investment officer are the trustees of the state insurance fund. The administrator of workers' compensation, in accordance with sections 4121.126 and 4121.127 of the Revised Code and the investment objectives, policies, and criteria established by the workers' compensation oversight commission pursuant to section 4121.12 of the Revised Code, and in consultation with the bureau of workers' compensation chief investment officer, may invest any of the surplus or reserve belonging to the state insurance fund.

The administrator shall not invest in any type of investment specified in divisions (G)(6)(a) to (j) of section 4121.12 of the Revised Code.

The administrator and other fiduciaries shall discharge their duties with respect to the funds with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims, and by diversifying the investments of the assets of the funds so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so.

To facilitate investment of the funds, the administrator may establish a partnership, trust, limited liability company, corporation, including a corporation exempt from taxation under the Internal Revenue Code, 100 Stat. 2085, 26 U.S.C. 1, as amended, or any other legal entity authorized to transact business in this state.

When reporting on the performance of investments, the administrator shall comply with the performance presentation standards established by the association for investment management and research.

All investments shall be purchased at current market prices and the evidences of title to the investments shall be placed in the custody of the treasurer of state, who is hereby designated as custodian, or in the custody of the treasurer of state's authorized agent. Evidences of title of the investments so purchased may be deposited by the treasurer of state for safekeeping with an authorized agent selected by the treasurer of state who is a qualified trustee under section 135.18 of the Revised Code. The treasurer of state or the agent shall collect the principal, dividends, distributions, and interest as they become due and payable and place them when collected into the state

insurance fund.

The treasurer of state shall pay for investments purchased by the administrator on receipt of written or electronic instructions from the administrator or the administrator's designated agent authorizing the purchase, and pending receipt of the evidence of title of the investment by the treasurer of state or the treasurer of state's authorized agent. The administrator may sell investments held by the administrator, and the treasurer of state or the treasurer of state's authorized agent shall accept payment from the purchaser and deliver evidence of title of the investment to the purchaser, on receipt of written or electronic instructions from the administrator or the administrator's designated agent authorizing the sale, and pending receipt of the moneys for the investments. The amount received shall be placed in the state insurance fund. The administrator and the treasurer of state may enter into agreements to establish procedures for the purchase and sale of investments under this division and the custody of the investments.

No purchase or sale of any investment shall be made under this section, except as authorized by the administrator.

Any statement of financial position distributed by the administrator shall include the fair value, as of the statement date, of all investments held by the administrator under this section.

When in the judgment of the administrator it is necessary to provide available funds for the payment of compensation or benefits under this chapter, the administrator may borrow money from any available source and pledge as security a sufficient amount of bonds or other securities in which the state insurance fund is invested. The aggregate unpaid amount of loans existing at any one time for money so borrowed shall not exceed ten million dollars. The bonds or other securities so pledged as security for such loans to the administrator shall be the sole security for the payment of the principal and interest of any such loan. The administrator shall not be personally liable for the payment of the principal or the interest of any such loan. No such loan shall be made for a longer period of time than one year. Such loans may be renewed but no one renewal shall be for a period in excess of one year. Such loans shall bear such rate of interest as the administrator determines and in negotiating the loans, the administrator shall endeavor to secure as favorable interest rates and terms as circumstances will permit.

The treasurer of state may deliver to the person or governmental agency making such loan, the bonds or other securities which are to be pledged by the administrator as security for such loan, upon receipt by the treasurer of

state of an order of the administrator authorizing such loan. Upon payment of any such loan by the administrator, the bonds or other securities pledged as security therefor shall be returned to the treasurer of state as custodian of such bonds.

The administrator may pledge with the treasurer of state such amount of bonds or other securities in which the state insurance fund is invested as is reasonably necessary as security for any certificates issued, or paid out, by the treasurer of state upon any warrants drawn by the administrator.

The administrator may secure investment information services, consulting services, and other like services to facilitate investment of the surplus and reserve belonging to the state insurance fund. The administrator shall pay the expense of securing such services from the state insurance fund.

Sec. 4123.441. (A) The bureau of workers' compensation, with the advice and consent of the workers' compensation oversight commission shall employ a person or designate an employee of the bureau who is designated as a chartered financial analyst by the CFA institute and who is licensed by the division of securities in the department of commerce as a bureau of workers' compensation chief investment officer to be the chief investment officer for the bureau of workers' compensation. After ninety days after the effective date of this section, the bureau of workers' compensation may not employ a bureau of workers' compensation chief investment officer, as defined in section 1707.01 of the Revised Code, who does not hold a valid bureau of workers' compensation chief investment officer license issued by the division of securities in the department of commerce. The oversight commission shall notify the division of securities of the department of commerce in writing of its designation and of any change in its designation within ten calendar days after the designation or change.

(B) The bureau of workers' compensation chief investment officer shall reasonably supervise employees of the bureau who handle investment of assets of funds specified in this chapter and Chapters 4121., 4127., and 4131. of the Revised Code with a view toward preventing violations of Chapter 1707. of the Revised Code, the "Commodity Exchange Act," 42 Stat. 998, 7 U.S.C. 1, the "Securities Act of 1933," 48 Stat. 74, 15 U.S.C. 77a, the "Securities Exchange Act of 1934," 48 Stat. 881, 15 U.S.C. 78a, and the rules and regulations adopted under those statutes. This duty of reasonable supervision shall include the adoption, implementation, and enforcement of written policies and procedures reasonably designed to prevent employees of the bureau who handle investment of assets of the



funds specified in this chapter and Chapters 4121., 4127., and 4131. of the Revised Code, from misusing material, nonpublic information in violation of those laws, rules, and regulations.

For purposes of this division, no bureau of workers' compensation chief investment officer shall be considered to have failed to satisfy the officer's duty of reasonable supervision if the officer has done all of the following:

(1) Adopted and implemented written procedures, and a system for applying the procedures, that would reasonably be expected to prevent and detect, insofar as practicable, any violation by employees handling investments of assets of the funds specified in this chapter and Chapters 4121., 4127., and 4131. of the Revised Code;

(2) Reasonably discharged the duties and obligations incumbent on the bureau of workers' compensation chief investment officer by reason of the established procedures and the system for applying the procedures when the officer had no reasonable cause to believe that there was a failure to comply with the procedures and systems;

(3) Reviewed, at least annually, the adequacy of the policies and procedures established pursuant to this section and the effectiveness of their implementation.

(C) The bureau of workers' compensation chief investment officer shall establish and maintain a policy to monitor and evaluate the effectiveness of securities transactions executed on behalf of the bureau.

Sec. 4123.444. (A) As used in this section and section 4123.445 of the Revised Code:

(1) "Bureau of workers' compensation funds" means any fund specified in Chapter 4121., 4123., 4127., or 4131. of the Revised Code that the administrator of workers' compensation has the authority to invest, in accordance with the administrator's investment authority under section 4123.44 of the Revised Code.

(2) "Investment manager" means any person with whom the administrator of workers' compensation contracts pursuant to section 4123.44 of the Revised Code to facilitate the investment of assets of bureau of workers' compensation funds.

(3) "Business entity" means any person with whom an investment manager contracts for the investment of assets of bureau of workers' compensation funds.

(4) "Financial or investment crime" means any criminal offense involving theft, receiving stolen property, embezzlement, forgery, fraud, passing bad checks, money laundering, drug trafficking, or any criminal offense involving money or securities, as set forth in Chapters 2909., 2911.,

2913., 2915., 2921., 2923., and 2925. of the Revised Code or other law of this state, or the laws of any other state or the United States that are substantially equivalent to those offenses.

(B)(1) Before entering into a contract with an investment manager to invest bureau of workers' compensation funds, the administrator shall do both of the following:

(a) Request from any investment manager with whom the administrator wishes to contract for those investments a list of all employees who will be investing assets of bureau of workers' compensation funds. The list shall specify each employee's state of residence for the five years prior to the date of the administrator's request.

(b) Request that the superintendent of the bureau of criminal investigation and identification conduct a criminal records check in accordance with this section and section 109.579 of the Revised Code with respect to every employee the investment manager names in that list.

(2) After an investment manager enters into a contract with the administrator to invest bureau of workers' compensation funds and before an investment manager enters into a contract with a business entity to facilitate those investments, the investment manager shall request from any business entity with whom the investment manager wishes to contract to make those investments a list of all employees who will be investing assets of the bureau of workers' compensation funds. The list shall specify each employee's state of residence for the five years prior to the investment manager's request. The investment manager shall forward to the administrator the list received from the business entity. The administrator shall request the superintendent to conduct a criminal records check in accordance with this section and section 109.579 of the Revised Code with respect to every employee the business entity names in that list. Upon receipt of the results of the criminal records check, the administrator shall forward a copy of those results to the investment manager.

(3) If, after a contract has been entered into between the administrator and an investment manager or between an investment manager and a business entity for the investment of assets of bureau of workers' compensation funds, the investment manager or business entity wishes to have an employee who was not the subject of a criminal records check under division (B)(1) or (B)(2) of this section invest assets of the bureau of workers' compensation funds, that employee shall be the subject of a criminal records check pursuant to this section and section 109.579 of the Revised Code prior to handling the investment of assets of those funds. The investment manager shall submit to the administrator the name of that

employee along with the employee's state of residence for the five years prior to the date in which the administrator requests the criminal records check. The administrator shall request that the superintendent conduct a criminal records check on that employee pursuant to this section and section 109.579 of the Revised Code.

(C)(1) If an employee who is the subject of a criminal records check pursuant to division (B) of this section has not been a resident of this state for the five-year period immediately prior to the time the criminal records check is requested or does not provide evidence that within that five-year period the superintendent has requested information about the employee from the federal bureau of investigation in a criminal records check, the administrator shall request that the superintendent obtain information from the federal bureau of investigation as a part of the criminal records check for the employee. If the employee has been a resident of this state for at least that five-year period, the administrator may, but is not required to, request that the superintendent request and include in the criminal records check information about that employee from the federal bureau of investigation.

(2) The administrator shall provide to an investment manager a copy of the form prescribed pursuant to division (C)(1) of section 109.579 of the Revised Code and a standard impression sheet for each employee for whom a criminal records check must be performed, to obtain fingerprint impressions as prescribed pursuant to division (C)(2) of section 109.579 of the Revised Code. The investment manager shall obtain the completed form and impression sheet either directly from each employee or from a business entity and shall forward the completed form and sheet to the administrator, who shall forward these forms and sheets to the superintendent.

(3) Any employee who receives a copy of the form and the impression sheet pursuant to division (C)(2) of this section and who is requested to complete the form and provide a set of fingerprint impressions shall complete the form or provide all the information necessary to complete the form and shall complete the impression sheets in the manner prescribed in division (C)(2) of section 109.579 of the Revised Code.

(D) For each criminal records check the administrator requests under this section, at the time the administrator makes a request the administrator shall pay to the superintendent the fee the superintendent prescribes pursuant to division (E) of section 109.579 of the Revised Code.

Sec. 4123.445. (A) The administrator of workers' compensation shall not enter into a contract with an investment manager for the investment of assets of the bureau of workers' compensation funds if any employee of that investment manager who will be investing assets of bureau of workers'

compensation funds has been convicted of or pleaded guilty to a financial or investment crime.

(B) An investment manager who has entered into a contract with the bureau of workers' compensation for the investment of assets of bureau of workers' compensation funds shall not contract with a business entity for the investment of those assets if any employee of that business manager who will be investing assets of bureau of workers' compensation funds has been convicted of or pleaded guilty to a financial or investment crime.

(C) The administrator shall not enter into a contract with an investment manager who refuses to submit the list of the investment manager's employees required under division (B) of section 4123.444 of the Revised Code. An investment manager shall not enter into a contract with a business entity who refuses to submit the list of the business entity's employees required under division (B) of section 4123.444 of the Revised Code.

(D) If, after a contract has been awarded to an investment manager or business entity for the investment of assets of bureau of workers' compensation funds, the investment manager or business entity discovers that an employee who is handling the investment of those assets has been convicted of or pleaded guilty to a financial or investment crime, the investment manager or business entity immediately shall notify the administrator.

Sec. 4123.47. (A) The administrator of workers' compensation shall have actuarial audits of the state insurance fund and all other funds specified in this chapter and Chapters 4121., 4127., and 4131. of the Revised Code made at least once every two years each year. The audits shall be made and certified by recognized insurance actuaries who shall be selected as the administrator determines. The audits shall cover the premium rates, classifications, and all other matters involving the administration of the state insurance fund and all other funds specified in this chapter and Chapters 4121., 4127., and 4131. of the Revised Code. The expense of the audits shall be paid from the state insurance fund. The administrator shall make copies of the audits available to the public at cost.

(B) The auditor of state annually shall conduct an audit of the administration of this chapter by the industrial commission and the bureau of workers' compensation and the safety and hygiene fund. The cost of the audit shall be charged to the administrative costs of the bureau as defined in section 4123.341 of the Revised Code. The audit shall include audits of all fiscal activities, claims processing and handling, and employer premium collections. The auditor shall prepare a report of the audit together with recommendations and transmit copies of the report to the industrial

commission the workers' compensation oversight commission, the administrator, the governor, and to the general assembly. The auditor shall make copies of the report available to the public at cost.

(C) The administrator may retain the services of a recognized actuary on a consulting basis for the purpose of evaluating the actuarial soundness of premium rates and classifications and all other matters involving the administration of the state insurance fund. The expense of services provided by the actuary shall be paid from the state insurance fund.

Sec. 4301.10. (A) The division of liquor control shall do all of the following:

(1) Control the traffic in beer and intoxicating liquor in this state, including the manufacture, importation, and sale of beer and intoxicating liquor;

(2) Grant or refuse permits for the manufacture, distribution, transportation, and sale of beer and intoxicating liquor and the sale of alcohol, as authorized or required by this chapter and Chapter 4303. of the Revised Code. A certificate, signed by the superintendent of liquor control and to which is affixed the official seal of the division, stating that it appears from the records of the division that no permit has been issued to the person specified in the certificate, or that a permit, if issued, has been revoked, canceled, or suspended, shall be received as prima-facie evidence of the facts recited in the certificate in any court or before any officer of this state.

(3) Put into operation, manage, and control a system of state liquor stores for the sale of spirituous liquor at retail and to holders of permits authorizing the sale of spirituous liquor; however, the division shall not establish any drive-in state liquor stores; and by means of those types of stores, and any manufacturing plants, distributing and bottling plants, warehouses, and other facilities that it considers expedient, establish and maintain a state monopoly of the distribution of spirituous liquor and its sale in packages or containers; and for that purpose, manufacture, buy, import, possess, and sell spirituous liquors as provided in this chapter and Chapter 4303. of the Revised Code, and in the rules promulgated by the superintendent of liquor control pursuant to those chapters; lease or in any manner acquire the use of any land or building required for any of those purposes; purchase any equipment that is required; and borrow money to carry on its business, and issue, sign, endorse, and accept notes, checks, and bills of exchange; but all obligations of the division created under authority of this division shall be a charge only upon the moneys received by the division from the sale of spirituous liquor and its other business transactions in connection with the sale of spirituous liquor, and shall not be general

obligations of the state;

(4) Enforce the administrative provisions of this chapter and Chapter 4303. of the Revised Code, and the rules and orders of the liquor control commission and the superintendent relating to the manufacture, importation, transportation, distribution, and sale of beer ~~and or~~ or intoxicating ~~liquors~~ liquor. The attorney general, any prosecuting attorney, and any prosecuting officer of a municipal corporation or a municipal court shall, at the request of the division of liquor control or the department of public safety, prosecute any person charged with the violation of any provision in those chapters or of any section of the Revised Code relating to the manufacture, importation, transportation, distribution, and sale of beer ~~and or~~ or intoxicating liquor.

(5) Determine the locations of all state liquor stores and manufacturing, distributing, and bottling plants required in connection with those stores, subject to this chapter and Chapter 4303. of the Revised Code;

(6) Conduct inspections of liquor permit premises to determine compliance with the administrative provisions of this chapter and Chapter 4303. of the Revised Code and the rules adopted under those provisions by the liquor control commission.

Except as otherwise provided in division (A)(6) of this section, those inspections may be conducted only during those hours in which the permit holder is open for business and only by authorized agents or employees of the division or by any peace officer, as defined in section 2935.01 of the Revised Code. Inspections may be conducted at other hours only to determine compliance with laws or commission rules that regulate the hours of sale of beer ~~and or~~ or intoxicating liquor and only if the investigator has reasonable cause to believe that those laws or rules are being violated. Any inspection conducted pursuant to division (A)(6) of this section is subject to all of the following requirements:

(a) The only property that may be confiscated is contraband, as defined in section 2901.01 of the Revised Code, or property that is otherwise necessary for evidentiary purposes.

(b) A complete inventory of all property confiscated from the premises shall be given to the permit holder or the permit holder's agent or employee by the confiscating agent or officer at the conclusion of the inspection. At that time, the inventory shall be signed by the confiscating agent or officer, and the agent or officer shall give the permit holder or the permit holder's agent or employee the opportunity to sign the inventory.

(c) Inspections conducted pursuant to division (A)(6) of this section shall be conducted in a reasonable manner. A finding by any court of competent jurisdiction that ~~the~~ an inspection was not conducted in a

reasonable manner in accordance with this section or any rules ~~promulgated~~ adopted by the commission may be considered grounds for suppression of evidence. A finding by the ~~liquor-control~~ commission that ~~the~~ an inspection was not conducted in a reasonable manner in accordance with this section or any rules ~~promulgated~~ adopted by ~~the commission~~ it may be considered grounds for dismissal of the commission case.

If any court of competent jurisdiction finds that property confiscated as the result of an administrative inspection is not necessary for evidentiary purposes and is not contraband, as defined in section 2901.01 of the Revised Code, the court shall order the immediate return of the confiscated property, provided that property is not otherwise subject to forfeiture, to the permit holder. However, the return of this property is not grounds for dismissal of the case. The commission likewise may order the return of confiscated property if no criminal prosecution is pending or anticipated.

(7) Delegate to any of its agents or employees any power of investigation that the division possesses with respect to the enforcement of any of the administrative laws relating to beer ~~and~~ or intoxicating liquor, provided that this division does not authorize the division to designate any agent or employee to serve as an enforcement agent. The employment and designation of enforcement agents shall be within the exclusive authority of the director of public safety pursuant to sections 5502.13 to 5502.19 of the Revised Code.

(8) Collect the following fees:

(a) A biennial ~~fifty-dollar~~ fifty-dollar registration fee for each agent, solicitor, or salesperson, registered pursuant to section 4303.25 of the Revised Code, of a beer or intoxicating liquor manufacturer, supplier, broker, or wholesale distributor doing business in this state;

(b) A fifty-dollar product registration fee for each new beer or intoxicating liquor product sold in this state. The product registration fee shall be accompanied by a copy of the federal label and product approval for the new product.

(c) An annual three-hundred-dollar supplier registration fee from each manufacturer or supplier that produces and ships into this state, or ships into this state, intoxicating liquor or beer, in addition to an initial application fee of one hundred dollars.

Each supplier, agent, solicitor, or salesperson registration issued under this division shall authorize the person named to carry on the activity specified in the registration. Each agent, solicitor, or salesperson registration is valid for two years or for the unexpired portion of a two-year registration period. Each supplier registration is valid for one year or for the unexpired

portion of a one-year registration period. Registrations shall end on their respective uniform expiration date, which shall be designated by the division, and are subject to suspension, revocation, cancellation, or fine as authorized by this chapter and Chapter 4303. of the Revised Code.

(9) Establish a system of electronic data interchange within the division and regulate the electronic transfer of information and funds among persons and governmental entities engaged in the manufacture, distribution, and retail sale of alcoholic beverages;

(10) Exercise all other powers expressly or by necessary implication conferred upon the division by this chapter and Chapter 4303. of the Revised Code, and all powers necessary for the exercise or discharge of any power, duty, or function expressly conferred or imposed upon the division by those chapters.

(B) The division may do all of the following:

(1) Sue, but may be sued only in connection with the execution of leases of real estate and the purchases and contracts necessary for the operation of the state liquor stores that are made under this chapter and Chapter 4303. of the Revised Code;

(2) Enter into leases and contracts of all descriptions and acquire and transfer title to personal property with regard to the sale, distribution, and storage of spirituous liquor within the state;

(3) Terminate at will any lease entered into pursuant to division (B)(2) of this section upon first giving ninety days' notice in writing to the lessor of its intention to do so;

(4) Fix the wholesale and retail prices at which the various classes, varieties, and brands of spirituous liquor shall be sold by the division. Those retail prices shall be the same at all state liquor stores, except to the extent that a price differential is required to collect a county sales tax levied pursuant to section 5739.021 of the Revised Code and for which tax the tax commissioner has authorized prepayment pursuant to section 5739.05 of the Revised Code. In fixing selling prices, the division shall compute an anticipated gross profit at least sufficient to provide in each calendar year all costs and expenses of the division and also an adequate working capital reserve for the division. The gross profit shall not exceed forty per cent of the retail selling price based on costs of the division, and in addition the sum required by section 4301.12 of the Revised Code to be paid into the state treasury. An amount equal to one and one-half per cent of that gross profit shall be paid into the statewide treatment and prevention fund created by section 4301.30 of the Revised Code and be appropriated by the general assembly from the fund to the department of alcohol and drug addiction



services as provided in section 4301.30 of the Revised Code.

On spirituous liquor manufactured in this state from the juice of grapes or fruits grown in this state, the division shall compute an anticipated gross profit of not to exceed ten per cent. ~~The~~

The wholesale prices fixed under this division shall be at a discount of not less than ~~twelve and one-half~~ six per cent of the retail selling prices as determined by the division in accordance with this section.

(C) The division may approve the expansion or diminution of a premises to which a liquor permit has been issued and may adopt standards governing such an expansion or diminution.

Sec. 4301.43. (A) As used in sections 4301.43 to 4301.50 of the Revised Code:

(1) "Gallon" or "wine gallon" means one hundred twenty-eight fluid ounces.

(2) "Sale" or "sell" includes exchange, barter, gift, distribution, and, except with respect to A-4 permit holders, offer for sale.

(B) For the purposes of providing revenues for the support of the state and encouraging the grape industries in the state, a tax is hereby levied on the sale or distribution of wine in Ohio, except for known sacramental purposes, at the rate of thirty cents per wine gallon for wine containing not less than four per cent of alcohol by volume and not more than fourteen per cent of alcohol by volume, ninety-eight cents per wine gallon for wine containing more than fourteen per cent but not more than twenty-one per cent of alcohol by volume, one dollar and eight cents per wine gallon for vermouth, and one dollar and forty-eight cents per wine gallon for sparkling and carbonated wine and champagne, the tax to be paid by the holders of A-2 and B-5 permits or by any other person selling or distributing wine upon which no tax has been paid. From the tax paid under this section on wine, vermouth, and sparkling and carbonated wine and champagne, the treasurer of state shall credit to the Ohio grape industries fund created under section 924.54 of the Revised Code a sum equal to one cent per gallon for each gallon upon which the tax is paid.

(C) For the purpose of providing revenues for the support of the state, there is hereby levied a tax on prepared and bottled highballs, cocktails, cordials, and other mixed beverages at the rate of one dollar and twenty cents per wine gallon to be paid by holders of A-4 permits or by any other person selling or distributing those products upon which no tax has been paid. Only one sale of the same article shall be used in computing the amount of tax due. The tax on mixed beverages to be paid by holders of A-4 permits under this section shall not attach until the ownership of the mixed

beverage is transferred for valuable consideration to a wholesaler or retailer, and no payment of the tax shall be required prior to that time.

(D) During the period of July 1, ~~2003~~ 2005, through June 30, ~~2005~~ 2007, from the tax paid under this section on wine, vermouth, and sparkling and carbonated wine and champagne, the treasurer of state shall credit to the Ohio grape industries fund created under section 924.54 of the Revised Code a sum equal to two cents per gallon upon which the tax is paid. The amount credited under this division is in addition to the amount credited to the Ohio grape industries fund under division (B) of this section.

(E) For the purpose of providing revenues for the support of the state, there is hereby levied a tax on cider at the rate of twenty-four cents per wine gallon to be paid by the holders of A-2 and B-5 permits or by any other person selling or distributing cider upon which no tax has been paid. Only one sale of the same article shall be used in computing the amount of the tax due.

Sec. 4303.182. (A) Except as otherwise provided in divisions (B) to (G) of this section, permit D-6 shall be issued to the holder of an A-1-A, A-2, C-2, D-2, D-3, D-3a, D-4, D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, D-5k, or D-7 permit to allow sale under that permit between the hours of ten a.m. and midnight, or between the hours of one p.m. and midnight, on Sunday, as applicable, if that sale has been authorized under section 4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code and under the restrictions of that authorization.

(B) Permit D-6 shall be issued to the holder of any permit, including a D-4a and D-5d permit, authorizing the sale of intoxicating liquor issued for a premises located at any publicly owned airport, as defined in section 4563.01 of the Revised Code, at which commercial airline companies operate regularly scheduled flights on which space is available to the public, to allow sale under such permit between the hours of ten a.m. and midnight on Sunday, whether or not that sale has been authorized under section 4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code.

(C) Permit D-6 shall be issued to the holder of a D-5a permit, and to the holder of a D-3 or D-3a permit who is the owner or operator of a hotel or motel that is required to be licensed under section 3731.03 of the Revised Code, that contains at least fifty rooms for registered transient guests, and that has on its premises a retail food establishment or a food service operation licensed pursuant to Chapter 3717. of the Revised Code that operates as a restaurant for purposes of this chapter and is affiliated with the hotel or motel and within or contiguous to the hotel or motel and serving food within the hotel or motel, to allow sale under such permit between the

hours of ten a.m. and midnight on Sunday, whether or not that sale has been authorized under section 4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code.

(D) The holder of a D-6 permit that is issued to a sports facility may make sales under the permit between the hours of eleven a.m. and midnight on any Sunday on which a professional baseball, basketball, football, hockey, or soccer game is being played at the sports facility. As used in this division, "sports facility" means a stadium or arena that has a seating capacity of at least four thousand and that is owned or leased by a professional baseball, basketball, football, hockey, or soccer franchise or any combination of those franchises.

(E) Permit D-6 shall be issued to the holder of any permit that authorizes the sale of beer or intoxicating liquor and that is issued to a premises located in or at the Ohio historical society area or the state fairgrounds, as defined in division (B) of section 4301.40 of the Revised Code, to allow sale under that permit between the hours of ten a.m. and midnight on Sunday, whether or not that sale has been authorized under section 4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code.

(F) Permit D-6 shall be issued to the holder of any permit that authorizes the sale of intoxicating liquor and that is issued to an outdoor performing arts center to allow sale under that permit between the hours of one p.m. and midnight on Sunday, whether or not that sale has been authorized under section 4301.361 of the Revised Code. A D-6 permit issued under this division is subject to the results of an election, held after the D-6 permit is issued, on question (B)(4) as set forth in section 4301.351 of the Revised Code. Following the end of the period during which an election may be held on question (B)(4) as set forth in that section, sales of intoxicating liquor may continue at an outdoor performing arts center under a D-6 permit issued under this division, unless an election on that question is held during the permitted period and a majority of the voters voting in the precinct on that question vote "no."

As used in this division, "outdoor performing arts center" means an outdoor performing arts center that is located on not less than eight hundred acres of land and that is open for performances from the first day of April to the last day of October of each year.

(G) Permit D-6 shall be issued to the holder of any permit that authorizes the sale of beer or intoxicating liquor and that is issued to a golf course owned by the state, a conservancy district, a park district created under Chapter 1545. of the Revised Code, or another political subdivision to allow sale under that permit between the hours of ten a.m. and midnight on

Sunday, whether or not that sale has been authorized under section 4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code.

(H) Permit D-6 shall be issued to the holder of a D-5g permit to allow sale under that permit between the hours of ten a.m. and midnight on Sunday, whether or not that sale has been authorized under section 4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code.

(I) Permit D-6 shall be issued to the holder of any D permit for a premises that is licensed under Chapter 3717. of the Revised Code and that is located at a ski area to allow sale under the D-6 permit between the hours of ten a.m. and midnight on Sunday, whether or not that sale has been authorized under section 4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code.

As used in this division, "ski area" means a ski area as defined in section 4169.01 of the Revised Code, provided that the passenger tramway operator at that area is registered under section 4169.03 of the Revised Code.

(J) If the restriction to licensed premises where the sale of food and other goods and services exceeds fifty per cent of the total gross receipts of the permit holder at the premises is applicable, the division of liquor control may accept an affidavit from the permit holder to show the proportion of the permit holder's gross receipts derived from the sale of food and other goods and services. If the liquor control commission determines that affidavit to have been false, it shall revoke the permits of the permit holder at the premises concerned.

~~(J)~~(K) The fee for the D-6 permit is five hundred dollars when it is issued to the holder of an A-1-A, A-2, D-2, D-3, D-3a, D-4, D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, D-5k, or D-7 permit. The fee for the D-6 permit is four hundred dollars when it is issued to the holder of a C-2 permit.

Sec. 4501.01. As used in this chapter and Chapters 4503., 4505., 4507., 4509., 4510., 4511., 4513., 4515., and 4517. of the Revised Code, and in the penal laws, except as otherwise provided:

(A) "Vehicles" means everything on wheels or runners, including motorized bicycles, but does not mean electric personal assistive mobility devices, vehicles that are operated exclusively on rails or tracks or from overhead electric trolley wires, and vehicles that belong to any police department, municipal fire department, or volunteer fire department, or that are used by such a department in the discharge of its functions.

(B) "Motor vehicle" means any vehicle, including mobile homes and recreational vehicles, that is propelled or drawn by power other than muscular power or power collected from overhead electric trolley wires.

"Motor vehicle" does not include utility vehicles as defined in division (VV) of this section, motorized bicycles, road rollers, traction engines, power shovels, power cranes, and other equipment used in construction work and not designed for or employed in general highway transportation, well-drilling machinery, ditch-digging machinery, farm machinery, trailers that are used to transport agricultural produce or agricultural production materials between a local place of storage or supply and the farm when drawn or towed on a public road or highway at a speed of twenty-five miles per hour or less, threshing machinery, hay-baling machinery, corn sheller, hammermill and agricultural tractors, machinery used in the production of horticultural, agricultural, and vegetable products, and trailers that are designed and used exclusively to transport a boat between a place of storage and a marina, or in and around a marina, when drawn or towed on a public road or highway for a distance of no more than ten miles and at a speed of twenty-five miles per hour or less.

(C) "Agricultural tractor" and "traction engine" mean any self-propelling vehicle that is designed or used for drawing other vehicles or wheeled machinery, but has no provisions for carrying loads independently of such other vehicles, and that is used principally for agricultural purposes.

(D) "Commercial tractor," except as defined in division (C) of this section, means any motor vehicle that has motive power and either is designed or used for drawing other motor vehicles, or is designed or used for drawing another motor vehicle while carrying a portion of the other motor vehicle or its load, or both.

(E) "Passenger car" means any motor vehicle that is designed and used for carrying not more than nine persons and includes any motor vehicle that is designed and used for carrying not more than fifteen persons in a ridesharing arrangement.

(F) "Collector's vehicle" means any motor vehicle or agricultural tractor or traction engine that is of special interest, that has a fair market value of one hundred dollars or more, whether operable or not, and that is owned, operated, collected, preserved, restored, maintained, or used essentially as a collector's item, leisure pursuit, or investment, but not as the owner's principal means of transportation. "Licensed collector's vehicle" means a collector's vehicle, other than an agricultural tractor or traction engine, that displays current, valid license tags issued under section 4503.45 of the Revised Code, or a similar type of motor vehicle that displays current, valid license tags issued under substantially equivalent provisions in the laws of other states.

(G) "Historical motor vehicle" means any motor vehicle that is over

twenty-five years old and is owned solely as a collector's item and for participation in club activities, exhibitions, tours, parades, and similar uses, but that in no event is used for general transportation.

(H) "Noncommercial motor vehicle" means any motor vehicle, including a farm truck as defined in section 4503.04 of the Revised Code, that is designed by the manufacturer to carry a load of no more than one ton and is used exclusively for purposes other than engaging in business for profit.

(I) "Bus" means any motor vehicle that has motor power and is designed and used for carrying more than nine passengers, except any motor vehicle that is designed and used for carrying not more than fifteen passengers in a ridesharing arrangement.

(J) "Commercial car" or "truck" means any motor vehicle that has motor power and is designed and used for carrying merchandise or freight, or that is used as a commercial tractor.

(K) "Bicycle" means every device, other than a tricycle that is designed solely for use as a play vehicle by a child, that is propelled solely by human power upon which any person may ride, and that has either two tandem wheels, or one wheel in front and two wheels in the rear, any of which is more than fourteen inches in diameter.

(L) "Motorized bicycle" means any vehicle that either has two tandem wheels or one wheel in the front and two wheels in the rear, that is capable of being pedaled, and that is equipped with a helper motor of not more than fifty cubic centimeters piston displacement that produces no more than one brake horsepower and is capable of propelling the vehicle at a speed of no greater than twenty miles per hour on a level surface.

(M) "Trailer" means any vehicle without motive power that is designed or used for carrying property or persons wholly on its own structure and for being drawn by a motor vehicle, and includes any such vehicle that is formed by or operated as a combination of a semitrailer and a vehicle of the dolly type such as that commonly known as a trailer dolly, a vehicle used to transport agricultural produce or agricultural production materials between a local place of storage or supply and the farm when drawn or towed on a public road or highway at a speed greater than twenty-five miles per hour, and a vehicle that is designed and used exclusively to transport a boat between a place of storage and a marina, or in and around a marina, when drawn or towed on a public road or highway for a distance of more than ten miles or at a speed of more than twenty-five miles per hour. "Trailer" does not include a manufactured home or travel trailer.

(N) "Noncommercial trailer" means any trailer, except a travel trailer or

trailer that is used to transport a boat as described in division (B) of this section, but, where applicable, includes a vehicle that is used to transport a boat as described in division (M) of this section, that has a gross weight of no more than three thousand pounds, and that is used exclusively for purposes other than engaging in business for a profit.

(O) "Mobile home" means a building unit or assembly of closed construction that is fabricated in an off-site facility, is more than thirty-five body feet in length or, when erected on site, is three hundred twenty or more square feet, is built on a permanent chassis, is transportable in one or more sections, and does not qualify as a manufactured home as defined in division (C)(4) of section 3781.06 of the Revised Code or as an industrialized unit as defined in division (C)(3) of section 3781.06 of the Revised Code.

(P) "Semitrailer" means any vehicle of the trailer type that does not have motive power and is so designed or used with another and separate motor vehicle that in operation a part of its own weight or that of its load, or both, rests upon and is carried by the other vehicle furnishing the motive power for propelling itself and the vehicle referred to in this division, and includes, for the purpose only of registration and taxation under those chapters, any vehicle of the dolly type, such as a trailer dolly, that is designed or used for the conversion of a semitrailer into a trailer.

(Q) "Recreational vehicle" means a vehicular portable structure that meets all of the following conditions:

- (1) It is designed for the sole purpose of recreational travel.
- (2) It is not used for the purpose of engaging in business for profit.
- (3) It is not used for the purpose of engaging in intrastate commerce.
- (4) It is not used for the purpose of commerce as defined in 49 C.F.R. 383.5, as amended.

(5) It is not regulated by the public utilities commission pursuant to Chapter 4919., 4921., or 4923. of the Revised Code.

(6) It is classed as one of the following:

(a) "Travel trailer" means a nonself-propelled recreational vehicle that does not exceed an overall length of thirty-five feet, exclusive of bumper and tongue or coupling, and contains less than three hundred twenty square feet of space when erected on site. "Travel trailer" includes a tent-type fold-out camping trailer as defined in section 4517.01 of the Revised Code.

(b) "Motor home" means a self-propelled recreational vehicle that has no fifth wheel and is constructed with permanently installed facilities for cold storage, cooking and consuming of food, and for sleeping.

(c) "Truck camper" means a nonself-propelled recreational vehicle that does not have wheels for road use and is designed to be placed upon and

attached to a motor vehicle. "Truck camper" does not include truck covers that consist of walls and a roof, but do not have floors and facilities enabling them to be used as a dwelling.

(d) "Fifth wheel trailer" means a vehicle that is of such size and weight as to be movable without a special highway permit, that has a gross trailer area of four hundred square feet or less, that is constructed with a raised forward section that allows a bi-level floor plan, and that is designed to be towed by a vehicle equipped with a fifth-wheel hitch ordinarily installed in the bed of a truck.

(e) "Park trailer" means a vehicle that is commonly known as a park model recreational vehicle, meets the American national standard institute standard A119.5 (1988) for park trailers, is built on a single chassis, has a gross trailer area of four hundred square feet or less when set up, is designed for seasonal or temporary living quarters, and may be connected to utilities necessary for the operation of installed features and appliances.

(R) "Pneumatic tires" means tires of rubber and fabric or tires of similar material, that are inflated with air.

(S) "Solid tires" means tires of rubber or similar elastic material that are not dependent upon confined air for support of the load.

(T) "Solid tire vehicle" means any vehicle that is equipped with two or more solid tires.

(U) "Farm machinery" means all machines and tools that are used in the production, harvesting, and care of farm products, and includes trailers that are used to transport agricultural produce or agricultural production materials between a local place of storage or supply and the farm when drawn or towed on a public road or highway at a speed of twenty-five miles per hour or less.

(V) "Owner" includes any person or firm, other than a manufacturer or dealer, that has title to a motor vehicle, except that, in sections 4505.01 to 4505.19 of the Revised Code, "owner" includes in addition manufacturers and dealers.

(W) "Manufacturer" and "dealer" include all persons and firms that are regularly engaged in the business of manufacturing, selling, displaying, offering for sale, or dealing in motor vehicles, at an established place of business that is used exclusively for the purpose of manufacturing, selling, displaying, offering for sale, or dealing in motor vehicles. A place of business that is used for manufacturing, selling, displaying, offering for sale, or dealing in motor vehicles shall be deemed to be used exclusively for those purposes even though snowmobiles or all-purpose vehicles are sold or displayed for sale thereat, even though farm machinery is sold or displayed



for sale thereat, or even though repair, accessory, gasoline and oil, storage, parts, service, or paint departments are maintained thereat, or, in any county having a population of less than seventy-five thousand at the last federal census, even though a department in a place of business is used to dismantle, salvage, or rebuild motor vehicles by means of used parts, if such departments are operated for the purpose of furthering and assisting in the business of manufacturing, selling, displaying, offering for sale, or dealing in motor vehicles. Places of business or departments in a place of business used to dismantle, salvage, or rebuild motor vehicles by means of using used parts are not considered as being maintained for the purpose of assisting or furthering the manufacturing, selling, displaying, and offering for sale or dealing in motor vehicles.

(X) "Operator" includes any person who drives or operates a motor vehicle upon the public highways.

(Y) "Chauffeur" means any operator who operates a motor vehicle, other than a taxicab, as an employee for hire; or any operator whether or not the owner of a motor vehicle, other than a taxicab, who operates such vehicle for transporting, for gain, compensation, or profit, either persons or property owned by another. Any operator of a motor vehicle who is voluntarily involved in a ridesharing arrangement is not considered an employee for hire or operating such vehicle for gain, compensation, or profit.

(Z) "State" includes the territories and federal districts of the United States, and the provinces of Canada.

(AA) "Public roads and highways" for vehicles includes all public thoroughfares, bridges, and culverts.

(BB) "Manufacturer's number" means the manufacturer's original serial number that is affixed to or imprinted upon the chassis or other part of the motor vehicle.

(CC) "Motor number" means the manufacturer's original number that is affixed to or imprinted upon the engine or motor of the vehicle.

(DD) "Distributor" means any person who is authorized by a motor vehicle manufacturer to distribute new motor vehicles to licensed motor vehicle dealers at an established place of business that is used exclusively for the purpose of distributing new motor vehicles to licensed motor vehicle dealers, except when the distributor also is a new motor vehicle dealer, in which case the distributor may distribute at the location of the distributor's licensed dealership.

(EE) "Ridesharing arrangement" means the transportation of persons in a motor vehicle where the transportation is incidental to another purpose of

a volunteer driver and includes ridesharing arrangements known as carpools, vanpools, and buspools.

(FF) "Apportionable vehicle" means any vehicle that is used or intended for use in two or more international registration plan member jurisdictions that allocate or proportionally register vehicles, that is used for the transportation of persons for hire or designed, used, or maintained primarily for the transportation of property, and that meets any of the following qualifications:

(1) Is a power unit having a gross vehicle weight in excess of twenty-six thousand pounds;

(2) Is a power unit having three or more axles, regardless of the gross vehicle weight;

(3) Is a combination vehicle with a gross vehicle weight in excess of twenty-six thousand pounds.

"Apportionable vehicle" does not include recreational vehicles, vehicles displaying restricted plates, city pick-up and delivery vehicles, buses used for the transportation of chartered parties, or vehicles owned and operated by the United States, this state, or any political subdivisions thereof.

(GG) "Chartered party" means a group of persons who contract as a group to acquire the exclusive use of a passenger-carrying motor vehicle at a fixed charge for the vehicle in accordance with the carrier's tariff, lawfully on file with the United States department of transportation, for the purpose of group travel to a specified destination or for a particular itinerary, either agreed upon in advance or modified by the chartered group after having left the place of origin.

(HH) "International registration plan" means a reciprocal agreement of member jurisdictions that is endorsed by the American association of motor vehicle administrators, and that promotes and encourages the fullest possible use of the highway system by authorizing apportioned registration of fleets of vehicles and recognizing registration of vehicles apportioned in member jurisdictions.

(II) "Restricted plate" means a license plate that has a restriction of time, geographic area, mileage, or commodity, and includes license plates issued to farm trucks under division (J) of section 4503.04 of the Revised Code.

(JJ) "Gross vehicle weight," with regard to any commercial car, trailer, semitrailer, or bus that is taxed at the rates established under section 4503.042 of the Revised Code, means the unladen weight of the vehicle fully equipped plus the maximum weight of the load to be carried on the vehicle.

(KK) "Combined gross vehicle weight" with regard to any combination

of a commercial car, trailer, and semitrailer, that is taxed at the rates established under section 4503.042 of the Revised Code, means the total unladen weight of the combination of vehicles fully equipped plus the maximum weight of the load to be carried on that combination of vehicles.

(LL) "Chauffeured limousine" means a motor vehicle that is designed to carry nine or fewer passengers and is operated for hire on an hourly basis pursuant to a prearranged contract for the transportation of passengers on public roads and highways along a route under the control of the person hiring the vehicle and not over a defined and regular route. "Prearranged contract" means an agreement, made in advance of boarding, to provide transportation from a specific location in a chauffeured limousine at a fixed rate per hour or trip. "Chauffeured limousine" does not include any vehicle that is used exclusively in the business of funeral directing.

(MM) "Manufactured home" has the same meaning as in division (C)(4) of section 3781.06 of the Revised Code.

(NN) "Acquired situs," with respect to a manufactured home or a mobile home, means to become located in this state by the placement of the home on real property, but does not include the placement of a manufactured home or a mobile home in the inventory of a new motor vehicle dealer or the inventory of a manufacturer, remanufacturer, or distributor of manufactured or mobile homes.

(OO) "Electronic" includes electrical, digital, magnetic, optical, electromagnetic, or any other form of technology that entails capabilities similar to these technologies.

(PP) "Electronic record" means a record generated, communicated, received, or stored by electronic means for use in an information system or for transmission from one information system to another.

(QQ) "Electronic signature" means a signature in electronic form attached to or logically associated with an electronic record.

(RR) "Financial transaction device" has the same meaning as in division (A) of section 113.40 of the Revised Code.

(SS) "Electronic motor vehicle dealer" means a motor vehicle dealer licensed under Chapter 4517. of the Revised Code whom the registrar of motor vehicles determines meets the criteria designated in section 4503.035 of the Revised Code for electronic motor vehicle dealers and designates as an electronic motor vehicle dealer under that section.

(TT) "Electric personal assistive mobility device" means a self-balancing two non-tandem wheeled device that is designed to transport only one person, has an electric propulsion system of an average of seven hundred fifty watts, and when ridden on a paved level surface by an operator

who weighs one hundred seventy pounds has a maximum speed of less than twenty miles per hour.

(UU) "Limited driving privileges" means the privilege to operate a motor vehicle that a court grants under section 4510.021 of the Revised Code to a person whose driver's or commercial driver's license or permit or nonresident operating privilege has been suspended.

(VV) "Utility vehicle" means a self-propelled vehicle designed with a bed, principally for the purpose of transporting material or cargo in connection with construction, agricultural, forestry, grounds maintenance, lawn and garden, materials handling, or similar activities.

Sec. 4501.37. (A) No court may reverse, suspend, or delay any order made by the registrar of motor vehicles, or enjoin, restrain, or interfere with the registrar or a deputy registrar in the performance of official duties, except as provided in this chapter and Chapter 4507. or 4510. of the Revised Code.

(B) A court shall not order the bureau of motor vehicles to delete a record of conviction unless the court finds that deletion of the record of conviction is necessary to correct an error. The bureau shall not comply with a court order that directs the deletion of a record of conviction unless the order states that the record of conviction is being deleted in order to correct an error.

Sec. 4503.103. (A)(1)(a)(i) The registrar of motor vehicles may adopt rules to permit any person or lessee, other than a person receiving an apportioned license plate under the international registration plan, who owns or leases one or more motor vehicles to file a written application for registration for no more than five succeeding registration years. The rules adopted by the registrar may designate the classes of motor vehicles that are eligible for such registration. At the time of application, all annual taxes and fees shall be paid for each year for which the person is registering.

(ii) The registrar shall adopt rules to permit any person or lessee who owns or leases two or more trailers or semitrailers that are subject to the tax rates prescribed in section 4503.042 of the Revised Code for such trailers or semitrailers to file a written application for registration for not more than five succeeding registration years. At the time of application, all annual taxes and fees shall be paid for each year for which the person is registering.

(b)(i) Except as provided in division (A)(1)(b)(ii) of this section, the registrar shall adopt rules to permit any person who owns a motor vehicle to file an application for registration for the next two succeeding registration years. At the time of application, the person shall pay the annual taxes and fees for each registration year, calculated in accordance with division (C) of

section 4503.11 of the Revised Code. A person who is registering a vehicle under division (A)(1)(b) of this section shall pay for each year of registration the additional fee established under division (C)(1) of section 4503.10 of the Revised Code. The person shall also pay one and one-half times the amount of the deputy registrar service fee specified in division (D) of section 4503.10 of the Revised Code or the bureau of motor vehicles service fee specified in division (G) of that section, as applicable.

(ii) Division (A)(1)(b)(i) of this section does not apply to a person receiving an apportioned license plate under the international registration plan, or the owner of a commercial car used solely in intrastate commerce, or the owner of a bus as defined in section 4513.50 of the Revised Code.

(2) No person applying for a multi-year registration under division (A)(1) of this section is entitled to a refund of any taxes or fees paid.

(3) The registrar shall not issue to any applicant who has been issued a final, nonappealable order under division (B) of this section a multi-year registration or renewal thereof under this division or rules adopted under it for any motor vehicle that is required to be inspected under section 3704.14 of the Revised Code the district of registration of which, as determined under section 4503.10 of the Revised Code, is or is located in the county named in the order.

(B) Upon receipt from the director of environmental protection of a notice issued under ~~division (J) of~~ rules adopted under section 3704.14 of the Revised Code indicating that an owner of a motor vehicle that is required to be inspected under that section who obtained a multi-year registration for the vehicle under division (A) of this section or rules adopted under that division has not obtained ~~an~~ a required inspection certificate for the vehicle ~~in accordance with that section in a year intervening between the years of issuance and expiration of the multi-year registration in which the owner is required to have the vehicle inspected and obtain an inspection certificate for it under division (F)(1)(a) of that section,~~ the registrar in accordance with Chapter 119. of the Revised Code shall issue an order to the owner impounding the certificate of registration and identification license plates for the vehicle. The order also shall prohibit the owner from obtaining or renewing a multi-year registration for any vehicle that is required to be inspected under that section, the district of registration of which is or is located in the same county as the county named in the order during the number of years after expiration of the current multi-year registration that equals the number of years for which the current multi-year registration was issued.

An order issued under this division shall require the owner to surrender

to the registrar the certificate of registration and license plates for the vehicle named in the order within five days after its issuance. If the owner fails to do so within that time, the registrar shall certify that fact to the county sheriff or local police officials who shall recover the certificate of registration and license plates for the vehicle.

(C) Upon the occurrence of either of the following circumstances, the registrar in accordance with Chapter 119. of the Revised Code shall issue to the owner a modified order rescinding the provisions of the order issued under division (B) of this section impounding the certificate of registration and license plates for the vehicle named in that original order:

(1) Receipt from the director of environmental protection of a subsequent notice under ~~division (J) of rules adopted under~~ section 3704.14 of the Revised Code that the owner has obtained the inspection certificate for the vehicle as required under ~~division (F)(1)(a) of that section~~ those rules;

(2) Presentation to the registrar by the owner of the required inspection certificate for the vehicle.

(D) The owner of a motor vehicle for which the certificate of registration and license plates have been impounded pursuant to an order issued under division (B) of this section, upon issuance of a modified order under division (C) of this section, may apply to the registrar for their return. A fee of two dollars and fifty cents shall be charged for the return of the certificate of registration and license plates for each vehicle named in the application.

Sec. 4503.471. (A) Any person who is a member in good standing of the international association of firefighters may apply to the registrar of motor vehicles for the registration of any passenger car, noncommercial vehicle, ~~motor home~~ recreational vehicle, or other vehicle of a class approved by the registrar that the person owns or leases and the issuance of international association of firefighters license plates. The application shall be accompanied by the written evidence that the registrar may require by rule showing that the person is a member in good standing of the international association of firefighters. The application for international association of firefighters license plates may be combined with a request for a special reserved license plate under section 4503.40 or 4503.42 of the Revised Code.

Upon receipt of an application for registration of a vehicle under this section and presentation of satisfactory evidence showing that the person is a member in good standing of the international association of firefighters, the registrar shall issue to the applicant the appropriate vehicle registrations,

sets of license plates and validation stickers, or validation stickers alone when required by section 4503.191 of the Revised Code.

In addition to the letters and numbers ordinarily inscribed on the license plates, international association of firefighters license plates shall be inscribed with a Maltese cross emblem designed by the international association of firefighters and approved by the registrar. International association of firefighters license plates shall bear county identification stickers that identify the county of registration by name or number.

The license plates and validation stickers shall be issued upon payment of the regular license fee as prescribed under section 4503.04 of the Revised Code, payment of any local motor vehicle tax levied under Chapter 4504. of the Revised Code, and payment of an additional fee of ten dollars for the purpose of compensating the bureau of motor vehicles for additional services required in the issuing of license plates under this section. If the application for international association of firefighters license plates is combined with a request for a special reserved license plate under section 4503.40 or 4503.42 of the Revised Code, the license plate and validation sticker shall be issued upon payment of the fees and taxes contained in this division and the additional fee prescribed under section 4503.40 or 4503.42 of the Revised Code. The registrar shall deposit the additional fee of ten dollars in the state bureau of motor vehicles fund created by section 4501.25 of the Revised Code.

Whenever a person no longer is eligible to be issued international association of firefighters license plates, the person shall surrender the international association of firefighters license plates to the bureau in exchange for license plates without the Maltese cross emblem described in this section. A fee of five dollars shall be charged for the services required in the issuing of replacement plates when a person no longer is eligible to be issued international association of firefighters license plates.

A person may make application for international association of firefighters license plates at any time of year, and the registrar shall issue international association of firefighters license plates and replacement plates at any time of year.

(B) No person who is not a member in good standing of the international association of firefighters shall willfully and falsely represent that the person is a member in good standing of the international association of firefighters for the purpose of obtaining international association of firefighters license plates under this section. No person shall own or lease a vehicle bearing international association of firefighters license plates unless the person is eligible to be issued international association of firefighters

license plates.

(C) Whoever violates division (B) of this section is guilty of a misdemeanor of the fourth degree.

Sec. 4503.48. Any person who is a member of the Ohio national guard or the reserves of the armed forces of the United States may apply to the registrar of motor vehicles for the registration of any passenger car, noncommercial motor vehicle, ~~motor-home~~ recreational vehicle, or other vehicle of a class approved by the registrar that the person owns or leases. The application shall be accompanied by such written evidence that the person is a member of the Ohio national guard or of the reserves as the registrar requires by rule.

Upon receipt of an application for registration of a motor vehicle under this section, presentation of satisfactory evidence of membership in the Ohio national guard or the reserves, and payment of the regular license fees as prescribed under section 4503.04 of the Revised Code and any local motor vehicle license tax levied under Chapter 4504. of the Revised Code, the registrar shall issue to the applicant the appropriate motor vehicle registration and a set of license plates and a validation sticker, or a validation sticker alone when required by section 4503.191 of the Revised Code. In addition to the letters and numbers ordinarily inscribed thereon, the license plates shall be inscribed with identifying words or markings designed by the department of public safety. The license plates shall bear county identification stickers that identify the county of registration by name or number.

Sec. 4503.50. (A) The owner or lessee of any passenger car, noncommercial motor vehicle, ~~motor-home~~ recreational vehicle, or other vehicle of a class approved by the registrar of motor vehicles may apply to the registrar for the registration of the vehicle and issuance of future farmers of America license plates. The application for future farmers of America license plates may be combined with a request for a special reserved license plate under section 4503.40 or 4503.42 of the Revised Code. Upon receipt of the completed application and compliance with division (B) of this section, the registrar shall issue to the applicant the appropriate vehicle registration and a set of future farmers of America license plates with a validation sticker or a validation sticker alone when required by section 4503.191 of the Revised Code.

In addition to the letters and numbers ordinarily inscribed on the license plates, future farmers of America license plates shall be inscribed with identifying words or markings representing the future farmers of America and approved by the registrar. Future farmers of America license plates shall



bear county identification stickers that identify the county of registration by name or number.

(B) The future farmers of America license plates and validation sticker shall be issued upon receipt of a contribution as provided in division (C) of this section and upon payment of the regular license tax as prescribed under section 4503.04 of the Revised Code, a fee of ten dollars for the purpose of compensating the bureau of motor vehicles for additional services required in the issuing of the future farmers of America license plates, any applicable motor vehicle tax levied under Chapter 4504. of the Revised Code, and compliance with all other applicable laws relating to the registration of motor vehicles. If the application for future farmers of America license plates is combined with a request for a special reserved license plate under section 4503.40 or 4503.42 of the Revised Code, the license plate and validation sticker shall be issued upon payment of the contribution, fees, and taxes referred to or established in this division and the additional fee prescribed under section 4503.40 or 4503.42 of the Revised Code.

(C) For each application for registration and registration renewal the registrar receives under this section, the registrar shall collect a contribution of fifteen dollars. The registrar shall transmit this contribution to the treasurer of state for deposit in the license plate contribution fund created in section 4501.21 of the Revised Code.

The registrar shall deposit the additional fee of ten dollars specified in division (B) of this section that the applicant for registration pays for the purpose of compensating the bureau for the additional services required in the issuing of the applicant's future farmers of America license plates in the state bureau of motor vehicles fund created in section 4501.25 of the Revised Code.

Sec. 4503.53. Any person who served in the armed forces of the United States in Saudi Arabia or Kuwait during Operation Desert Storm or Operation Desert Shield, in Panama during the invasion, in Grenada during the invasion, in Lebanon during the invasion, during the Vietnam conflict, during the Korean conflict, during World War II, or during World War I, and who is on active duty or is an honorably discharged veteran may apply to the registrar of motor vehicles for the registration of any passenger car, noncommercial motor vehicle, ~~motor home~~ recreational vehicle, or other vehicle of a class approved by the registrar the person owns or leases. The application shall be accompanied by such written evidence of the applicant's service as the registrar requires by rule. In the case of an honorably discharged veteran, the written evidence shall include a copy of the applicant's DD-214 form or an equivalent document.

Upon receipt of an application for registration of a motor vehicle under this section, presentation of satisfactory evidence of military service in Saudi Arabia or Kuwait during Operation Desert Storm or Operation Desert Shield, in Panama during the invasion, in Grenada during the invasion, in Lebanon during the invasion, during the Vietnam conflict, during the Korean conflict, during World War II, or during World War I, and payment of the regular license tax as prescribed under section 4503.04 of the Revised Code and any applicable local tax levied under Chapter 4504. of the Revised Code, the registrar shall issue to the applicant the appropriate motor vehicle registration and a set of license plates and a validation sticker, or a validation sticker alone when required by section 4503.191 of the Revised Code. In accordance with rules adopted by the registrar, each license plate shall be inscribed with identifying letters or numerals and the word "VETERAN"; in addition, each license plate shall be inscribed with a design and words indicating service in Saudi Arabia, Kuwait, Panama, Grenada, or Lebanon, or during the Vietnam conflict, the Korean conflict, World War II, or World War I.

Sec. 4503.571. Any person who has been awarded the purple heart may apply to the registrar of motor vehicles for the registration of any passenger car, noncommercial motor vehicle, ~~motor home~~ recreational vehicle, or other vehicle of a class approved by the registrar that the person owns or leases. The application shall be accompanied by such documentary evidence in support of the award as the registrar may require. The application may be combined with a request for a special reserved license plate under section 4503.40 or 4503.42 of the Revised Code.

Upon receipt of an application for registration of a motor vehicle under this section and the required taxes and fees, and upon presentation of the required supporting evidence of the award of the purple heart, the registrar shall issue to the applicant the appropriate motor vehicle registration and a set of license plates and a validation sticker, or a validation sticker alone when required by section 4503.191 of the Revised Code.

In addition to the letters and numbers ordinarily inscribed on the license plates, the license plates shall be inscribed with the words "PURPLE HEART." The license plates shall bear county identification stickers that identify the county of registration by name or number.

The license plates and validation stickers shall be issued upon payment of the regular license fee required by section 4503.04 of the Revised Code, payment of any local motor vehicle license tax levied under Chapter 4504. of the Revised Code, and compliance with all other applicable laws relating to the registration of motor vehicles. If the application is combined with a

request for a special reserved license plate under section 4503.40 or 4503.42 of the Revised Code, the license plates and validation sticker shall be issued upon payment of the fees and taxes referred to in this section and the additional fee prescribed under section 4503.40 or 4503.42 of the Revised Code.

No person who is not a recipient of the purple heart shall willfully and falsely represent that the person is a recipient of a purple heart for the purpose of obtaining license plates under this section. No person shall own a motor vehicle bearing license plates under this section unless the person is eligible to be issued those license plates.

Sec. 4503.59. The owner or lessee of any passenger car, noncommercial motor vehicle, ~~motor home~~ recreational vehicle, or other vehicle of a class approved by the registrar of motor vehicles who is certified by the Pearl Harbor survivors association as having survived the attack on Pearl Harbor may apply to the registrar for the registration of the vehicle and issuance of Pearl Harbor license plates. The application for Pearl Harbor license plates may be combined with a request for a special reserved license plate under section 4503.40 or 4503.42 of the Revised Code. Upon receipt of the completed application, presentation by the applicant of documentation issued by the Pearl Harbor survivors association certifying that the applicant survived the attack on Pearl Harbor, and compliance by the applicant with this section, the registrar shall issue to the applicant the appropriate vehicle registration and a set of Pearl Harbor license plates with a validation sticker or a validation sticker alone when required by section 4503.191 of the Revised Code.

In addition to the letters and numbers ordinarily inscribed thereon, Pearl Harbor license plates shall be inscribed with the words "Pearl Harbor" and a symbol or logo designed by the Pearl Harbor survivors association and approved by the registrar. Pearl Harbor license plates shall bear county identification stickers that identify the county of registration by name or number.

Pearl Harbor license plates and validation stickers shall be issued upon payment of the regular license fee required by section 4503.04 of the Revised Code, payment of any local motor vehicle license tax levied under Chapter 4504. of the Revised Code, and compliance with all other applicable laws relating to the registration of motor vehicles. If the application for Pearl Harbor license plates is combined with a request for a special reserved license plate under section 4503.40 or 4503.42 of the Revised Code, the license plates and validation sticker shall be issued upon payment of the fees and taxes contained in this section and the additional fee

prescribed under section 4503.40 or 4503.42 of the Revised Code.

Sec. 4503.73. (A) The owner or lessee of any passenger car, noncommercial motor vehicle, ~~motor-home~~ recreational vehicle, or other vehicle of a class approved by the registrar of motor vehicles may apply to the registrar for the registration of the vehicle and issuance of "the leader in flight" license plates. The application for "the leader in flight" license plates may be combined with a request for a special reserved license plate under section 4503.40 or 4503.42 of the Revised Code. Upon receipt of the completed application and compliance with division (B) of this section, the registrar shall issue to the applicant the appropriate vehicle registration and a set of "the leader in flight" license plates with a validation sticker or a validation sticker alone when required by section 4503.191 of the Revised Code.

In addition to the letters and numbers ordinarily inscribed thereon, "the leader in flight" license plates shall be inscribed with the words "the leader in flight" and illustrations of a space shuttle in a vertical position and the Wright "B" airplane. "The leader in flight" license plates shall bear county identification stickers that identify the county of registration by name or number.

(B) "The leader in flight" license plates and validation sticker shall be issued upon receipt of a contribution as provided in division (C) of this section and payment of the regular license tax as prescribed under section 4503.04 of the Revised Code, a fee of ten dollars for the purpose of compensating the bureau of motor vehicles for additional services required in the issuing of "the leader in flight" license plates, any applicable motor vehicle tax levied under Chapter 4504. of the Revised Code, and compliance with all other applicable laws relating to the registration of motor vehicles. If the application for "the leader in flight" license plates is combined with a request for a special reserved license plate under section 4503.40 or 4503.42 of the Revised Code, the license plate and validation sticker shall be issued upon payment of the fees and taxes referred to or established in this division and the additional fee prescribed under section 4503.40 or 4503.42 of the Revised Code.

(C) For each application for registration and registration renewal received under this section, the registrar shall collect a contribution of fifteen dollars. The registrar shall transmit this contribution to the treasurer of state for deposit in the license plate contribution fund created in section 4501.21 of the Revised Code.

The registrar shall deposit the additional fee of ten dollars specified in division (B) of this section that the applicant for registration voluntarily pays

for the purpose of compensating the bureau for the additional services required in the issuing of the applicant's "the leader in flight" license plates in the state bureau of motor vehicles fund created in section 4501.25 of the Revised Code.

Sec. 4503.85. (A) The owner or lessee of any passenger car, noncommercial motor vehicle, ~~motor-home~~ recreational vehicle, or other vehicle of a class approved by the registrar of motor vehicles may apply to the registrar for the registration of the vehicle and issuance of "Fish Lake Erie" license plates. The application for "Fish Lake Erie" license plates may be combined with a request for a special reserved license plate under section 4503.40 or 4503.42 of the Revised Code. Upon receipt of the completed application and compliance with division (B) of this section, the registrar shall issue to the applicant the appropriate vehicle registration, a set of "Fish Lake Erie" license plates, and a validation sticker, or a validation sticker alone when required by section 4503.191 of the Revised Code.

In addition to the letters and numbers ordinarily inscribed on the license plates, "Fish Lake Erie" license plates shall be inscribed with identifying words or markings designed by the Ohio sea grant college program and approved by the registrar. "Fish Lake Erie" license plates shall bear county identification stickers that identify the county of registration by name or number.

(B) "Fish Lake Erie" license plates and a validation sticker or, when applicable, a validation sticker alone shall be issued upon receipt of an application for registration of a motor vehicle submitted under this section and a contribution as provided in division (C) of this section, payment of the regular license tax as prescribed under section 4503.04 of the Revised Code, any applicable motor vehicle tax levied under Chapter 4504. of the Revised Code, and an additional fee of ten dollars, and compliance with all other applicable laws relating to the registration of motor vehicles. If the application for "Fish Lake Erie" license plates is combined with a request for a special reserved license plate under section 4503.40 or 4503.42 of the Revised Code, the license plates and validation sticker or validation sticker alone shall be issued upon payment of the fees and taxes referred to or established in this division plus the additional fee prescribed in section 4503.40 or 4503.42 of the Revised Code.

(C) For each application for registration and registration renewal that the registrar receives under this section, the registrar shall collect a contribution of fifteen dollars. The registrar shall deposit this contribution into the state treasury to the credit of the license plate contribution fund created in section 4501.21 of the Revised Code.

The additional fee of ten dollars described in division (B) of this section shall be for the purpose of compensating the bureau of motor vehicles for additional services required in issuing license plates under this section. The registrar shall deposit that fee into the state treasury to the credit of the state bureau of motor vehicles fund created by section 4501.25 of the Revised Code.

Sec. 4503.91. (A) The owner or lessee of any passenger car, noncommercial motor vehicle, ~~motor-home~~ recreational vehicle, or other vehicle of a class approved by the registrar of motor vehicles may apply to the registrar for the registration of the vehicle and issuance of "choose life" license plates. The application for "choose life" license plates may be combined with a request for a special reserved license plate under section 4503.40 or 4503.42 of the Revised Code. Upon receipt of the completed application and compliance with divisions (B) and (C) of this section, the registrar shall issue to the applicant the appropriate vehicle registration and a set of "choose life" license plates with a validation sticker or a validation sticker alone when required by section 4503.191 of the Revised Code.

In addition to the letters and numbers ordinarily inscribed on license plates, "choose life" license plates shall be inscribed with the words "choose life" and a marking designed by "choose life, inc.," a private, nonprofit corporation incorporated in the state of Florida. The registrar shall review the design and approve it if the design is feasible. If the design is not feasible, the registrar shall notify "choose life, inc." and the organization may resubmit designs until a feasible one is approved. "Choose life" license plates shall bear county identification stickers that identify the county of registration by name or number.

(B) "Choose life" license plates and a validation sticker, or a validation sticker alone, shall be issued upon receipt of a contribution as provided in division (C) of this section and upon payment of the regular license tax prescribed in section 4503.04 of the Revised Code, any applicable motor vehicle tax levied under Chapter 4504. of the Revised Code, any applicable additional fee prescribed by section 4503.40 or 4503.42 of the Revised Code, a fee of ten dollars for the purpose of compensating the bureau of motor vehicles for additional services required in the issuing of "choose life" license plates, and compliance with all other applicable laws relating to the registration of motor vehicles.

(C)(1) For each application for registration and registration renewal received under this section, the registrar shall collect a contribution of twenty dollars. The registrar shall transmit this contribution to the treasurer of state for deposit in the "choose life" fund created in section 3701.65 of

the Revised Code.

(2) The registrar shall deposit the additional fee of ten dollars specified in division (B) of this section for the purpose of compensating the bureau for the additional services required in issuing "choose life" license plates in the state bureau of motor vehicles fund created in section 4501.25 of the Revised Code.

Sec. 4505.06. (A)(1) Application for a certificate of title shall be made in a form prescribed by the registrar of motor vehicles and shall be sworn to before a notary public or other officer empowered to administer oaths. The application shall be filed with the clerk of any court of common pleas. An application for a certificate of title may be filed electronically by any electronic means approved by the registrar in any county with the clerk of the court of common pleas of that county. Any payments required by this chapter shall be considered as accompanying any electronically transmitted application when payment actually is received by the clerk. Payment of any fee or taxes may be made by electronic transfer of funds.

(2) The application for a certificate of title shall be accompanied by the fee prescribed in section 4505.09 of the Revised Code. The fee shall be retained by the clerk who issues the certificate of title and shall be distributed in accordance with that section. If a clerk of a court of common pleas, other than the clerk of the court of common pleas of an applicant's county of residence, issues a certificate of title to the applicant, the clerk shall transmit data related to the transaction to the automated title processing system.

(3) If a certificate of title previously has been issued for a motor vehicle in this state, the application for a certificate of title also shall be accompanied by that certificate of title duly assigned, unless otherwise provided in this chapter. If a certificate of title previously has not been issued for the motor vehicle in this state, the application, unless otherwise provided in this chapter, shall be accompanied by a manufacturer's or importer's certificate or by a certificate of title of another state from which the motor vehicle was brought into this state. If the application refers to a motor vehicle last previously registered in another state, the application also shall be accompanied by the physical inspection certificate required by section 4505.061 of the Revised Code. If the application is made by two persons regarding a motor vehicle in which they wish to establish joint ownership with right of survivorship, they may do so as provided in section 2131.12 of the Revised Code. If the applicant requests a designation of the motor vehicle in beneficiary form so that upon the death of the owner of the motor vehicle, ownership of the motor vehicle will pass to a designated

transfer-on-death beneficiary or beneficiaries, the applicant may do so as provided in section 2131.13 of the Revised Code. A person who establishes ownership of a motor vehicle that is transferable on death in accordance with section 2131.13 of the Revised Code may terminate that type of ownership or change the designation of the transfer-on-death beneficiary or beneficiaries by applying for a certificate of title pursuant to this section. The clerk shall retain the evidence of title presented by the applicant and on which the certificate of title is issued, except that, if an application for a certificate of title is filed electronically by an electronic motor vehicle dealer on behalf of the purchaser of a motor vehicle, the clerk shall retain the completed electronic record to which the dealer converted the certificate of title application and other required documents. The registrar, after consultation with the attorney general, shall adopt rules that govern the location at which, and the manner in which, are stored the actual application and all other documents relating to the sale of a motor vehicle when an electronic motor vehicle dealer files the application for a certificate of title electronically on behalf of the purchaser.

The clerk shall use reasonable diligence in ascertaining whether or not the facts in the application for a certificate of title are true by checking the application and documents accompanying it or the electronic record to which a dealer converted the application and accompanying documents with the records of motor vehicles in the clerk's office. If the clerk is satisfied that the applicant is the owner of the motor vehicle and that the application is in the proper form, the clerk, within five business days after the application is filed and except as provided in section 4505.021 of the Revised Code, shall issue a physical certificate of title over the clerk's signature and sealed with the clerk's seal, unless the applicant specifically requests the clerk not to issue a physical certificate of title and instead to issue an electronic certificate of title. For purposes of the transfer of a certificate of title, if the clerk is satisfied that the secured party has duly discharged a lien notation but has not canceled the lien notation with a clerk, the clerk may cancel the lien notation on the automated title processing system and notify the clerk of the county of origin.

(4) In the case of the sale of a motor vehicle to a general buyer or user by a dealer, by a motor vehicle leasing dealer selling the motor vehicle to the lessee or, in a case in which the leasing dealer subleased the motor vehicle, the sublessee, at the end of the lease agreement or sublease agreement, or by a manufactured home broker, the certificate of title shall be obtained in the name of the buyer by the dealer, leasing dealer, or manufactured home broker, as the case may be, upon application signed by



the buyer. The certificate of title shall be issued, or the process of entering the certificate of title application information into the automated title processing system if a physical certificate of title is not to be issued shall be completed, within five business days after the application for title is filed with the clerk. If the buyer of the motor vehicle previously leased the motor vehicle and is buying the motor vehicle at the end of the lease pursuant to that lease, the certificate of title shall be obtained in the name of the buyer by the motor vehicle leasing dealer who previously leased the motor vehicle to the buyer or by the motor vehicle leasing dealer who subleased the motor vehicle to the buyer under a sublease agreement.

In all other cases, except as provided in section 4505.032 and division (D)(2) of section 4505.11 of the Revised Code, such certificates shall be obtained by the buyer.

(5)(a)(i) If the certificate of title is being obtained in the name of the buyer by a motor vehicle dealer or motor vehicle leasing dealer and there is a security interest to be noted on the certificate of title, the dealer or leasing dealer shall submit the application for the certificate of title and payment of the applicable tax to a clerk within seven business days after the later of the delivery of the motor vehicle to the buyer or the date the dealer or leasing dealer obtains the manufacturer's or importer's certificate, or certificate of title issued in the name of the dealer or leasing dealer, for the motor vehicle. Submission of the application for the certificate of title and payment of the applicable tax within the required seven business days may be indicated by postmark or receipt by a clerk within that period.

(ii) Upon receipt of the certificate of title with the security interest noted on its face, the dealer or leasing dealer shall forward the certificate of title to the secured party at the location noted in the financing documents or otherwise specified by the secured party.

(iii) A motor vehicle dealer or motor vehicle leasing dealer is liable to a secured party for a late fee of ten dollars per day for each certificate of title application and payment of the applicable tax that is submitted to a clerk more than seven business days but less than twenty-one days after the later of the delivery of the motor vehicle to the buyer or the date the dealer or leasing dealer obtains the manufacturer's or importer's certificate, or certificate of title issued in the name of the dealer or leasing dealer, for the motor vehicle and, from then on, twenty-five dollars per day until the application and applicable tax are submitted to a clerk.

(b) In all cases of transfer of a motor vehicle, the application for certificate of title shall be filed within thirty days after the assignment or delivery of the motor vehicle. If an application for a certificate of title is not

filed within the period specified in division (A)(5)(b) of this section, the clerk shall collect a fee of five dollars for the issuance of the certificate, except that no such fee shall be required from a motor vehicle salvage dealer, as defined in division (A) of section 4738.01 of the Revised Code, who immediately surrenders the certificate of title for cancellation. The fee shall be in addition to all other fees established by this chapter, and shall be retained by the clerk. The registrar shall provide, on the certificate of title form prescribed by section 4505.07 of the Revised Code, language necessary to give evidence of the date on which the assignment or delivery of the motor vehicle was made.

(6) As used in division (A) of this section, "lease agreement," "lessee," and "sublease agreement" have the same meanings as in section 4505.04 of the Revised Code.

(B)(1) The clerk, except as provided in this section, shall refuse to accept for filing any application for a certificate of title and shall refuse to issue a certificate of title unless the dealer or manufactured home broker or the applicant, in cases in which the certificate shall be obtained by the buyer, submits with the application payment of the tax levied by or pursuant to Chapters 5739. and 5741. of the Revised Code based on the purchaser's county of residence. Upon payment of the tax in accordance with division (E) of this section, the clerk shall issue a receipt prescribed by the registrar and agreed upon by the tax commissioner showing payment of the tax or a receipt issued by the commissioner showing the payment of the tax. When submitting payment of the tax to the clerk, a dealer shall retain any discount to which the dealer is entitled under section 5739.12 of the Revised Code.

(2) For receiving and disbursing such taxes paid to the clerk by a resident of the clerk's county, the clerk may retain a poundage fee of one and one one-hundredth per cent, and the clerk shall pay the poundage fee into the certificate of title administration fund created by section 325.33 of the Revised Code. The clerk shall not retain a poundage fee from payments of taxes by persons who do not reside in the clerk's county.

A clerk, however, may retain from the taxes paid to the clerk an amount equal to the poundage fees associated with certificates of title issued by other clerks of courts of common pleas to applicants who reside in the first clerk's county. The registrar, in consultation with the tax commissioner and the clerks of the courts of common pleas, shall develop a report from the automated title processing system that informs each clerk of the amount of the poundage fees that the clerk is permitted to retain from those taxes because of certificates of title issued by the clerks of other counties to applicants who reside in the first clerk's county.

(3) In the case of casual sales of motor vehicles, as defined in section 4517.01 of the Revised Code, the price for the purpose of determining the tax shall be the purchase price on the assigned certificate of title executed by the seller and filed with the clerk by the buyer on a form to be prescribed by the registrar, which shall be prima-facie evidence of the amount for the determination of the tax.

(4) Each county clerk shall forward to the treasurer of state all sales and use tax collections resulting from sales of motor vehicles, off-highway motorcycles, and all-purpose vehicles during a calendar week on or before the Friday following the close of that week. If, on any Friday, the offices of the clerk of courts or the state are not open for business, the tax shall be forwarded to the treasurer of state on or before the next day on which the offices are open. Every remittance of tax under division (B)(4) of this section shall be accompanied by a remittance report in such form as the tax commissioner prescribes. Upon receipt of a tax remittance and remittance report, the treasurer of state shall date stamp the report and forward it to the tax commissioner. If the tax due for any week is not remitted by a clerk of courts as required under division (B)(4) of this section, the commissioner may require the clerk to forfeit the poundage fees for the sales made during that week. The treasurer of state may require the clerks of courts to transmit tax collections and remittance reports electronically.

(C)(1) If the transferor indicates on the certificate of title that the odometer reflects mileage in excess of the designed mechanical limit of the odometer, the clerk shall enter the phrase "exceeds mechanical limits" following the mileage designation. If the transferor indicates on the certificate of title that the odometer reading is not the actual mileage, the clerk shall enter the phrase "nonactual: warning - odometer discrepancy" following the mileage designation. The clerk shall use reasonable care in transferring the information supplied by the transferor, but is not liable for any errors or omissions of the clerk or those of the clerk's deputies in the performance of the clerk's duties created by this chapter.

The registrar shall prescribe an affidavit in which the transferor shall swear to the true selling price and, except as provided in this division, the true odometer reading of the motor vehicle. The registrar may prescribe an affidavit in which the seller and buyer provide information pertaining to the odometer reading of the motor vehicle in addition to that required by this section, as such information may be required by the United States secretary of transportation by rule prescribed under authority of subchapter IV of the "Motor Vehicle Information and Cost Savings Act," 86 Stat. 961 (1972), 15 U.S.C. 1981.

(2) Division (C)(1) of this section does not require the giving of information concerning the odometer and odometer reading of a motor vehicle when ownership of a motor vehicle is being transferred as a result of a bequest, under the laws of intestate succession, to a survivor pursuant to section 2106.18, 2131.12, or 4505.10 of the Revised Code, to a transfer-on-death beneficiary or beneficiaries pursuant to section 2131.13 of the Revised Code, in connection with the creation of a security interest or for a vehicle with a gross vehicle weight rating of more than sixteen thousand pounds.

(D) When the transfer to the applicant was made in some other state or in interstate commerce, the clerk, except as provided in this section, shall refuse to issue any certificate of title unless the tax imposed by or pursuant to Chapter 5741. of the Revised Code based on the purchaser's county of residence has been paid as evidenced by a receipt issued by the tax commissioner, or unless the applicant submits with the application payment of the tax. Upon payment of the tax in accordance with division (E) of this section, the clerk shall issue a receipt prescribed by the registrar and agreed upon by the tax commissioner, showing payment of the tax.

For receiving and disbursing such taxes paid to the clerk by a resident of the clerk's county, the clerk may retain a poundage fee of one and one one-hundredth per cent. The clerk shall not retain a poundage fee from payments of taxes by persons who do not reside in the clerk's county.

A clerk, however, may retain from the taxes paid to the clerk an amount equal to the poundage fees associated with certificates of title issued by other clerks of courts of common pleas to applicants who reside in the first clerk's county. The registrar, in consultation with the tax commissioner and the clerks of the courts of common pleas, shall develop a report from the automated title processing system that informs each clerk of the amount of the poundage fees that the clerk is permitted to retain from those taxes because of certificates of title issued by the clerks of other counties to applicants who reside in the first clerk's county.

When the vendor is not regularly engaged in the business of selling motor vehicles, the vendor shall not be required to purchase a vendor's license or make reports concerning those sales.

(E) The clerk shall accept any payment of a tax in cash, or by cashier's check, certified check, draft, money order, or teller check issued by any insured financial institution payable to the clerk and submitted with an application for a certificate of title under division (B) or (D) of this section. The clerk also may accept payment of the tax by corporate, business, or personal check, credit card, electronic transfer or wire transfer, debit card, or

any other accepted form of payment made payable to the clerk. The clerk may require bonds, guarantees, or letters of credit to ensure the collection of corporate, business, or personal checks. Any service fee charged by a third party to a clerk for the use of any form of payment may be paid by the clerk from the certificate of title administration fund created in section 325.33 of the Revised Code, or may be assessed by the clerk upon the applicant as an additional fee. Upon collection, the additional fees shall be paid by the clerk into that certificate of title administration fund.

The clerk shall make a good faith effort to collect any payment of taxes due but not made because the payment was returned or dishonored, but the clerk is not personally liable for the payment of uncollected taxes or uncollected fees. The clerk shall notify the tax commissioner of any such payment of taxes that is due but not made and shall furnish the information to the commissioner that the commissioner requires. The clerk shall deduct the amount of taxes due but not paid from the clerk's periodic remittance of tax payments, in accordance with procedures agreed upon by the tax commissioner. The commissioner may collect taxes due by assessment in the manner provided in section 5739.13 of the Revised Code.

Any person who presents payment that is returned or dishonored for any reason is liable to the clerk for payment of a penalty over and above the amount of the taxes due. The clerk shall determine the amount of the penalty, and the penalty shall be no greater than that amount necessary to compensate the clerk for banking charges, legal fees, or other expenses incurred by the clerk in collecting the returned or dishonored payment. The remedies and procedures provided in this section are in addition to any other available civil or criminal remedies. Subsequently collected penalties, poundage fees, and title fees, less any title fee due the state, from returned or dishonored payments collected by the clerk shall be paid into the certificate of title administration fund. Subsequently collected taxes, less poundage fees, shall be sent by the clerk to the treasurer of state at the next scheduled periodic remittance of tax payments, with information as the commissioner may require. The clerk may abate all or any part of any penalty assessed under this division.

(F) In the following cases, the clerk shall accept for filing an application and shall issue a certificate of title without requiring payment or evidence of payment of the tax:

(1) When the purchaser is this state or any of its political subdivisions, a church, or an organization whose purchases are exempted by section 5739.02 of the Revised Code;

(2) When the transaction in this state is not a retail sale as defined by

section 5739.01 of the Revised Code;

(3) When the purchase is outside this state or in interstate commerce and the purpose of the purchaser is not to use, store, or consume within the meaning of section 5741.01 of the Revised Code;

(4) When the purchaser is the federal government;

(5) When the motor vehicle was purchased outside this state for use outside this state;

(6) When the motor vehicle is purchased by a nonresident of this state for immediate removal from this state, and will be permanently titled and registered in another state, as provided by division (B)(23) of section 5739.02 of the Revised Code, and upon presentation of a copy of the affidavit provided by that section, and a copy of the exemption certificate provided by section 5739.03 of the Revised Code.

~~The clerk shall forward all payments of taxes, less poundage fees, to the treasurer of state in a manner to be prescribed by the tax commissioner and shall furnish information to the commissioner as the commissioner requires.~~

(G) An application, as prescribed by the registrar and agreed to by the tax commissioner, shall be filled out and sworn to by the buyer of a motor vehicle in a casual sale. The application shall contain the following notice in bold lettering: "WARNING TO TRANSFEROR AND TRANSFEREE (SELLER AND BUYER): You are required by law to state the true selling price. A false statement is in violation of section 2921.13 of the Revised Code and is punishable by six months' imprisonment or a fine of up to one thousand dollars, or both. All transfers are audited by the department of taxation. The seller and buyer must provide any information requested by the department of taxation. The buyer may be assessed any additional tax found to be due."

(H) For sales of manufactured homes or mobile homes occurring on or after January 1, 2000, the clerk shall accept for filing, pursuant to Chapter 5739. of the Revised Code, an application for a certificate of title for a manufactured home or mobile home without requiring payment of any tax pursuant to section 5739.02, 5741.021, 5741.022, or 5741.023 of the Revised Code, or a receipt issued by the tax commissioner showing payment of the tax. For sales of manufactured homes or mobile homes occurring on or after January 1, 2000, the applicant shall pay to the clerk an additional fee of five dollars for each certificate of title issued by the clerk for a manufactured or mobile home pursuant to division (H) of section 4505.11 of the Revised Code and for each certificate of title issued upon transfer of ownership of the home. The clerk shall credit the fee to the county certificate of title administration fund, and the fee shall be used to pay the

expenses of archiving those certificates pursuant to division (A) of section 4505.08 and division (H)(3) of section 4505.11 of the Revised Code. The tax commissioner shall administer any tax on a manufactured or mobile home pursuant to Chapters 5739. and 5741. of the Revised Code.

(I) Every clerk shall have the capability to transact by electronic means all procedures and transactions relating to the issuance of motor vehicle certificates of title that are described in the Revised Code as being accomplished by electronic means.

Sec. 4506.03. (A) Except as provided in divisions (B) and (C) of this section, the following shall apply:

(1) No person shall drive a commercial motor vehicle on a highway in this state unless the person holds, and has in the person's possession, a valid commercial driver's license with proper endorsements for the motor vehicle being driven, issued by the registrar of motor vehicles, a valid examiner's commercial driving permit issued under section 4506.13 of the Revised Code, a valid restricted commercial driver's license and waiver for farm-related service industries issued under section 4506.24 of the Revised Code, or a valid commercial driver's license temporary instruction permit issued by the registrar and is accompanied by an authorized state driver's license examiner or tester or a person who has been issued and has in the person's immediate possession a current, valid commercial driver's license with proper endorsements for the motor vehicle being driven.

(2) No person shall be issued a commercial driver's license until the person surrenders to the registrar of motor vehicles all valid licenses issued to the person by another jurisdiction recognized by this state. The registrar shall report the surrender of a license to the issuing authority, together with information that a license is now issued in this state. The registrar shall destroy any such license that is not returned to the issuing authority.

(3) No person who has been a resident of this state for thirty days or longer shall drive a commercial motor vehicle under the authority of a commercial driver's license issued by another jurisdiction.

(B) Nothing in division (A) of this section applies to any qualified person when engaged in the operation of any of the following:

- (1) A farm truck;
- (2) Fire equipment for a fire department, volunteer or nonvolunteer fire company, fire district, or joint fire district;
- (3) A public safety vehicle used to provide transportation or emergency medical service for ill or injured persons;
- (4) A recreational vehicle;
- (5) A commercial motor vehicle within the boundaries of an eligible

unit of local government, if the person is employed by the eligible unit of local government and is operating the commercial motor vehicle for the purpose of removing snow or ice from a roadway by plowing, sanding, or salting, but only if either the employee who holds a commercial driver's license issued under this chapter and ordinarily operates a commercial motor vehicle for these purposes is unable to operate the vehicle, or the employing eligible unit of local government determines that a snow or ice emergency exists that requires additional assistance;

(6) A vehicle operated for military purposes by any member or uniformed employee of the armed forces of the United States or their reserve components, including the Ohio national guard. This exception does not apply to United States reserve technicians.

(7) A commercial motor vehicle that is operated for nonbusiness purposes. "Operated for nonbusiness purposes" means that the commercial motor vehicle is not used in commerce as "commerce" is defined in 49 C.F.R. 383.5, as amended, and is not regulated by the public utilities commission pursuant to Chapter 4919., 4921., or 4923. of the Revised Code.

(8) A motor vehicle that is designed primarily for the transportation of goods and not persons, while that motor vehicle is being used for the occasional transportation of personal property by individuals not for compensation and not in the furtherance of a commercial enterprise;

(9) A police SWAT team vehicle.

(C) Nothing contained in division (B)(5) of this section shall be construed as preempting or superseding any law, rule, or regulation of this state concerning the safe operation of commercial motor vehicles.

(D) Whoever violates this section is guilty of a misdemeanor of the first degree.

Sec. 4506.07. (A) Every application for a commercial driver's license, restricted commercial driver's license, or a commercial driver's temporary instruction permit, or a duplicate of such a license, shall be made upon a form approved and furnished by the registrar of motor vehicles. Except as provided in section 4506.24 of the Revised Code in regard to a restricted commercial driver's license, the application shall be signed by the applicant and shall contain the following information:

(1) The applicant's name, date of birth, social security account number, sex, general description including height, weight, and color of hair and eyes, current residence, duration of residence in this state, country of citizenship, and occupation;

(2) Whether the applicant previously has been licensed to operate a commercial motor vehicle or any other type of motor vehicle in another



state or a foreign jurisdiction and, if so, when, by what state, and whether the license or driving privileges currently are suspended or revoked in any jurisdiction, or the applicant otherwise has been disqualified from operating a commercial motor vehicle, or is subject to an out-of-service order issued under this chapter or any similar law of another state or a foreign jurisdiction and, if so, the date of, locations involved, and reason for the suspension, revocation, disqualification, or out-of-service order;

(3) Whether the applicant is afflicted with or suffering from any physical or mental disability or disease that prevents the applicant from exercising reasonable and ordinary control over a motor vehicle while operating it upon a highway or is or has been subject to any condition resulting in episodic impairment of consciousness or loss of muscular control and, if so, the nature and extent of the disability, disease, or condition, and the names and addresses of the physicians attending the applicant;

(4) Whether the applicant has obtained a medical examiner's certificate as required by this chapter;

(5) Whether the applicant has pending a citation for violation of any motor vehicle law or ordinance except a parking violation and, if so, a description of the citation, the court having jurisdiction of the offense, and the date when the offense occurred;

(6) Whether the applicant wishes to certify willingness to make an anatomical donation under section 2108.04 of the Revised Code, which shall be given no consideration in the issuance of a license;

(7) On and after May 1, 1993, whether the applicant has executed a valid durable power of attorney for health care pursuant to sections 1337.11 to 1337.17 of the Revised Code or has executed a declaration governing the use or continuation, or the withholding or withdrawal, of life-sustaining treatment pursuant to sections 2133.01 to 2133.15 of the Revised Code and, if the applicant has executed either type of instrument, whether the applicant wishes the license issued to indicate that the applicant has executed the instrument.

(B) Every applicant shall certify, on a form approved and furnished by the registrar, all of the following:

(1) That the motor vehicle in which the applicant intends to take the driving skills test is representative of the type of motor vehicle that the applicant expects to operate as a driver;

(2) That the applicant is not subject to any disqualification or out-of-service order, or license suspension, revocation, or cancellation, under the laws of this state, of another state, or of a foreign jurisdiction and

does not have more than one driver's license issued by this or another state or a foreign jurisdiction;

(3) Any additional information, certification, or evidence that the registrar requires by rule in order to ensure that the issuance of a commercial driver's license to the applicant is in compliance with the law of this state and with federal law.

(C) Every applicant shall execute a form, approved and furnished by the registrar, under which the applicant consents to the release by the registrar of information from the applicant's driving record.

(D) The registrar or a deputy registrar, in accordance with section 3503.11 of the Revised Code, shall register as an elector any applicant for a commercial driver's license or for a renewal or duplicate of such a license under this chapter, if the applicant is eligible and wishes to be registered as an elector. The decision of an applicant whether to register as an elector shall be given no consideration in the decision of whether to issue the applicant a license or a renewal or duplicate.

(E) The registrar or a deputy registrar, in accordance with section 3503.11 of the Revised Code, shall offer the opportunity of completing a notice of change of residence or change of name to any applicant for a commercial driver's license or for a renewal or duplicate of such a license who is a resident of this state, if the applicant is a registered elector who has changed the applicant's residence or name and has not filed such a notice.

(F) In considering any application submitted pursuant to this section, the bureau of motor vehicles may conduct any inquiries necessary to ensure that issuance or renewal of a commercial driver's license would not violate any provision of the Revised Code or federal law.

Sec. 4506.101. Notwithstanding any provision of the Revised Code, the bureau of motor vehicles shall not issue or renew a commercial driver's license if issuance or renewal of the license would violate federal law.

Sec. 4506.161. No court shall issue an order granting limited driving privileges for operation of a commercial motor vehicle to any person whose driver's license or commercial driver's license has been suspended or who has been disqualified from operating a commercial motor vehicle.

Sec. 4511.191. (A)(1) "Physical control" has the same meaning as in section 4511.194 of the Revised Code.

(2) Any person who operates a vehicle, streetcar, or trackless trolley upon a highway or any public or private property used by the public for vehicular travel or parking within this state or who is in physical control of a vehicle, streetcar, or trackless trolley shall be deemed to have given consent to a chemical test or tests of the person's whole blood, blood serum or

plasma, breath, or urine to determine the alcohol, drug, or alcohol and drug content of the person's whole blood, blood serum or plasma, breath, or urine if arrested for a violation of division (A) or (B) of section 4511.19 of the Revised Code, section 4511.194 of the Revised Code or a substantially equivalent municipal ordinance, or a municipal OVI ordinance.

(3) The chemical test or tests under division (A)(2) of this section shall be administered at the request of a law enforcement officer having reasonable grounds to believe the person was operating or in physical control of a vehicle, streetcar, or trackless trolley in violation of a division, section, or ordinance identified in division (A)(2) of this section. The law enforcement agency by which the officer is employed shall designate which of the tests shall be administered.

(4) Any person who is dead or unconscious, or who otherwise is in a condition rendering the person incapable of refusal, shall be deemed to have consented as provided in division (A)(2) of this section, and the test or tests may be administered, subject to sections 313.12 to 313.16 of the Revised Code.

(B)(1) Upon receipt of the sworn report of a law enforcement officer who arrested a person for a violation of division (A) or (B) of section 4511.19 of the Revised Code, section 4511.194 of the Revised Code or a substantially equivalent municipal ordinance, or a municipal OVI ordinance that was completed and sent to the registrar and a court pursuant to section 4511.192 of the Revised Code in regard to a person who refused to take the designated chemical test, the registrar shall enter into the registrar's records the fact that the person's driver's or commercial driver's license or permit or nonresident operating privilege was suspended by the arresting officer under this division and that section and the period of the suspension, as determined under this section. The suspension shall be subject to appeal as provided in section 4511.197 of the Revised Code. The suspension shall be for whichever of the following periods applies:

(a) Except when division (B)(1)(b), (c), or (d) of this section applies and specifies a different class or length of suspension, the suspension shall be a class C suspension for the period of time specified in division (B)(3) of section 4510.02 of the Revised Code.

(b) If the arrested person, within six years of the date on which the person refused the request to consent to the chemical test, had refused one previous request to consent to a chemical test, the suspension shall be a class B suspension imposed for the period of time specified in division (B)(2) of section 4510.02 of the Revised Code.

(c) If the arrested person, within six years of the date on which the

person refused the request to consent to the chemical test, had refused two previous requests to consent to a chemical test, the suspension shall be a class A suspension imposed for the period of time specified in division (B)(1) of section 4510.02 of the Revised Code.

(d) If the arrested person, within six years of the date on which the person refused the request to consent to the chemical test, had refused three or more previous requests to consent to a chemical test, the suspension shall be for five years.

(2) The registrar shall terminate a suspension of the driver's or commercial driver's license or permit of a resident or of the operating privilege of a nonresident, or a denial of a driver's or commercial driver's license or permit, imposed pursuant to division (B)(1) of this section upon receipt of notice that the person has entered a plea of guilty to, or that the person has been convicted after entering a plea of no contest to, operating a vehicle in violation of section 4511.19 of the Revised Code or in violation of a municipal OVI ordinance, if the offense for which the conviction is had or the plea is entered arose from the same incident that led to the suspension or denial.

The registrar shall credit against any judicial suspension of a person's driver's or commercial driver's license or permit or nonresident operating privilege imposed pursuant to section 4511.19 of the Revised Code, or pursuant to section 4510.07 of the Revised Code for a violation of a municipal OVI ordinance, any time during which the person serves a related suspension imposed pursuant to division (B)(1) of this section.

(C)(1) Upon receipt of the sworn report of the law enforcement officer who arrested a person for a violation of division (A) or (B) of section 4511.19 of the Revised Code or a municipal OVI ordinance that was completed and sent to the registrar and a court pursuant to section 4511.192 of the Revised Code in regard to a person whose test results indicate that the person's whole blood, blood serum or plasma, breath, or urine contained at least the concentration of alcohol specified in division (A)(1)(b), (c), (d), or (e) of section 4511.19 of the Revised Code, the registrar shall enter into the registrar's records the fact that the person's driver's or commercial driver's license or permit or nonresident operating privilege was suspended by the arresting officer under this division and section 4511.192 of the Revised Code and the period of the suspension, as determined under divisions (F)(1) to (4) of this section. The suspension shall be subject to appeal as provided in section 4511.197 of the Revised Code. The suspension described in this division does not apply to, and shall not be imposed upon, a person arrested for a violation of section 4511.194 of the Revised Code or a substantially

equivalent municipal ordinance who submits to a designated chemical test. The suspension shall be for whichever of the following periods applies:

(a) Except when division (C)(1)(b), (c), or (d) of this section applies and specifies a different period, the suspension shall be a class E suspension imposed for the period of time specified in division (B)(5) of section 4510.02 of the Revised Code.

(b) The suspension shall be a class C suspension for the period of time specified in division (B)(3) of section 4510.02 of the Revised Code if the person has been convicted of or pleaded guilty to, within six years of the date the test was conducted, one violation of division (A) or (B) of section 4511.19 of the Revised Code or one other equivalent offense.

(c) If, within six years of the date the test was conducted, the person has been convicted of or pleaded guilty to two violations of a statute or ordinance described in division (C)(1)(b) of this section, the suspension shall be a class B suspension imposed for the period of time specified in division (B)(2) of section 4510.02 of the Revised Code.

(d) If, within six years of the date the test was conducted, the person has been convicted of or pleaded guilty to more than two violations of a statute or ordinance described in division (C)(1)(b) of this section, the suspension shall be a class A suspension imposed for the period of time specified in division (B)(1) of section 4510.02 of the Revised Code.

(2) The registrar shall terminate a suspension of the driver's or commercial driver's license or permit of a resident or of the operating privilege of a nonresident, or a denial of a driver's or commercial driver's license or permit, imposed pursuant to division (C)(1) of this section upon receipt of notice that the person has entered a plea of guilty to, or that the person has been convicted after entering a plea of no contest to, operating a vehicle in violation of section 4511.19 of the Revised Code or in violation of a municipal OVI ordinance, if the offense for which the conviction is had or the plea is entered arose from the same incident that led to the suspension or denial.

The registrar shall credit against any judicial suspension of a person's driver's or commercial driver's license or permit or nonresident operating privilege imposed pursuant to section 4511.19 of the Revised Code, or pursuant to section 4510.07 of the Revised Code for a violation of a municipal OVI ordinance, any time during which the person serves a related suspension imposed pursuant to division (C)(1) of this section.

(D)(1) A suspension of a person's driver's or commercial driver's license or permit or nonresident operating privilege under this section for the time described in division (B) or (C) of this section is effective immediately from

the time at which the arresting officer serves the notice of suspension upon the arrested person. Any subsequent finding that the person is not guilty of the charge that resulted in the person being requested to take the chemical test or tests under division (A) of this section does not affect the suspension.

(2) If a person is arrested for operating a vehicle, streetcar, or trackless trolley in violation of division (A) or (B) of section 4511.19 of the Revised Code or a municipal OVI ordinance, or for being in physical control of a vehicle, streetcar, or trackless trolley in violation of section 4511.194 of the Revised Code or a substantially equivalent municipal ordinance, regardless of whether the person's driver's or commercial driver's license or permit or nonresident operating privilege is or is not suspended under division (B) or (C) of this section or Chapter 4510. of the Revised Code, the person's initial appearance on the charge resulting from the arrest shall be held within five days of the person's arrest or the issuance of the citation to the person, subject to any continuance granted by the court pursuant to section 4511.197 of the Revised Code regarding the issues specified in that division.

(E) When it finally has been determined under the procedures of this section and sections 4511.192 ~~through~~ to 4511.197 of the Revised Code that a nonresident's privilege to operate a vehicle within this state has been suspended, the registrar shall give information in writing of the action taken to the motor vehicle administrator of the state of the person's residence and of any state in which the person has a license.

(F) At the end of a suspension period under this section, under section 4511.194, section 4511.196, or division (G) of section 4511.19 of the Revised Code, or under section 4510.07 of the Revised Code for a violation of a municipal OVI ordinance and upon the request of the person whose driver's or commercial driver's license or permit was suspended and who is not otherwise subject to suspension, cancellation, or disqualification, the registrar shall return the driver's or commercial driver's license or permit to the person upon the occurrence of all of the conditions specified in divisions (F)(1) and (2) of this section:

(1) A showing that the person has proof of financial responsibility, a policy of liability insurance in effect that meets the minimum standards set forth in section 4509.51 of the Revised Code, or proof, to the satisfaction of the registrar, that the person is able to respond in damages in an amount at least equal to the minimum amounts specified in section 4509.51 of the Revised Code.

(2) Subject to the limitation contained in division (F)(3) of this section, payment by the person to the bureau of motor vehicles of a license reinstatement fee of four hundred twenty-five dollars, which fee shall be

deposited in the state treasury and credited as follows:

(a) One hundred twelve dollars and fifty cents shall be credited to the statewide treatment and prevention fund created by section 4301.30 of the Revised Code. The fund shall be used to pay the costs of driver treatment and intervention programs operated pursuant to sections 3793.02 and 3793.10 of the Revised Code. The director of alcohol and drug addiction services shall determine the share of the fund that is to be allocated to alcohol and drug addiction programs authorized by section 3793.02 of the Revised Code, and the share of the fund that is to be allocated to drivers' intervention programs authorized by section 3793.10 of the Revised Code.

(b) Seventy-five dollars shall be credited to the reparations fund created by section 2743.191 of the Revised Code.

(c) Thirty-seven dollars and fifty cents shall be credited to the indigent drivers alcohol treatment fund, which is hereby established. Except as otherwise provided in division (F)(2)(c) of this section, moneys in the fund shall be distributed by the department of alcohol and drug addiction services to the county indigent drivers alcohol treatment funds, the county juvenile indigent drivers alcohol treatment funds, and the municipal indigent drivers alcohol treatment funds that are required to be established by counties and municipal corporations pursuant to this section, and shall be used only to pay the cost of an alcohol and drug addiction treatment program attended by an offender or juvenile traffic offender who is ordered to attend an alcohol and drug addiction treatment program by a county, juvenile, or municipal court judge and who is determined by the county, juvenile, or municipal court judge not to have the means to pay for the person's attendance at the program or to pay the costs specified in division (H)(4) of this section in accordance with that division. In addition, a county, juvenile, or municipal court judge may use moneys in the county indigent drivers alcohol treatment fund, county juvenile indigent drivers alcohol treatment fund, or municipal indigent drivers alcohol treatment fund to pay for the cost of the continued use of an electronic continuous alcohol monitoring device as described in divisions (H)(3) and (4) of this section. Moneys in the fund that are not distributed to a county indigent drivers alcohol treatment fund, a county juvenile indigent drivers alcohol treatment fund, or a municipal indigent drivers alcohol treatment fund under division (H) of this section because the director of alcohol and drug addiction services does not have the information necessary to identify the county or municipal corporation where the offender or juvenile offender was arrested may be transferred by the director of budget and management to the statewide treatment and prevention fund created by section 4301.30 of the Revised Code, upon

certification of the amount by the director of alcohol and drug addiction services.

(d) Seventy-five dollars shall be credited to the Ohio rehabilitation services commission established by section 3304.12 of the Revised Code, to the services for rehabilitation fund, which is hereby established. The fund shall be used to match available federal matching funds where appropriate, and for any other purpose or program of the commission to rehabilitate people with disabilities to help them become employed and independent.

(e) Seventy-five dollars shall be deposited into the state treasury and credited to the drug abuse resistance education programs fund, which is hereby established, to be used by the attorney general for the purposes specified in division ~~(E)~~(F)(4) of this section.

(f) Thirty dollars shall be credited to the state bureau of motor vehicles fund created by section 4501.25 of the Revised Code.

(g) Twenty dollars shall be credited to the trauma and emergency medical services grants fund created by section 4513.263 of the Revised Code.

(3) If a person's driver's or commercial driver's license or permit is suspended under this section, under section 4511.196 or division (G) of section 4511.19 of the Revised Code, under section 4510.07 of the Revised Code for a violation of a municipal OVI ordinance or under any combination of the suspensions described in division (F)(3) of this section, and if the suspensions arise from a single incident or a single set of facts and circumstances, the person is liable for payment of, and shall be required to pay to the bureau, only one reinstatement fee of four hundred twenty-five dollars. The reinstatement fee shall be distributed by the bureau in accordance with division (F)(2) of this section.

(4) The attorney general shall use amounts in the drug abuse resistance education programs fund to award grants to law enforcement agencies to establish and implement drug abuse resistance education programs in public schools. Grants awarded to a law enforcement agency under this section shall be used by the agency to pay for not more than fifty per cent of the amount of the salaries of law enforcement officers who conduct drug abuse resistance education programs in public schools. The attorney general shall not use more than six per cent of the amounts the attorney general's office receives under division (F)(2)(e) of this section to pay the costs it incurs in administering the grant program established by division (F)(2)(e) of this section and in providing training and materials relating to drug abuse resistance education programs.

The attorney general shall report to the governor and the general



assembly each fiscal year on the progress made in establishing and implementing drug abuse resistance education programs. These reports shall include an evaluation of the effectiveness of these programs.

(G) Suspension of a commercial driver's license under division (B) or (C) of this section shall be concurrent with any period of disqualification under section 3123.611 or 4506.16 of the Revised Code or any period of suspension under section 3123.58 of the Revised Code. No person who is disqualified for life from holding a commercial driver's license under section 4506.16 of the Revised Code shall be issued a driver's license under Chapter 4507. of the Revised Code during the period for which the commercial driver's license was suspended under division (B) or (C) of this section. No person whose commercial driver's license is suspended under division (B) or (C) of this section shall be issued a driver's license under Chapter 4507. of the Revised Code during the period of the suspension.

(H)(1) Each county shall establish an indigent drivers alcohol treatment fund, each county shall establish a juvenile indigent drivers alcohol treatment fund, and each municipal corporation in which there is a municipal court shall establish an indigent drivers alcohol treatment fund. All revenue that the general assembly appropriates to the indigent drivers alcohol treatment fund for transfer to a county indigent drivers alcohol treatment fund, a county juvenile indigent drivers alcohol treatment fund, or a municipal indigent drivers alcohol treatment fund, all portions of fees that are paid under division ~~(L)~~(F) of this section and that are credited under that division to the indigent drivers alcohol treatment fund in the state treasury for a county indigent drivers alcohol treatment fund, a county juvenile indigent drivers alcohol treatment fund, or a municipal indigent drivers alcohol treatment fund, and all portions of fines that are specified for deposit into a county or municipal indigent drivers alcohol treatment fund by section 4511.193 of the Revised Code shall be deposited into that county indigent drivers alcohol treatment fund, county juvenile indigent drivers alcohol treatment fund, or municipal indigent drivers alcohol treatment fund in accordance with division (H)(2) of this section. Additionally, all portions of fines that are paid for a violation of section 4511.19 of the Revised Code or of any prohibition contained in Chapter 4510. of the Revised Code, and that are required under section 4511.19 or any provision of Chapter 4510. of the Revised Code to be deposited into a county indigent drivers alcohol treatment fund or municipal indigent drivers alcohol treatment fund shall be deposited into the appropriate fund in accordance with the applicable division.

(2) That portion of the license reinstatement fee that is paid under

division (F) of this section and that is credited under that division to the indigent drivers alcohol treatment fund shall be deposited into a county indigent drivers alcohol treatment fund, a county juvenile indigent drivers alcohol treatment fund, or a municipal indigent drivers alcohol treatment fund as follows:

(a) If the suspension in question was imposed under this section, that portion of the fee shall be deposited as follows:

(i) If the fee is paid by a person who was charged in a county court with the violation that resulted in the suspension, the portion shall be deposited into the county indigent drivers alcohol treatment fund under the control of that court;

(ii) If the fee is paid by a person who was charged in a juvenile court with the violation that resulted in the suspension, the portion shall be deposited into the county juvenile indigent drivers alcohol treatment fund established in the county served by the court;

(iii) If the fee is paid by a person who was charged in a municipal court with the violation that resulted in the suspension, the portion shall be deposited into the municipal indigent drivers alcohol treatment fund under the control of that court.

(b) If the suspension in question was imposed under section 4511.19 of the Revised Code or under section 4510.07 of the Revised Code for a violation of a municipal OVI ordinance, that portion of the fee shall be deposited as follows:

(i) If the fee is paid by a person whose license or permit was suspended by a county court, the portion shall be deposited into the county indigent drivers alcohol treatment fund under the control of that court;

(ii) If the fee is paid by a person whose license or permit was suspended by a municipal court, the portion shall be deposited into the municipal indigent drivers alcohol treatment fund under the control of that court.

(3) Expenditures from a county indigent drivers alcohol treatment fund, a county juvenile indigent drivers alcohol treatment fund, or a municipal indigent drivers alcohol treatment fund shall be made only upon the order of a county, juvenile, or municipal court judge and only for payment of the cost of the attendance at an alcohol and drug addiction treatment program of a person who is convicted of, or found to be a juvenile traffic offender by reason of, a violation of division (A) of section 4511.19 of the Revised Code or a substantially similar municipal ordinance, who is ordered by the court to attend the alcohol and drug addiction treatment program, and who is determined by the court to be unable to pay the cost of attendance at the treatment program or for payment of the costs specified in division (H)(4) of

this section in accordance with that division. The alcohol and drug addiction services board or the board of alcohol, drug addiction, and mental health services established pursuant to section 340.02 or 340.021 of the Revised Code and serving the alcohol, drug addiction, and mental health service district in which the court is located shall administer the indigent drivers alcohol treatment program of the court. When a court orders an offender or juvenile traffic offender to attend an alcohol and drug addiction treatment program, the board shall determine which program is suitable to meet the needs of the offender or juvenile traffic offender, and when a suitable program is located and space is available at the program, the offender or juvenile traffic offender shall attend the program designated by the board. A reasonable amount not to exceed five per cent of the amounts credited to and deposited into the county indigent drivers alcohol treatment fund, the county juvenile indigent drivers alcohol treatment fund, or the municipal indigent drivers alcohol treatment fund serving every court whose program is administered by that board shall be paid to the board to cover the costs it incurs in administering those indigent drivers alcohol treatment programs.

In addition, a county, juvenile, or municipal court judge may use moneys in the county indigent drivers alcohol treatment fund, county juvenile indigent drivers alcohol treatment fund, or municipal indigent drivers alcohol treatment fund to pay for the continued use of an electronic continuous alcohol monitoring device by an offender or juvenile traffic offender, in conjunction with a treatment program approved by the department of alcohol and drug addiction services, when such use is determined clinically necessary by the treatment program and when the court determines that the offender or juvenile traffic offender is unable to pay all or part of the daily monitoring of the device.

(4) If a county, juvenile, or municipal court determines, in consultation with the alcohol and drug addiction services board or the board of alcohol, drug addiction, and mental health services established pursuant to section 340.02 or 340.021 of the Revised Code and serving the alcohol, drug addiction, and mental health district in which the court is located, that the funds in the county indigent drivers alcohol treatment fund, the county juvenile indigent drivers alcohol treatment fund, or the municipal indigent drivers alcohol treatment fund under the control of the court are more than sufficient to satisfy the purpose for which the fund was established, as specified in divisions (H)(1) to (3) of this section, the court may declare a surplus in the fund. If the court declares a surplus in the fund, the court may expend the amount of the surplus in the fund for ~~alcohol~~:

(a) Alcohol and drug abuse assessment and treatment of persons who

are charged in the court with committing a criminal offense or with being a delinquent child or juvenile traffic offender and in relation to whom both of the following apply:

~~(a)~~(i) The court determines that substance abuse was a contributing factor leading to the criminal or delinquent activity or the juvenile traffic offense with which the person is charged.

~~(b)~~(ii) The court determines that the person is unable to pay the cost of the alcohol and drug abuse assessment and treatment for which the surplus money will be used.

(b) All or part of the cost of purchasing electronic continuous alcohol monitoring devices to be used in conjunction with division (H)(3) of this section.

Sec. 4511.75. (A) The driver of a vehicle, streetcar, or trackless trolley upon meeting or overtaking from either direction any school bus stopped for the purpose of receiving or discharging any school child, person attending programs offered by community boards of mental health and county boards of mental retardation and developmental disabilities, or child attending a program offered by a head start agency, shall stop at least ten feet from the front or rear of the school bus and shall not proceed until such school bus resumes motion, or until signaled by the school bus driver to proceed.

It is no defense to a charge under this division that the school bus involved failed to display or be equipped with an automatically extended stop warning sign as required by division (B) of this section.

(B) Every school bus shall be equipped with amber and red visual signals meeting the requirements of section 4511.771 of the Revised Code, and an automatically extended stop warning sign of a type approved by the state board of education, which shall be actuated by the driver of the bus whenever but only whenever the bus is stopped or stopping on the roadway for the purpose of receiving or discharging school children, persons attending programs offered by community boards of mental health and county boards of mental retardation and developmental disabilities, or children attending programs offered by head start agencies. A school bus driver shall not actuate the visual signals or the stop warning sign in designated school bus loading areas where the bus is entirely off the roadway or at school buildings when children or persons attending programs offered by community boards of mental health and county boards of mental retardation and developmental disabilities are loading or unloading at curbside or at buildings when children attending programs offered by head start agencies are loading or unloading at curbside. The visual signals and stop warning sign shall be synchronized or otherwise operated as required

by rule of the board.

(C) Where a highway has been divided into four or more traffic lanes, a driver of a vehicle, streetcar, or trackless trolley need not stop for a school bus approaching from the opposite direction which has stopped for the purpose of receiving or discharging any school child, persons attending programs offered by community boards of mental health and county boards of mental retardation and developmental disabilities, or children attending programs offered by head start agencies. The driver of any vehicle, streetcar, or trackless trolley overtaking the school bus shall comply with division (A) of this section.

(D) School buses operating on divided highways or on highways with four or more traffic lanes shall receive and discharge all school children, persons attending programs offered by community boards of mental health and county boards of mental retardation and developmental disabilities, and children attending programs offered by head start agencies on their residence side of the highway.

(E) No school bus driver shall start the driver's bus until after any child, person attending programs offered by community boards of mental health and county boards of mental retardation and developmental disabilities, or child attending a program offered by a head start agency who may have alighted therefrom has reached a place of safety on the child's or person's residence side of the road.

(F)(1) Whoever violates division (A) of this section may be fined an amount not to exceed five hundred dollars. A person who is issued a citation for a violation of division (A) of this section is not permitted to enter a written plea of guilty and waive the person's right to contest the citation in a trial but instead must appear in person in the proper court to answer the charge.

(2) In addition to and independent of any other penalty provided by law, the court or mayor may impose upon an offender who violates this section a class seven suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(7) of section 4510.02 of the Revised Code. When a license is suspended under this section, the court or mayor shall cause the offender to deliver the license to the court, and the court or clerk of the court immediately shall forward the license to the registrar of motor vehicles, together with notice of the court's action.

(G) As used in this section:

(1) "Head start agency" has the same meaning as in section ~~3301.34~~

3301.32 of the Revised Code.

(2) "School bus," as used in relation to children who attend a program offered by a head start agency, means a bus that is owned and operated by a head start agency, is equipped with an automatically extended stop warning sign of a type approved by the state board of education, is painted the color and displays the markings described in section 4511.77 of the Revised Code, and is equipped with amber and red visual signals meeting the requirements of section 4511.771 of the Revised Code, irrespective of whether or not the bus has fifteen or more children aboard at any time. "School bus" does not include a van owned and operated by a head start agency, irrespective of its color, lights, or markings.

Sec. 4517.01. As used in sections 4517.01 to 4517.65 of the Revised Code:

(A) "Persons" includes individuals, firms, partnerships, associations, joint stock companies, corporations, and any combinations of individuals.

(B) "Motor vehicle" means motor vehicle as defined in section 4501.01 of the Revised Code and also includes "all-purpose vehicle" and "off-highway motorcycle" as those terms are defined in section 4519.01 of the Revised Code and manufactured and mobile homes. "Motor vehicle" does not include a snowmobile as defined in section 4519.01 of the Revised Code.

(C) "New motor vehicle" means a motor vehicle, the legal title to which has never been transferred by a manufacturer, remanufacturer, distributor, or dealer to an ultimate purchaser.

(D) "Ultimate purchaser" means, with respect to any new motor vehicle, the first person, other than a dealer purchasing in the capacity of a dealer, who in good faith purchases such new motor vehicle for purposes other than resale.

(E) "Business" includes any activities engaged in by any person for the object of gain, benefit, or advantage either direct or indirect.

(F) "Engaging in business" means commencing, conducting, or continuing in business, or liquidating a business when the liquidator thereof holds self out to be conducting such business; making a casual sale or otherwise making transfers in the ordinary course of business when the transfers are made in connection with the disposition of all or substantially all of the transferor's assets is not engaging in business.

(G) "Retail sale" or "sale at retail" means the act or attempted act of selling, bartering, exchanging, or otherwise disposing of a motor vehicle to an ultimate purchaser for use as a consumer.

(H) "Retail installment contract" includes any contract in the form of a

note, chattel mortgage, conditional sales contract, lease, agreement, or other instrument payable in one or more installments over a period of time and arising out of the retail sale of a motor vehicle.

(I) "Farm machinery" means all machines and tools used in the production, harvesting, and care of farm products.

(J) "Dealer" or "motor vehicle dealer" means any new motor vehicle dealer, any motor vehicle leasing dealer, and any used motor vehicle dealer.

(K) "New motor vehicle dealer" means any person engaged in the business of selling at retail, displaying, offering for sale, or dealing in new motor vehicles pursuant to a contract or agreement entered into with the manufacturer, remanufacturer, or distributor of the motor vehicles.

(L) "Used motor vehicle dealer" means any person engaged in the business of selling, displaying, offering for sale, or dealing in used motor vehicles, at retail or wholesale, but does not mean any new motor vehicle dealer selling, displaying, offering for sale, or dealing in used motor vehicles incidentally to engaging in the business of selling, displaying, offering for sale, or dealing in new motor vehicles, any person engaged in the business of dismantling, salvaging, or rebuilding motor vehicles by means of using used parts, or any public officer performing official duties.

(M) "Motor vehicle leasing dealer" means any person engaged in the business of regularly making available, offering to make available, or arranging for another person to use a motor vehicle pursuant to a bailment, lease, sublease, or other contractual arrangement under which a charge is made for its use at a periodic rate for a term of thirty days or more, and title to the motor vehicle is in and remains in the motor vehicle leasing dealer who originally leases it, irrespective of whether or not the motor vehicle is the subject of a later sublease, and not in the user, but does not mean a manufacturer or its affiliate leasing to its employees or to dealers.

(N) "Salesperson" means any person employed by a dealer or manufactured home broker to sell, display, and offer for sale, or deal in motor vehicles for a commission, compensation, or other valuable consideration, but does not mean any public officer performing official duties.

(O) "Casual sale" means any transfer of a motor vehicle by a person other than a new motor vehicle dealer, used motor vehicle dealer, motor vehicle salvage dealer, as defined in division (A) of section 4738.01 of the Revised Code, salesperson, motor vehicle auction owner, manufacturer, or distributor acting in the capacity of a dealer, salesperson, auction owner, manufacturer, or distributor, to a person who purchases the motor vehicle for use as a consumer.

(P) "Motor vehicle show" means a display of current models of motor vehicles whereby the primary purpose is the exhibition of competitive makes and models in order to provide the general public the opportunity to review and inspect various makes and models of motor vehicles at a single location.

(Q) "Motor vehicle auction owner" means any person who is engaged wholly or in part in the business of auctioning motor vehicles.

(R) "Manufacturer" means a person who manufactures, assembles, or imports motor vehicles, including motor homes, but does not mean a person who only assembles or installs a body, special equipment unit, finishing trim, or accessories on a motor vehicle chassis supplied by a manufacturer or distributor.

(S) "Tent-type fold-out camping trailer" means any vehicle intended to be used, when stationary, as a temporary shelter with living and sleeping facilities, and that is subject to the following properties and limitations:

(1) A minimum of twenty-five per cent of the fold-out portion of the top and sidewalls combined must be constructed of canvas, vinyl, or other fabric, and form an integral part of the shelter.

(2) When folded, the unit must not exceed:

- (a) Fifteen feet in length, exclusive of bumper and tongue;
- (b) Sixty inches in height from the point of contact with the ground;
- (c) Eight feet in width;
- (d) One ton gross weight at time of sale.

(T) "Distributor" means any person authorized by a motor vehicle manufacturer to distribute new motor vehicles to licensed new motor vehicle dealers, but does not mean a person who only assembles or installs a body, special equipment unit, finishing trim, or accessories on a motor vehicle chassis supplied by a manufacturer or distributor.

(U) "Flea market" means a market place, other than a dealer's location licensed under this chapter, where a space or location is provided for a fee or compensation to a seller to exhibit and offer for sale or trade, motor vehicles to the general public.

(V) "Franchise" means any written agreement, contract, or understanding between any motor vehicle manufacturer or remanufacturer engaged in commerce and any motor vehicle dealer that purports to fix the legal rights and liabilities of the parties to such agreement, contract, or understanding.

(W) "Franchisee" means a person who receives new motor vehicles from the franchisor under a franchise agreement and who offers, sells, and provides service for such new motor vehicles to the general public.



(X) "Franchisor" means a new motor vehicle manufacturer, remanufacturer, or distributor who supplies new motor vehicles under a franchise agreement to a franchisee.

(Y) "Dealer organization" means a state or local trade association the membership of which is comprised predominantly of new motor vehicle dealers.

(Z) "Factory representative" means a representative employed by a manufacturer, remanufacturer, or by a factory branch primarily for the purpose of promoting the sale of its motor vehicles, parts, or accessories to dealers or for supervising or contacting its dealers or prospective dealers.

(AA) "Administrative or executive management" means those individuals who are not subject to federal wage and hour laws.

(BB) "Good faith" means honesty in the conduct or transaction concerned and the observance of reasonable commercial standards of fair dealing in the trade as is defined in division (S) of section 1301.01 of the Revised Code, including, but not limited to, the duty to act in a fair and equitable manner so as to guarantee freedom from coercion, intimidation, or threats of coercion or intimidation; provided however, that recommendation, endorsement, exposition, persuasion, urging, or argument shall not be considered to constitute a lack of good faith.

(CC) "Coerce" means to compel or attempt to compel by failing to act in good faith or by threat of economic harm, breach of contract, or other adverse consequences. Coerce does not mean to argue, urge, recommend, or persuade.

(DD) "Relevant market area" means any area within a radius of ten miles from the site of a potential new dealership, except that for manufactured home or recreational vehicle dealerships the radius shall be twenty-five miles. The ten-mile radius shall be measured from the dealer's established place of business that is used exclusively for the purpose of selling, displaying, offering for sale, or dealing in motor vehicles.

(EE) "Wholesale" or "at wholesale" means the act or attempted act of selling, bartering, exchanging, or otherwise disposing of a motor vehicle to a transferee for the purpose of resale and not for ultimate consumption by that transferee.

(FF) "Motor vehicle wholesaler" means any person licensed as a dealer under the laws of another state and engaged in the business of selling, displaying, or offering for sale used motor vehicles, at wholesale, but does not mean any motor vehicle dealer as defined in this section.

(GG)(1) "Remanufacturer" means a person who assembles or installs passenger seating, walls, a roof elevation, or a body extension on a

conversion van with the motor vehicle chassis supplied by a manufacturer or distributor, a person who modifies a truck chassis supplied by a manufacturer or distributor for use as a public safety or public service vehicle, a person who modifies a motor vehicle chassis supplied by a manufacturer or distributor for use as a limousine or hearse, or a person who modifies an incomplete motor vehicle cab and chassis supplied by a new motor vehicle dealer or distributor for use as a tow truck, but does not mean either of the following:

(a) A person who assembles or installs passenger seating, walls, a roof elevation, or a body extension on a manufactured home as defined in division (C)(4) of section 3781.06 of the Revised Code, a mobile home as defined in division (O) and referred to in division (B) of section 4501.01 of the Revised Code, or a recreational vehicle as defined in division (Q) and referred to in division (B) of section 4501.01 of the Revised Code;

(b) A person who assembles or installs special equipment or accessories for handicapped persons, as defined in section 4503.44 of the Revised Code, upon a motor vehicle chassis supplied by a manufacturer or distributor.

(2) For the purposes of division (GG)(1) of this section, "public safety vehicle or public service vehicle" means a fire truck, ambulance, school bus, street sweeper, garbage packing truck, or cement mixer, or a mobile self-contained facility vehicle.

(3) For the purposes of division (GG)(1) of this section, "limousine" means a motor vehicle, designed only for the purpose of carrying nine or fewer passengers, that a person modifies by cutting the original chassis, lengthening the wheelbase by forty inches or more, and reinforcing the chassis in such a way that all modifications comply with all applicable federal motor vehicle safety standards. No person shall qualify as or be deemed to be a remanufacturer who produces limousines unless the person has a written agreement with the manufacturer of the chassis the person utilizes to produce the limousines to complete properly the remanufacture of the chassis into limousines.

(4) For the purposes of division (GG)(1) of this section, "hearse" means a motor vehicle, designed only for the purpose of transporting a single casket, that is equipped with a compartment designed specifically to carry a single casket that a person modifies by cutting the original chassis, lengthening the wheelbase by ten inches or more, and reinforcing the chassis in such a way that all modifications comply with all applicable federal motor vehicle safety standards. No person shall qualify as or be deemed to be a remanufacturer who produces hearses unless the person has a written agreement with the manufacturer of the chassis the person utilizes to

produce the hearses to complete properly the remanufacture of the chassis into hearses.

(5) For the purposes of division (GG)(1) of this section, "mobile self-contained facility vehicle" means a mobile classroom vehicle, mobile laboratory vehicle, bookmobile, bloodmobile, testing laboratory, and mobile display vehicle, each of which is designed for purposes other than for passenger transportation and other than the transportation or displacement of cargo, freight, materials, or merchandise. A vehicle is remanufactured into a mobile self-contained facility vehicle in part by the addition of insulation to the body shell, and installation of all of the following: a generator, electrical wiring, plumbing, holding tanks, doors, windows, cabinets, shelving, and heating, ventilating, and air conditioning systems.

(6) For the purposes of division (GG)(1) of this section, "tow truck" means both of the following:

(a) An incomplete cab and chassis that are purchased by a remanufacturer from a new motor vehicle dealer or distributor of the cab and chassis and on which the remanufacturer then installs in a permanent manner a wrecker body it purchases from a manufacturer or distributor of wrecker bodies, installs an emergency flashing light pylon and emergency lights upon the mast of the wrecker body or rooftop, and installs such other related accessories and equipment, including push bumpers, front grille guards with pads and other custom-ordered items such as painting, special lettering, and safety striping so as to create a complete motor vehicle capable of lifting and towing another motor vehicle.

(b) An incomplete cab and chassis that are purchased by a remanufacturer from a new motor vehicle dealer or distributor of the cab and chassis and on which the remanufacturer then installs in a permanent manner a car carrier body it purchases from a manufacturer or distributor of car carrier bodies, installs an emergency flashing light pylon and emergency lights upon the rooftop, and installs such other related accessories and equipment, including push bumpers, front grille guards with pads and other custom-ordered items such as painting, special lettering, and safety striping.

As used in division (GG)(6)(b) of this section, "car carrier body" means a mechanical or hydraulic apparatus capable of lifting and holding a motor vehicle on a flat level surface so that one or more motor vehicles can be transported, once the car carrier is permanently installed upon an incomplete cab and chassis.

(HH) "Operating as a new motor vehicle dealership" means engaging in activities such as displaying, offering for sale, and selling new motor vehicles at retail, operating a service facility to perform repairs and

maintenance on motor vehicles, offering for sale and selling motor vehicle parts at retail, and conducting all other acts that are usual and customary to the operation of a new motor vehicle dealership. For the purposes of this chapter only, possession of either a valid new motor vehicle dealer franchise agreement or a new motor vehicle dealers license, or both of these items, is not evidence that a person is operating as a new motor vehicle dealership.

(II) "Manufactured home broker" means any person acting as a selling agent on behalf of an owner of a manufactured or mobile home that is subject to taxation under section 4503.06 of the Revised Code.

(JJ) "Outdoor power equipment" means garden and small utility tractors, walk-behind and riding mowers, chainsaws, and tillers.

(KK) "Remote service facility" means premises that are separate from a licensed new motor vehicle dealer's sales facility by not more than one mile and that are used by the dealer to perform repairs, warranty work, recall work, and maintenance on motor vehicles pursuant to a franchise agreement entered into with a manufacturer of motor vehicles. A remote service facility shall be deemed to be part of the franchise agreement and is subject to all the rights, duties, obligations, and requirements of Chapter 4517. of the Revised Code that relate to the performance of motor vehicle repairs, warranty work, recall work, and maintenance work by new motor vehicle dealers.

Sec. 4519.01. As used in this chapter:

(A) "Snowmobile" means any self-propelled vehicle designed primarily for use on snow or ice, and steered by skis, runners, or caterpillar treads.

(B) "All-purpose vehicle" means any self-propelled vehicle designed primarily for cross-country travel on land and water, or on more than one type of terrain, and steered by wheels or caterpillar treads, or any combination thereof, including vehicles that operate on a cushion of air, vehicles commonly known as all-terrain vehicles, all-season vehicles, mini-bikes, and trail bikes, ~~but excluding any self-propelled vehicle not principally used for purposes of personal transportation.~~ "All-purpose vehicle" does not include a utility vehicle as defined in section 4501.01 of the Revised Code or any vehicle principally used in playing golf, any motor vehicle or aircraft required to be registered under Chapter 4503. or 4561. of the Revised Code, and any vehicle excepted from definition as a motor vehicle by division (B) of section 4501.01 of the Revised Code.

(C) "Owner" means any person or firm, other than a lienholder or dealer, having title to a snowmobile, off-highway motorcycle, or all-purpose vehicle, or other right to the possession thereof.

(D) "Operator" means any person who operates or is in actual physical

control of a snowmobile, off-highway motorcycle, or all-purpose vehicle.

(E) "Dealer" means any person or firm engaged in the business of manufacturing or selling snowmobiles, off-highway motorcycles, or all-purpose vehicles at wholesale or retail, or who rents, leases, or otherwise furnishes snowmobiles, off-highway motorcycles, or all-purpose vehicles for hire.

(F) "Street or highway" has the same meaning as in section 4511.01 of the Revised Code.

(G) "Limited access highway" and "freeway" have the same meanings as in section 5511.02 of the Revised Code.

(H) "Interstate highway" means any part of the interstate system of highways as defined in subsection (e), 90 Stat. 431 (1976), 23 U.S.C.A. 103, as amended.

(I) "Off-highway motorcycle" means every motorcycle, as defined in section 4511.01 of the Revised Code, that is designed to be operated primarily on lands other than a street or highway.

(J) "Electronic" and "electronic record" have the same meanings as in section 4501.01 of the Revised Code.

(K) "Electronic dealer" means a dealer whom the registrar of motor vehicles designates under section 4519.511 of the Revised Code.

Sec. 4519.02. (A) Except as provided in divisions (B), (C), and (D) of this section, no person shall operate any snowmobile, off-highway motorcycle, or all-purpose vehicle within this state unless the snowmobile, off-highway motorcycle, or all-purpose vehicle is registered and numbered in accordance with sections 4519.03 and 4519.04 of the Revised Code.

(B) No registration is required for a snowmobile, off-highway motorcycle, or all-purpose vehicle that is operated exclusively upon lands owned by the owner of the snowmobile, off-highway motorcycle, or all-purpose vehicle, or on lands to which the owner has a contractual right.

~~(C) No registration is required for a snowmobile, off-highway motorcycle, or all-purpose vehicle owned and used in this state by a resident of another state whenever that state has in effect a registration law similar to this chapter and the snowmobile, off-highway motorcycle, or all-purpose vehicle is properly registered thereunder.~~ Any snowmobile, off-highway motorcycle, or all-purpose vehicle owned and used in this state by a person who is not a resident of another this state not having such a registration requirement shall comply with section 4519.09 of the Revised Code.

(D) No registration is required for a snowmobile, off-highway motorcycle, or all-purpose vehicle owned and used in this state by the United States, another state, or a political subdivision thereof, but the

snowmobile, off-highway motorcycle, or all-purpose vehicle shall display the name of the owner thereon.

(E) The owner or operator of any all-purpose vehicle operated or used upon the waters in this state shall comply with Chapters 1547. and 1548. of the Revised Code relative to the operation of watercraft.

(F) Except as otherwise provided in this division, whoever violates division (A) of this section shall be fined not more than twenty-five dollars. If the offender previously has been convicted of or pleaded guilty to a violation of division (A) of this section, whoever violates division (A) of this section shall be fined not less than twenty-five nor more than fifty dollars.

Sec. 4519.09. Every owner or operator of a snowmobile, off-highway motorcycle, or all-purpose vehicle who is not a resident of a this state not ~~having a registration law similar to this chapter~~, and who expects to use the snowmobile, off-highway motorcycle, or all-purpose vehicle in Ohio, shall apply to the registrar of motor vehicles or a deputy registrar for a temporary operating permit. The temporary operating permit shall be issued for a period not to exceed fifteen days from the date of issuance, shall be in such form as the registrar determines, shall include the name and address of the owner and operator of the snowmobile, off-highway motorcycle, or all-purpose vehicle, and any other information as the registrar considers necessary, and shall be issued upon payment of a fee of five dollars. Every owner or operator receiving a temporary operating permit shall display it upon the reasonable request of any law enforcement officer or other person as authorized by sections 4519.42 and 4519.43 of the Revised Code.

Sec. 4561.17. For the purpose of providing revenue for paying the expenses of administering sections 4561.17 to 4561.22 of the Revised Code relative to the registration of aircraft, for the surveying of and the establishment, checking, maintenance, and repair of aviation air marking and of air navigation facilities, for airport capital improvements, for the acquiring, maintaining, and repairing of equipment necessary therefor, and for the cost of the creation and distribution of Ohio aeronautical charts and Ohio airport and landing field directories, an annual license tax is hereby levied upon all aircraft based in this state for which an aircraft worthiness certificate issued by the federal aviation administration is in effect except the following:

- (A) Aircraft owned by the United States or any territory thereof;
- (B) Aircraft owned by any foreign government;
- (C) Aircraft owned by any state or any political subdivision thereof;
- (D) Aircraft operated under a certificate of convenience and necessity

issued by the civil aeronautics board or any successor thereto;

(E) Aircraft owned by any nonresident of this state whether such owner is an individual, partnership, or corporation, provided such owner has complied with all the laws in regard to the licensing of aircraft in the state of ~~his~~ the owner's residence;

(F) Aircraft owned by aircraft manufacturers or aircraft engine manufacturers and operated only for purposes of testing, delivery, or demonstration;

(G) Aircraft operated for hire over regularly scheduled routes within the state.

Such license tax shall be at the rates specified in section 4561.18 of the Revised Code, and shall be paid to and collected by the director of transportation at the time of making application as provided in such section.

Sec. 4561.18. Applications for the licensing and registration of aircraft shall be made and signed by the owner thereof upon forms prepared by the department of transportation and shall contain a description of the aircraft, including its federal registration number, and such other information as is required by the department.

Applications shall be filed with the director of transportation during the month of January annually and shall be renewed according to the standard renewal procedure of sections 4745.01 to 4745.03 of the Revised Code. Application for registration of any aircraft not previously registered in this state, if such aircraft is acquired or becomes subject to such license tax subsequent to the last day of January in any year, shall be made for the balance of the year in which the same is acquired, within forty-eight hours after such acquisition or after becoming subject to such license tax. Each such application shall be accompanied by the proper license tax, which, for all aircraft other than gliders and balloons, shall be at the annual rate of ~~one hundred~~ fifteen dollars per ~~aircraft~~ seat, based on the manufacturer's maximum listed seating capacity. The license tax for gliders and balloons shall be ~~three~~ fifteen dollars annually.

Such taxes are in lieu of all other taxes on or with respect to ownership of such aircraft.

Sec. 4561.21. (A) The director of transportation shall deposit all aircraft transfer fees in the state treasury to the credit of the general fund.

(B) The director shall deposit all aircraft license taxes in the state treasury to the credit of the ~~county~~ airport ~~maintenance~~ assistance fund, which is hereby created. Money in the fund shall be used ~~to assist counties in maintaining the~~ for maintenance and capital improvements to publicly owned airports ~~they own~~, and the director shall distribute the money to

~~counties~~ eligible recipients in accordance with such procedures, guidelines, and criteria as the director shall establish.

Sec. 4703.15. (A) The state board of examiners of architects may by three concurring votes deny renewal of, revoke, or suspend any certificate of qualification to practice architecture, issued or renewed under sections 4703.10, 4703.13, and 4703.14 of the Revised Code, or any certificate of authorization, issued or renewed under sections 4703.13 and 4703.18 of the Revised Code, if proof satisfactory to the board is presented in any of the following cases:

~~(A)~~(1) In case it is shown that the certificate was obtained by fraud;

~~(B)~~(2) In case the holder of the certificate has been found guilty by the board or by a court of justice of any fraud or deceit in ~~his~~ the holder's professional practice, or has been convicted of a felony by a court of justice;

~~(C)~~(3) In case the holder has been found guilty by the board of gross negligence, incompetency, or misconduct in the performance of ~~his~~ the holder's services as an architect or in the practice of architecture;

~~(D)~~(4) In case the holder of the certificate has been found guilty by the board of signing plans for the construction of a building as a "registered architect" where ~~he~~ the holder is not the actual architect of such building and where ~~he~~ the holder is without prior written consent of the architect originating the design or other documents used in the plans;

~~(E)~~(5) In case the holder of the certificate has been found guilty by the board of aiding and abetting another person or persons not properly registered as required by sections 4703.01 to 4703.19 of the Revised Code, in the performance of activities that in any manner or extent constitute the practice of architecture.

At any time after the expiration of six months from the date of the revocation or suspension of a certificate, the individual, firm, partnership, association, or corporation may apply for reinstatement of the certificate. Upon showing that all loss caused by the individual, firm, partnership, association, or corporation whose certificate has been revoked or suspended has been fully satisfied and that all conditions imposed by the revocation or suspension decision have been complied with, and upon the payment of all costs incurred by the board as a result of the case at issue, the board, at its discretion and upon evidence that in its opinion would so warrant, may restore the certificate.

(B) In addition to disciplinary action the board may take against a certificate holder under division (A) of this section or section 4703.151 of the Revised Code, the board may impose a fine against a certificate holder who obtained a certificate by fraud or who is found guilty of any act



specified in divisions (A)(2) to (A)(5) of this section or who violates any rule governing the standards of service, conduct, and practice adopted pursuant to section 4703.02 of the Revised Code. The fine imposed shall be not more than one thousand dollars for each offense but shall not exceed five thousand dollars regardless of the number of offenses the certificate holder has committed between the time the fine is imposed and the time any previous fine was imposed.

Sec. 4705.09. (A)(1) Any person admitted to the practice of law in this state by order of the supreme court in accordance with its prescribed and published rules, or any law firm or legal professional association, may establish and maintain an interest-bearing trust account, for purposes of depositing client funds held by the attorney, firm, or association that are nominal in amount or are to be held by the attorney, firm, or association for a short period of time, with any bank or savings and loan association that is authorized to do business in this state and is insured by the federal deposit insurance corporation or the successor to that corporation, or any credit union insured by the national credit union administration operating under the "Federal Credit Union Act," 84 Stat. 994 (1970), 12 U.S.C.A. 1751. Each account established under this division shall be in the name of the attorney, firm, or association that established and is maintaining it and shall be identified as an IOLTA or an interest on lawyer's trust account. The name of the account may contain additional identifying features to distinguish it from other trust accounts established and maintained by the attorney, firm, or association.

(2) Each attorney who receives funds belonging to a client shall do one of the following:

(a) Establish and maintain one or more interest-bearing trust accounts in accordance with division (A)(1) of this section or maintain one or more interest-bearing trust accounts previously established in accordance with that division, and deposit all client funds held that are nominal in amount or are to be held by the attorney for a short period of time in the account or accounts;

(b) If the attorney is affiliated with a law firm or legal professional association, comply with division (A)(2)(a) of this section or deposit all client funds held that are nominal in amount or are to be held by the attorney for a short period of time in one or more interest-bearing trust accounts established and maintained by the firm or association in accordance with division (A)(1) of this section.

(3) No funds belonging to any attorney, firm, or legal professional association shall be deposited in any interest-bearing ~~IOTA~~ IOLTA account

established under division (A)(1) or (2) of this section, except that funds sufficient to pay or enable a waiver of depository institution service charges on the account shall be deposited in the account and other funds belonging to the attorney, firm, or association may be deposited as authorized by the Code of Professional Responsibility adopted by the supreme court. The determinations of whether funds held are nominal or more than nominal in amount and of whether funds are to be held for a short period or longer than a short period of time rests in the sound judgment of the particular attorney. No imputation of professional misconduct shall arise from the attorney's exercise of judgment in these matters.

(B) All interest earned on funds deposited in an interest-bearing trust account established under division (A)(1) or (2) of this section shall be transmitted to the treasurer of state for deposit in the legal aid fund established under section 120.52 of the Revised Code. No part of the interest earned on funds deposited in an interest-bearing trust account established under division (A)(1) or (2) of this section shall be paid to, or inure to the benefit of, the attorney, the attorney's law firm or legal professional association, the client or other person who owns or has a beneficial ownership of the funds deposited, or any other person other than in accordance with this section, section 4705.10, and sections 120.51 to 120.55 of the Revised Code.

(C) No liability arising out of any act or omission by any attorney, law firm, or legal professional association with respect to any interest-bearing trust account established under division (A)(1) or (2) of this section shall be imputed to the depository institution.

(D) The supreme court may adopt and enforce rules of professional conduct that pertain to the use, by attorneys, law firms, or legal professional associations, of interest-bearing trust accounts established under division (A)(1) or (2) of this section, and that pertain to the enforcement of division (A)(2) of this section. Any rules adopted by the supreme court under this authority shall conform to the provisions of this section, section 4705.10, and sections 120.51 to 120.55 of the Revised Code.

Sec. 4709.05. In addition to any other duty imposed on the barber board under this chapter, the board shall do all of the following:

(A) Organize by electing a chairperson from its members to serve a one-year term;

(B) Hold regular meetings, at the times and places as it determines for the purpose of conducting the examinations required under this chapter, and hold additional meetings for the transaction of necessary business;

(C) Provide for suitable quarters, in the city of Columbus, for the

conduct of its business and the maintenance of its records;

(D) Adopt a common seal for the authentication of its orders, communications, and records;

(E) Maintain a record of its proceedings and a register of persons licensed as barbers. The register shall include each licensee's name, place of business, residence, and licensure date and number, and a record of all licenses issued, refused, renewed, suspended, or revoked. The records are open to public inspection at all reasonable times.

(F) Annually, on or before the first day of January, make a report to the governor of all its official acts during the preceding year, its receipts and disbursements, recommendations it determines appropriate, and an evaluation of board activities intended to aid or protect consumers of barber services;

(G) Employ an executive director who shall do all things requested by the board for the administration and enforcement of this chapter. The executive director shall employ inspectors, clerks, and other assistants as ~~he~~ the executive director determines necessary.

(H) Ensure that the practice of barbering is conducted only in a licensed barber shop, except when the practice of barbering is performed on a person whose physical or mental disability prevents that person from going to a licensed barber shop;

(I) Conduct or have conducted the examination for applicants to practice as licensed barbers at least four times per year at the times and places the board determines;

(J) Adopt rules, in accordance with Chapter 119. of the Revised Code, to administer and enforce this chapter and which cover all of the following:

(1) Sanitary standards for the operation of barber shops and barber schools that conform to guidelines established by the department of health;

(2) The content of the examination required of an applicant for a barber license. The examination shall include a practical demonstration and a written test, shall relate only to the practice of barbering, and shall require the applicant to demonstrate that the applicant has a thorough knowledge of and competence in the proper techniques in the safe use of chemicals used in the practice of barbering.

(3) Continuing education requirements for persons licensed pursuant to this chapter. The board may impose continuing education requirements upon a licensee for a violation of this chapter or the rules adopted pursuant thereto or if the board determines that the requirements are necessary to preserve the health, safety, or welfare of the public.

(4) Requirements for the licensure of barber schools, barber teachers,

and assistant barber teachers;

(5) Requirements for students of barber schools;

(6) Any other area the board determines appropriate to administer or enforce this chapter.

(K) Annually review the rules adopted pursuant to division (J) of this section in order to compare those rules with the rules adopted by the state board of cosmetology pursuant to section 4713.08 of the Revised Code. If the barber board determines that the rules adopted by the state board of cosmetology, including, but not limited to, rules concerning using career technical schools, would be beneficial to the barbering profession, the barber board shall adopt rules similar to those it determines would be beneficial for barbers.

(L) Prior to adopting any rule under this chapter, indicate at a formal hearing the reasons why the rule is necessary as a protection of the persons who use barber services or as an improvement of the professional standing of barbers in this state;

~~(L)~~(M) Furnish each owner or manager of a barber shop and barber school with a copy of all sanitary rules adopted pursuant to division (J) of this section;

~~(M)~~(N) Conduct such investigations and inspections of persons and establishments licensed or unlicensed pursuant to this chapter and for that purpose, any member of the board or any of its authorized agents may enter and inspect any place of business of a licensee or a person suspected of violating this chapter or the rules adopted pursuant thereto, during normal business hours;

~~(N)~~(O) Upon the written request of an applicant and the payment of the appropriate fee, provide to the applicant licensure information concerning the applicant;

~~(O)~~(P) Do all things necessary for the proper administration and enforcement of this chapter.

Sec. 4713.02. (A) There is hereby created the state board of cosmetology, consisting of all of the following members appointed by the governor, with the advice and consent of the senate:

(1) One person holding a current, valid cosmetologist, managing cosmetologist, or cosmetology instructor license at the time of appointment;

(2) Two persons holding current, valid managing cosmetologist licenses and actively engaged in managing beauty salons at the time of appointment;

(3) One person who holds a current, valid independent contractor license at the time of appointment or the owner or manager of a licensed salon in which at least one person holding a current, valid independent

contractor license practices a branch of cosmetology;

(4) One person who represents individuals who teach the theory and practice of a branch of cosmetology at a vocational school;

(5) One owner of a licensed school of cosmetology;

(6) One owner of at least five licensed salons;

(7) One person who is either a certified nurse practitioner or clinical nurse specialist holding a certificate of authority issued under Chapter 4723. of the Revised Code, or a physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery;

(8) One person representing the general public.

(B) The superintendent of public instruction shall nominate three persons for the governor to choose from when making an appointment under division (A)(4) of this section.

(C) All members shall be at least twenty-five years of age, residents of the state, and citizens of the United States. No more than two members, at any time, shall be graduates of the same school of cosmetology.

Except for the initial members appointed under divisions (A)(3) and (4) of this section, terms of office are for five years. The term of the initial member appointed under division (A)(3) of this section shall be three years. The term of the initial member appointed under division (A)(4) of this section shall be four years. Terms shall commence on the first day of November and end on the thirty-first day of October. Each member shall hold office from the date of appointment until the end of the term for which appointed. In case of a vacancy occurring on the board, the governor shall, in the same manner prescribed for the regular appointment to the board, fill the vacancy by appointing a member. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of such term. Any member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first. Before entering upon the discharge of the duties of the office of member, each member shall take, and file with the secretary of state, the oath of office required by Section 7 of Article XV, Ohio Constitution.

The members of the board shall receive an amount fixed pursuant to Chapter 124. of the Revised Code per diem for every meeting of the board which they attend, together with their necessary expenses, and mileage for each mile necessarily traveled.

The members of the board shall annually elect, from among their

number, a chairperson.

The board shall prescribe the duties of its officers and establish an office ~~at Columbus, Ohio~~ within Franklin County. The board shall keep all records and files at the office and have the records and files at all reasonable hours open to public inspection. The board also shall adopt a seal.

Sec. 4717.05. (A) Any person who desires to be licensed as an embalmer shall apply to the board of embalmers and funeral directors on a form provided by the board. The applicant shall include with the application an initial license fee as set forth in section 4717.07 of the Revised Code and evidence, verified by oath and satisfactory to the board, that the applicant meets all of the following requirements:

(1) The applicant is at least eighteen years of age and of good moral character.

(2) If the applicant has pleaded guilty to, has been found by a judge or jury to be guilty of, or has had a judicial finding of eligibility for treatment in lieu of conviction entered against the applicant in this state for aggravated murder, murder, voluntary manslaughter, felonious assault, kidnapping, rape, sexual battery, gross sexual imposition, aggravated arson, aggravated robbery, or aggravated burglary, or has pleaded guilty to, has been found by a judge or jury to be guilty of, or has had a judicial finding of eligibility for treatment in lieu of conviction entered against the applicant in another jurisdiction for a substantially equivalent offense, at least five years has elapsed since the applicant was released from incarceration, a community control sanction, a post-release control sanction, parole, or treatment in connection with the offense.

(3) The applicant holds at least a bachelor's degree from a college or university authorized to confer degrees by the Ohio board of regents or the comparable legal agency of another state in which the college or university is located and submits an official transcript from that college or university with the application.

(4) The applicant has satisfactorily completed at least twelve months of instruction in a prescribed course in mortuary science as approved by the board and has presented to the board a certificate showing successful completion of the course. The course of mortuary science college training may be completed either before or after the completion of the educational standard set forth in division (A)(3) of this section.

(5) The applicant has registered with the board prior to beginning an embalmer apprenticeship.

(6) The applicant has satisfactorily completed at least one year of apprenticeship under an embalmer licensed in this state and has assisted that

person in embalming at least twenty-five dead human bodies.

(7) The applicant, upon meeting the educational standards provided for in divisions (A)(3) and (4) of this section and completing the apprenticeship required in division (A)(6) of this section, has completed the examination for an embalmer's license required by the board.

(B) Upon receiving satisfactory evidence verified by oath that the applicant meets all the requirements of division (A) of this section, the board shall issue the applicant an embalmer's license.

(C) Any person who desires to be licensed as a funeral director shall apply to the board on a form provided by the board. The application shall include an initial license fee as set forth in section 4717.07 of the Revised Code and evidence, verified by oath and satisfactory to the board, that the applicant meets all of the following requirements:

(1) Except as otherwise provided in division (D) of this section, the applicant has satisfactorily met all the requirements for an embalmer's license as described in divisions (A)(1) to (4) of this section.

(2) The applicant has registered with the board prior to beginning a funeral director apprenticeship.

(3) The applicant, following mortuary science college training described in division (A)(4) of this section, has ~~served~~ satisfactorily completed a one-year apprenticeship under a licensed funeral director in this state and has assisted that person in directing at least twenty-five funerals.

(4) The applicant has satisfactorily completed the examination for a funeral director's license as required by the board.

(D) In lieu of mortuary science college training required for a funeral director's license under division (C)(1) of this section, the applicant may substitute a satisfactorily completed two-year apprenticeship under a licensed funeral director in this state assisting that person in directing at least fifty funerals.

(E) Upon receiving satisfactory evidence that the applicant meets all the requirements of division (C) of this section, the board shall issue to the applicant a funeral director's license.

(F) As used in this section:

(1) "Community control sanction" has the same meaning as in section 2929.01 of the Revised Code.

(2) "Post-release control sanction" has the same meaning as in section 2967.01 of the Revised Code.

Sec. 4723.32. This chapter does not prohibit any of the following:

(A) The practice of nursing by a student currently enrolled in and actively pursuing completion of a prelicensure nursing education program

approved by the board of nursing, if the student's practice is under the auspices of the program and the student acts under the supervision of a registered nurse serving for the program as a faculty member, teaching assistant, or preceptor;

(B) The rendering of medical assistance to a licensed physician, licensed dentist, or licensed podiatrist by a person under the direction, supervision, and control of such licensed physician, dentist, or podiatrist;

(C) The activities of persons employed as nursing aides, attendants, orderlies, or other auxiliary workers in patient homes, nurseries, nursing homes, hospitals, home health agencies, or other similar institutions;

(D) The provision of nursing services to family members or in emergency situations;

(E) The care of the sick when done in connection with the practice of religious tenets of any church and by or for its members;

(F) The practice of nursing as a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner by a student currently enrolled in and actively pursuing completion of a program of study leading to initial authorization by the board to practice nursing in the specialty, if both of the following are the case:

(1) The program qualifies the student to sit for the examination of a national certifying organization listed in division (A)(3) of section 4723.41 of the Revised Code or approved by the board under section 4723.46 of the Revised Code or the program prepares the student to receive a master's degree in accordance with division (A)(2) of section 4723.41 of the Revised Code;

(2) The student's practice is under the auspices of the program and the student acts under the supervision of a registered nurse serving for the program as a faculty member, teaching assistant, or preceptor.

(G) The activities of an individual who currently holds a license to practice nursing in another jurisdiction, if the individual's license has not been revoked, the individual is not currently under suspension or on probation, the individual does not represent the individual as being licensed under this chapter, and one of the following is the case:

(1) The individual is engaging in the practice of nursing by discharging official duties while employed by or under contract with the United States government or any agency thereof;

(2) The individual is engaging in the practice of nursing as an employee of an individual, agency, or corporation located in the other jurisdiction in a position with employment responsibilities that include transporting patients



into, out of, or through this state, as long as each trip in this state does not exceed seventy-two hours;

(3) The individual is consulting with an individual licensed in this state to practice any health-related profession;

(4) The individual is engaging in activities associated with teaching in this state as a guest lecturer at or for a nursing education program, continuing nursing education program, or in-service presentation;

(5) The individual is conducting evaluations of nursing care that are undertaken on behalf of an accrediting organization, including the national league for nursing accrediting committee, the joint commission on accreditation of healthcare organizations, or any other nationally recognized accrediting organization;

(6) The individual is providing nursing care to an individual who is in this state on a temporary basis, not to exceed six months in any one calendar year, if the nurse is directly employed by or under contract with the individual or a guardian or other person acting on the individual's behalf;

(7) The individual is providing nursing care during any disaster, natural or otherwise, that has been officially declared to be a disaster by a public announcement issued by an appropriate federal, state, county, or municipal official.

(H) The administration of medication by an individual who holds a valid medication aide certificate issued under this chapter, if the medication is administered to a resident of a nursing home or residential care facility authorized by section 4723.63 or 4723.64 of the Revised Code to use a certified medication aide and the medication is administered in accordance with section 4723.67 of the Revised Code.

Sec. 4723.33. A registered nurse, licensed practical nurse, ~~or~~ dialysis technician, community health worker, or medication aide who in good faith makes a report under this chapter or any other provision of the Revised Code regarding a violation of this chapter or any other provision of the Revised Code, or participates in any investigation, administrative proceeding, or judicial proceeding resulting from the report, has the full protection against retaliatory action provided by sections 4113.51 to 4113.53 of the Revised Code.

Sec. 4723.34. (A) Reports to the board of nursing shall be made as follows:

(1) Every employer of registered nurses, licensed practical nurses, or dialysis technicians shall report to the board of nursing the name of any current or former employee who holds a nursing license or dialysis technician certificate issued under this chapter who has engaged in conduct

that would be grounds for disciplinary action by the board under section 4723.28 of the Revised Code. ~~Every~~

Every employer of certified community health workers shall report to the board the name of any current or former employee who holds a community health worker certificate issued under this chapter who has engaged in conduct that would be grounds for disciplinary action by the board under section 4723.86 of the Revised Code.

Every employer of medication aides shall report to the board the name of any current or former employee who holds a medication aide certificate issued under this chapter who has engaged in conduct that would be grounds for disciplinary action by the board under section 4723.652 of the Revised Code.

(2) Nursing associations shall report to the board the name of any registered nurse or licensed practical nurse and dialysis technician associations shall report to the board the name of any dialysis technician who has been investigated and found to constitute a danger to the public health, safety, and welfare because of conduct that would be grounds for disciplinary action by the board under section 4723.28 of the Revised Code, except that an association is not required to report the individual's name if the individual is maintaining satisfactory participation in a peer support program approved by the board under rules adopted under section 4723.07 of the Revised Code. ~~Community~~

Community health worker associations shall report to the board the name of any certified community health worker who has been investigated and found to constitute a danger to the public health, safety, and welfare because of conduct that would be grounds for disciplinary action by the board under section 4723.86 of the Revised Code, except that an association is not required to report the individual's name if the individual is maintaining satisfactory participation in a peer support program approved by the board under rules adopted under section 4723.07 of the Revised Code.

Medication aide associations shall report to the board the name of any medication aide who has been investigated and found to constitute a danger to the public health, safety, and welfare because of conduct that would be grounds for disciplinary action by the board under section 4723.652 of the Revised Code, except that an association is not required to report the individual's name if the individual is maintaining satisfactory participation in a peer support program approved by the board under rules adopted under section 4723.69 of the Revised Code.

(3) If the prosecutor in a case described in divisions (B)(3) to (5) of section 4723.28 of the Revised Code, or in a case where the trial court

issued an order of dismissal upon technical or procedural grounds of a charge of a misdemeanor committed in the course of practice, a felony charge, or a charge of gross immorality or moral turpitude, knows or has reason to believe that the person charged is licensed under this chapter to practice nursing as a registered nurse or as a licensed practical nurse or holds a certificate issued under this chapter to practice as a dialysis technician, the prosecutor shall notify the board of nursing. With regard to certified community health workers and medication aides, if the prosecutor in a case involving a charge of a misdemeanor committed in the course of employment, a felony charge, or a charge of gross immorality or moral turpitude, including a case dismissed on technical or procedural grounds, knows or has reason to believe that the person charged holds a community health worker or medication aide certificate issued under this chapter, the prosecutor shall notify the board.

Each notification required by this division shall be made on forms prescribed and provided by the board. The report shall include the name and address of the license or certificate holder, the charge, and the certified court documents recording the action.

(B) If any person fails to provide a report required by this section, the board may seek an order from a court of competent jurisdiction compelling submission of the report.

Sec. 4723.341. (A) As used in this section, "person" has the same meaning as in section 1.59 of the Revised Code and also includes the board of nursing and its members and employees; health care facilities, associations, and societies; insurers; and individuals.

(B) In the absence of fraud or bad faith, no person reporting to the board of nursing or testifying in an adjudication conducted under Chapter 119. of the Revised Code with regard to alleged incidents of negligence or malpractice or matters subject to this chapter or sections 3123.41 to 3123.50 of the Revised Code and any applicable rules adopted under section 3123.63 ~~of the Revised Code or section~~ of the Revised Code shall be subject to either of the following based on making the report or testifying:

(1) Liability in damages in a civil action for injury, death, or loss to person or property;

(2) Discipline or dismissal by an employer.

(C) An individual who is disciplined or dismissed in violation of division (B)(2) of this section has the same rights and duties accorded an employee under sections 4113.52 and 4113.53 of the Revised Code.

(D) In the absence of fraud or bad faith, no professional association of registered nurses, licensed practical nurses, ~~or~~ dialysis technicians,

community health workers, or medication aides that sponsors a committee or program to provide peer assistance to individuals with substance abuse problems, no representative or agent of such a committee or program, and no member of the board of nursing shall be liable to any person for damages in a civil action by reason of actions taken to refer a nurse ~~or~~, dialysis technician, community health worker, or medication aide to a treatment provider or actions or omissions of the provider in treating a nurse ~~or~~, dialysis technician, community health worker, or medication aide.

Sec. 4723.61. As used in this section and in sections 4723.62 to 4723.69 of the Revised Code:

(A) "Medication" means a drug, as defined in section 4729.01 of the Revised Code.

(B) "Medication error" means a failure to follow the prescriber's instructions when administering a prescription medication.

(C) "Nursing home" and "residential care facility" have the same meanings as in section 3721.01 of the Revised Code.

(D) "Prescription medication" means a medication that may be dispensed only pursuant to a prescription.

(E) "Prescriber" and "prescription" have the same meanings as in section 4729.01 of the Revised Code.

Sec. 4723.62. (A) There is hereby created the medication aide advisory council. The council shall consist of the following members:

(1) A registered nurse working in long-term care, appointed by the governing body of the Ohio nurses association;

(2) A licensed practical nurse working in long-term care, appointed by the governing body of the licensed practical nurse association of Ohio;

(3) A registered nurse with experience in researching gerontology issues, appointed by the governing body of the Ohio nurses association;

(4) An advanced practice nurse with experience in gerontology, appointed by the governing body of the Ohio association of advanced practice nurses;

(5) A representative of the Ohio health care association, appointed by the governing body of the association;

(6) A representative of the association of Ohio philanthropic homes, housing, and services for the aging, appointed by the governing body of the association;

(7) A representative of the Ohio academy of nursing homes, appointed by the governing body of the academy;

(8) A representative of the Ohio assisted living association, appointed by the governing body of the association;

(9) A representative of the Ohio association of long-term care ombudsmen, appointed by the governing body of the association;

(10) A representative of the American association of retired persons, appointed by the governing body of the association;

(11) A representative of facility residents and families of facility residents, appointed by the board of nursing;

(12) A representative of the senior care pharmacy alliance, appointed by the governing body of the alliance;

(13) A representative of nurse aides, as defined in section 3721.21 of the Revised Code, appointed by the director of health;

(14) A representative of the department of health with expertise in competency evaluation programs, as defined in section 3721.21 of the Revised Code, appointed by the director of health;

(15) A representative of the office of the state long-term care ombudsperson program, appointed by the state long-term care ombudsperson;

(16) A representative of the department of job and family services, appointed by the director of job and family services.

(B) Members of the council shall serve at the pleasure of their appointing authorities. Vacancies shall be filled in the manner provided for original appointments.

(C) Members shall receive no compensation for their service on the council, except to the extent that serving on the council is part of their regular duties of employment.

(D) The board of nursing shall appoint one of its members or a representative of the board to serve as the council's chairperson.

Sec. 4723.621. The medication aide advisory council created under section 4723.62 of the Revised Code shall make recommendations to the board of nursing with respect to all of the following:

(A) The design and operation of the medication aide pilot program conducted under section 4723.63 of the Revised Code, including a method of collecting data through reports submitted by participating nursing homes and residential care facilities;

(B) The content of the course of instruction required to obtain certification as a medication aide, including the examination to be used to evaluate the ability to administer prescription medications safely and the score that must be attained to pass the examination;

(C) Whether medication aides may administer prescription medications through a gastrostomy or jejunostomy tube and the amount and type of training a medication aide needs to be adequately prepared to administer

prescription medications through a gastrostomy or jejunostomy tube:

(D) Protection of the health and welfare of the residents of nursing homes and residential care facilities participating in the pilot program and using medication aides pursuant to section 4723.64 of the Revised Code on or after July 1, 2007:

(E) The board's adoption of rules under section 4723.69 of the Revised Code:

(F) Any other issue the council considers relevant to the use of medication aides in nursing homes and residential care facilities.

Sec. 4723.63. (A) In consultation with the medication aide advisory council established under section 4723.62 of the Revised Code, the board of nursing shall conduct a pilot program for the use of medication aides in nursing homes and residential care facilities. The board shall conduct the pilot program in a manner consistent with human protection and other ethical concerns typically associated with research studies involving live subjects. The pilot program shall be commenced not later than May 1, 2006, and shall be conducted until July 1, 2007.

During the period the pilot program is conducted, a nursing home or residential care facility participating in the pilot program may use one or more medication aides to administer prescription medications to its residents, subject to both of the following conditions:

(1) Each individual used as a medication aide must hold a current, valid medication aide certificate issued by the board of nursing under this chapter.

(2) The nursing home or residential care facility shall ensure that the requirements of section 4723.67 of the Revised Code are met.

(B) The board, in consultation with the medication aide advisory council, shall do all of the following not later than February 1, 2006:

(1) Design the pilot program;

(2) Establish standards to govern medication aides and the nursing homes and residential care facilities participating in the pilot program, including standards for the training of medication aides and the staff of participating nursing homes and residential care facilities;

(3) Establish standards to protect the health and safety of the residents of the nursing homes and residential care facilities participating in the program;

(4) Implement a process for selecting the nursing homes and residential care facilities to participate in the program.

(C)(1) A nursing home or residential care facility may volunteer to participate in the pilot program by submitting an application to the board on a form prescribed and provided by the board. From among the applicants,

the board shall select eighty nursing homes and forty residential care facilities to participate in the pilot program.

(2) To be eligible to participate, a nursing home or residential care facility shall agree to observe the standards established by the board for the use of medication aides. A nursing home is eligible to participate only if the department of health has found in the two most recent surveys or inspections of the home that the home is free from deficiencies related to the administration of medication. A residential care facility is eligible to participate only if the department has found that the facility is free from deficiencies related to the provision of skilled nursing care or the administration of medication.

(D) As a condition of participation in the pilot program, a nursing home and residential care facility selected by the board shall pay the participation fee established in rules adopted under section 4723.69 of the Revised Code. The participation fee is not reimbursable under the medicaid program established under Chapter 5111. of the Revised Code.

(E) On receipt of evidence found credible by the board that continued participation by a nursing home or residential care facility poses an imminent danger, risk of serious harm, or jeopardy to a resident of the home or facility, the board may terminate the authority of the home or facility to participate in the pilot program.

(F)(1) With the assistance of the medication aide advisory council, the board shall conduct an evaluation of the pilot program. In conducting the evaluation, the board shall do all of the following:

(a) Assess whether medication aides are able to administer prescription medications safely to nursing home and residential care facility residents;

(b) Determine the financial implications of using medication aides in nursing homes and residential care facilities;

(c) Consider any other issue the board or council considers relevant to the evaluation.

(2) Not later than March 1, 2007, the board shall prepare a report of its findings and recommendations derived from the evaluation of the pilot program. The board shall submit the report to the governor, president and minority leader of the senate, speaker and minority leader of the house of representatives, and director of health.

Sec. 4723.64. On and after July 1, 2007, any nursing home or residential care facility may use one or more medication aides to administer prescription medications to its residents, subject to both of the following conditions:

(A) Each individual used as a medication aide must hold a current, valid

medication aide certificate issued by the board of nursing under this chapter.

(B) The nursing home or residential care facility shall ensure that the requirements of section 4723.67 of the Revised Code are met.

Sec. 4723.65. (A) An individual seeking certification as a medication aide shall apply to the board of nursing on a form prescribed and provided by the board. If the application is submitted on or after July 1, 2007, the application shall be accompanied by the certification fee established in rules adopted under section 4723.69 of the Revised Code.

(B)(1) Except as provided in division (B)(2) of this section, an applicant for a medication aide certificate shall submit a request to the bureau of criminal identification and investigation for a criminal records check. The request shall be on the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and shall be accompanied by a standard impression sheet to obtain fingerprints prescribed pursuant to division (C)(2) of that section. The request shall also be accompanied by the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code. On receipt of the completed form, the completed impression sheet, and the fee, the bureau shall conduct a criminal records check of the applicant. On completion of the criminal records check, the bureau shall send the results of the check to the board. An applicant requesting a criminal records check under this division shall ask the superintendent of the bureau of criminal identification and investigation to also request that the federal bureau of investigation provide the superintendent with any information it has with respect to the applicant.

(2) If a criminal records check of an applicant was completed pursuant to section 3721.121 of the Revised Code not more than five years prior to the date the application is submitted, the applicant may include a certified copy of the criminal records check completed pursuant to that section and is not required to comply with division (B)(1) of this section.

(3) A criminal records check provided to the board in accordance with division (B)(1) or (B)(2) of this section shall not be made available to any person or for any purpose other than the following:

(a) The results may be made available to any person for use in determining whether the individual who is the subject of the check should be issued a medication aide certificate.

(b) The results may be made available to the person who is the subject of the check or a representative of that person.

Sec. 4723.651. (A) To be eligible to receive a medication aide certificate, an applicant shall meet all of the following conditions:

(1) Be at least eighteen years of age;



(2) Have a high school diploma or a high school equivalence diploma as defined in section 5107.40 of the Revised Code;

(3) If the applicant is to practice as a medication aide in a nursing home, be a nurse aide who satisfies the requirements of division (A)(1), (2), (3), (4), (5), (6), or (8) of section 3721.32 of the Revised Code;

(4) If the applicant is to practice as a medication aide in a residential care facility, be a nurse aide who satisfies the requirements of division (A)(1), (2), (3), (4), (5), (6), or (8) of section 3721.32 of the Revised Code or an individual who has at least one year of direct care experience in a residential care facility;

(5) Successfully complete the course of instruction provided by a training program approved by the board under section 4723.66 of the Revised Code;

(6) Have results on the criminal records check provided to the board under division (B)(1) or (2) of section 4723.65 of the Revised Code indicating that the applicant has not been convicted of, has not pleaded guilty to, and has not had a judicial finding of guilt for violating section 2903.01, 2903.02, 2903.03, 2903.11, 2905.01, 2907.02, 2907.03, 2907.05, 2909.02, 2911.01, or 2911.11 of the Revised Code or a substantially similar law of another state, the United States, or another country;

(7) Meet all other requirements for a medication aide certificate established in rules adopted under section 4723.69 of the Revised Code.

(B) If an applicant meets the requirement specified in division (A) of this section, the board shall issue a medication aide certificate to the applicant. If a medication aide certificate is issued to an individual on the basis of having at least one year of direct care experience working in a residential care facility, as provided in division (A)(4) of this section, the certificate is valid for use only in a residential care facility. The board shall state the limitation on the certificate issued to the individual.

(C) A medication aide certificate is valid for two years, unless earlier suspended or revoked. The certificate may be renewed in accordance with procedures specified by the board in rules adopted under section 4723.69 of the Revised Code. To be eligible for renewal, an applicant shall pay the renewal fee established in the rules and meet all renewal qualifications specified in the rules.

Sec. 4723.652. (A) The board of nursing, by vote of a quorum, may impose one or more of the following sanctions against any individual who applies for, or holds, a medication aide certificate: deny, revoke, suspend, or place restrictions on the certificate; reprimand or otherwise discipline the holder of a medication aide certificate; or impose a fine of not more than

five hundred dollars per violation. The sanctions may be imposed for any of the reasons specified in division (B) of section 4723.28 of the Revised Code, to the extent that those reasons are applicable to medication aides as specified in rules adopted under section 4723.69 of the Revised Code.

(B) Disciplinary actions taken by the board under this section shall be taken pursuant to an adjudication conducted under Chapter 119. of the Revised Code, except that in lieu of a hearing, the board may enter into a consent agreement with an individual to resolve an allegation of a violation of this chapter or any rule adopted under it. A consent agreement, when ratified by vote of a quorum, shall constitute the findings and order of the board with respect to the matter addressed in the agreement. If the board refuses to ratify a consent agreement, the admissions and findings contained in the agreement shall be of no effect.

(C) In taking actions under this section, the board has the same powers and duties that it has when taking actions under section 4723.28 of the Revised Code. In addition, the board may issue an order to summarily suspend or automatically suspend a medication aide certificate in the same manner that the board is authorized to take those actions under section 4723.281 of the Revised Code.

Sec. 4723.66. (A) A person or government entity seeking approval to provide a medication aide training program shall apply to the board of nursing on a form prescribed and provided by the board. If the application is submitted on or after July 1, 2007, the application shall be accompanied by the fee established in rules adopted under section 4723.69 of the Revised Code.

(B) The board shall approve the applicant to provide a medication aide training program if the content of the course of instruction to be provided by the program meets the standards specified by the board in rules adopted under section 4723.69 of the Revised Code and includes all of the following:

(1) At least seventy clock-hours of instruction, including both classroom instruction on medication administration and at least twenty clock-hours of supervised clinical practice in medication administration;

(2) A mechanism for evaluating whether an individual's reading, writing, and mathematical skills are sufficient for the individual to be able to administer prescription medications safely;

(3) An examination that tests the ability to administer prescription medications safely and that meets the requirements established by the board in rules adopted under section 4723.69 of the Revised Code.

(C) The board may deny, suspend, or revoke the approval granted to the provider of a medication aide training program for reasons specified in rules

adopted under section 4723.69 of the Revised Code. All actions taken by the board to deny, suspend, or revoke the approval of a training program shall be taken in accordance with Chapter 119. of the Revised Code.

Sec. 4723.67. (A) Except for the prescription medications specified in division (C) of this section and the methods of medication administration specified in division (D) of this section, a medication aide who holds a current, valid medication aide certificate issued under this chapter may administer prescription medications to the residents of nursing homes and residential care facilities that use medication aides pursuant to section 4723.63 or 4723.64 of the Revised Code. A medication aide shall administer prescription medications only pursuant to the delegation of a registered nurse or a licensed practical nurse acting at the direction of a registered nurse.

Delegation of medication administration to a medication aide shall be carried out in accordance with the rules for nursing delegation adopted under this chapter by the board of nursing. A nurse who has delegated to a medication aide responsibility for the administration of prescription medications to the residents of a nursing home or residential care facility shall not withdraw the delegation on an arbitrary basis or for any purpose other than patient safety.

(B) In exercising the authority to administer prescription medications pursuant to nursing delegation, a medication aide may administer prescription medications in any of the following categories:

- (1) Oral medications;
- (2) Topical medications;
- (3) Medications administered as drops to the eye, ear, or nose;
- (4) Rectal and vaginal medications;
- (5) Medications prescribed with a designation authorizing or requiring administration on an as-needed basis, but only if a nursing assessment of the patient is completed before the medication is administered.

(C) A medication aide shall not administer prescription medications in either of the following categories:

- (1) Medications containing a schedule II controlled substance, as defined in section 3719.01 of the Revised Code;
- (2) Medications requiring dosage calculations.

(D) A medication aide shall not administer prescription medications by any of the following methods:

- (1) Injection;
- (2) Intravenous therapy procedures;
- (3) Splitting pills for purposes of changing the dose being given.

(E) A nursing home or residential care facility that uses medication aides shall ensure that medication aides do not have access to any schedule II controlled substances within the home or facility for use by its residents.

Sec. 4723.68. (A) A registered nurse, or licensed practical nurse acting at the direction of a registered nurse, who delegates medication administration to a medication aide who holds a current, valid medication aide certificate issued under this chapter is not liable in damages to any person or government entity in a civil action for injury, death, or loss to person or property that allegedly arises from an action or omission of the medication aide in performing the medication administration, if the delegating nurse delegates the medication administration in accordance with this chapter and the rules adopted under this chapter.

(B) A person employed by a nursing home or residential care facility that uses medication aides pursuant to section 4723.63 or 4723.64 of the Revised Code who reports in good faith a medication error at the nursing home or residential care facility is not subject to disciplinary action by the board of nursing or any other government entity regulating that person's professional practice and is not liable in damages to any person or government entity in a civil action for injury, death, or loss to person or property that allegedly results from reporting the medication error.

Sec. 4723.69. (A) In consultation with the medication aide advisory council created under section 4723.62 of the Revised Code, the board of nursing shall adopt rules to implement sections 4723.61 to 4723.68 of the Revised Code. Initial rules shall be adopted not later than February 1, 2006. All rules adopted under this section shall be adopted in accordance with Chapter 119. of the Revised Code.

(B) The rules adopted under this section shall establish or specify all of the following:

(1) Fees, in an amount sufficient to cover the costs the board incurs in implementing sections 4723.61 to 4723.68 of the Revised Code, for participation in the medication aide pilot program, certification as a medication aide, and approval of a medication aide training program;

(2) Requirements to obtain a medication aide certificate that are not otherwise specified in section 4723.651 of the Revised Code;

(3) Procedures for renewal of medication aide certificates;

(4) The extent to which the board determines that the reasons for taking disciplinary actions under section 4723.28 of the Revised Code are applicable reasons for taking disciplinary actions under section 4723.652 of the Revised Code against an applicant for or holder of a medication aide certificate;

(5) Standards for approval of peer support programs for the holders of medication aide certificates;

(6) Standards for medication aide training programs, including the examination to be administered by the training program to test an individual's ability to administer prescription medications safely;

(7) Reasons for denying, revoking, or suspending approval of a medication aide training program;

(8) Other standards and procedures the board considers necessary to implement sections 4723.61 to 4723.68 of the Revised Code.

Sec. ~~4723.63~~ 4723.91. On receipt of a notice pursuant to section 3123.43 of the Revised Code, the board of nursing shall comply with sections 3123.41 to 3123.50 of the Revised Code and any applicable rules adopted under section 3123.63 of the Revised Code with respect to a nursing license, medication aide certificate, dialysis technician certificate, or community health worker certificate issued pursuant to this chapter.

Sec. 4731.65. As used in sections 4731.65 to 4731.71 of the Revised Code:

(A)(1) "Clinical laboratory services" means either of the following:

(a) Any examination of materials derived from the human body for the purpose of providing information for the diagnosis, prevention, or treatment of any disease or impairment or for the assessment of health;

(b) Procedures to determine, measure, or otherwise describe the presence or absence of various substances or organisms in the body.

(2) "Clinical laboratory services" does not include the mere collection or preparation of specimens.

(B) "Designated health services" means any of the following:

(1) Clinical laboratory services;

(2) Home health care services;

(3) Outpatient prescription drugs.

(C) "Fair market value" means the value in arms-length transactions, consistent with general market value and:

(1) With respect to rentals or leases, the value of rental property for general commercial purposes, not taking into account its intended use;

(2) With respect to a lease of space, not adjusted to reflect the additional value the prospective lessee or lessor would attribute to the proximity or convenience to the lessor if the lessor is a potential source of referrals to the lessee.

(D) "Governmental health care program" means any program providing health care benefits that is administered by the federal government, this state, or a political subdivision of this state, including the medicare program

established under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, health care coverage for public employees, health care benefits administered by the bureau of workers' compensation, or the medical assistance program established under Chapter 5111. of the Revised Code, ~~and the disability medical assistance program established under Chapter 5115. of the Revised Code.~~

(E)(1) "Group practice" means a group of two or more holders of certificates under this chapter legally organized as a partnership, professional corporation or association, limited liability company, foundation, nonprofit corporation, faculty practice plan, or similar group practice entity, including an organization comprised of a nonprofit medical clinic that contracts with a professional corporation or association of physicians to provide medical services exclusively to patients of the clinic in order to comply with section 1701.03 of the Revised Code and including a corporation, limited liability company, partnership, or professional association described in division (B) of section 4731.226 of the Revised Code formed for the purpose of providing a combination of the professional services of optometrists who are licensed, certificated, or otherwise legally authorized to practice optometry under Chapter 4725. of the Revised Code, chiropractors who are licensed, certificated, or otherwise legally authorized to practice chiropractic under Chapter 4734. of the Revised Code, psychologists who are licensed, certificated, or otherwise legally authorized to practice psychology under Chapter 4732. of the Revised Code, registered or licensed practical nurses who are licensed, certificated, or otherwise legally authorized to practice nursing under Chapter 4723. of the Revised Code, pharmacists who are licensed, certificated, or otherwise legally authorized to practice pharmacy under Chapter 4729. of the Revised Code, physical therapists who are licensed, certificated, or otherwise legally authorized to practice physical therapy under sections 4755.40 to 4755.53 of the Revised Code, mechanotherapists who are licensed, certificated, or otherwise legally authorized to practice mechanotherapy under section 4731.151 of the Revised Code, and doctors of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery who are licensed, certificated, or otherwise legally authorized for their respective practices under this chapter, to which all of the following apply:

(a) Each physician who is a member of the group practice provides substantially the full range of services that the physician routinely provides, including medical care, consultation, diagnosis, or treatment, through the joint use of shared office space, facilities, equipment, and personnel.

(b) Substantially all of the services of the members of the group are

provided through the group and are billed in the name of the group and amounts so received are treated as receipts of the group.

(c) The overhead expenses of and the income from the practice are distributed in accordance with methods previously determined by members of the group.

(d) The group practice meets any other requirements that the state medical board applies in rules adopted under section 4731.70 of the Revised Code.

(2) In the case of a faculty practice plan associated with a hospital with a medical residency training program in which physician members may provide a variety of specialty services and provide professional services both within and outside the group, as well as perform other tasks such as research, the criteria in division (E)(1) of this section apply only with respect to services rendered within the faculty practice plan.

(F) "Home health care services" and "immediate family" have the same meanings as in the rules adopted under section 4731.70 of the Revised Code.

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

(H) A "referral" includes both of the following:

(1) A request by a holder of a certificate under this chapter for an item or service, including a request for a consultation with another physician and any test or procedure ordered by or to be performed by or under the supervision of the other physician;

(2) A request for or establishment of a plan of care by a certificate holder that includes the provision of designated health services.

(I) "Third-party payer" has the same meaning as in section 3901.38 of the Revised Code.

Sec. 4731.71. The auditor of state may implement procedures to detect violations of section 4731.66 or 4731.69 of the Revised Code within governmental health care programs administered by the state. The auditor of state shall report any violation of either section to the state medical board and shall certify to the attorney general in accordance with section 131.02 of the Revised Code the amount of any refund owed to a state-administered governmental health care program under section 4731.69 of the Revised Code as a result of a violation. If a refund is owed to the medical assistance program established under Chapter 5111. of the Revised Code ~~or the disability medical assistance program established under Chapter 5115. of the Revised Code~~, the auditor of state also shall report the amount to the department of commerce.

The state medical board also may implement procedures to detect violations of section 4731.66 or 4731.69 of the Revised Code.

Sec. 4736.11. The state board of sanitarian registration shall issue a certificate of registration to any applicant whom it registers as a sanitarian or a sanitarian-in-training. Such certificate shall bear:

- (A) The name of the person;
- (B) The date of issue;
- (C) A serial number, designated by the board;
- (D) The seal of the board and signature of the ~~chairman~~ chairperson of the board;
- (E) The designation "registered sanitarian" or "sanitarian-in-training."

Certificates of registration shall expire annually on the date fixed by the board and become invalid on that date unless renewed pursuant to this section. All registered sanitarians shall be required annually to complete a continuing education program in subjects relating to practices of the profession as a sanitarian to the end that the utilization and application of new techniques, scientific advancements, and research findings will assure comprehensive service to the public. The board shall prescribe by rule a continuing education program for registered sanitarians to meet this requirement. The length of study for this program shall be determined by the board but shall be not less than six nor more than twenty-five hours during the calendar year. At least once annually the board shall ~~mail~~ provide to each registered sanitarian a list of courses approved by the board as satisfying the program prescribed by rule. Upon the request of a registered sanitarian, the secretary shall supply a list of ~~any additional~~ applicable courses that the board has approved ~~since the most recent mailing~~. A certificate may be renewed for a period of one year at any time prior to the date of expiration upon payment of the renewal fee prescribed by section 4736.12 of the Revised Code and upon showing proof of having complied with the continuing education requirements of this section. The state board of sanitarian registration may waive the continuing education requirement in cases of certified illness or disability which prevents the attendance at any qualified educational seminars during the twelve months immediately preceding the annual certificate of registration renewal date. Certificates which expire may be reinstated under rules adopted by the board.

Sec. 4736.12. (A) The state board of sanitarian registration shall charge the following fees:

- (1) To apply as a sanitarian-in-training, ~~seventy-five~~ eighty dollars;
- (2) For sanitarians-in-training to apply for registration as sanitarians, ~~seventy-five~~ eighty dollars. The applicant shall pay this fee only once



regardless of the number of times the applicant takes an examination required under section 4736.08 of the Revised Code.

(3) For persons other than sanitarians-in-training to apply for registration as sanitarians, including persons meeting the requirements of section 4736.16 of the Revised Code, one hundred ~~forty~~ sixty dollars. The applicant shall pay this fee only once regardless of the number of times the applicant takes an examination required under section 4736.08 of the Revised Code.

(4) The renewal fee for registered sanitarians shall be ~~sixty-nine~~ seventy-four dollars.

(5) The renewal fee for sanitarians-in-training shall be ~~sixty-nine~~ seventy-four dollars.

(6) For late application for renewal, ~~twenty-five~~ twenty-seven dollars.

The board of sanitarian registration, with the approval of the controlling board, may establish fees in excess of the amounts provided in this section, provided that such fees do not exceed the amounts permitted by this section by more than fifty per cent.

(B) The board of sanitarian registration shall charge separate fees for examinations as required by section 4736.08 of the Revised Code, provided that the fees are not in excess of the actual cost to the board of conducting the examinations.

(C) The board of sanitarian registration may adopt rules establishing fees for all of the following:

(1) Application for the registration of a training agency approved under rules adopted by the board pursuant to section 4736.11 of the Revised Code and for the annual registration renewal of an approved training agency.

(2) Application for the review of continuing education hours submitted for the board's approval by approved training agencies or by registered sanitarians or sanitarians-in-training.

Sec. 4740.14. (A) There is hereby created within the department of commerce the residential construction advisory committee consisting of ~~eight~~ nine persons the director of commerce appoints. Of the advisory committee's members, three shall be general contractors who have recognized ability and experience in the construction of residential buildings, two shall be building officials who have experience administering and enforcing a residential building code, one, chosen from a list of three names the Ohio fire chief's association submits, shall be from the fire service certified as a fire safety inspector who has at least ten years of experience enforcing fire or building codes, one shall be a residential contractor who has recognized ability and experience in the remodeling and

construction of residential buildings, ~~and one shall be an architect registered pursuant to Chapter 4703. of the Revised Code, with recognized ability and experience in the architecture of residential buildings, and one, chosen from a list of three names the Ohio municipal league submits to the director, shall be a mayor of a municipal corporation in which the Ohio residential building code is being enforced in the municipal corporation by a certified building department.~~

(B) The director shall make appointments to the advisory committee within ninety days after ~~the effective date of this section~~ May 27, 2005. Terms of office shall be for three years, with each term ending on the date three years after the date of appointment. Each member shall hold office from the date of appointment until the end of the term for which the member was appointed. The director shall fill a vacancy in the manner provided for initial appointments. Any member appointed to fill a vacancy in an unexpired term shall hold office for the remainder of that term.

(C) The advisory committee shall do all of the following:

(1) Recommend to the board of building standards a building code for residential buildings. The committee shall recommend a code that it models on a residential building code a national model code organization issues, with adaptations necessary to implement the code in this state. If the board of building standards decides not to adopt a code the committee recommends, the committee shall revise the code and resubmit it until the board adopts a code the committee recommends as the state residential building code;

(2) Advise the board regarding the establishment of standards for certification of building officials who enforce the state residential building code;

(3) Assist the board in providing information and guidance to residential contractors and building officials who enforce the state residential building code;

(4) Advise the board regarding the interpretation of the state residential building code;

(5) Provide other assistance the committee considers necessary.

(D) In making its recommendation to the board pursuant to division (C)(1) of this section, the advisory committee shall consider all of the following:

(1) The impact that the state residential building code may have upon the health, safety, and welfare of the public;

(2) The economic reasonableness of the residential building code;

(3) The technical feasibility of the residential building code;

(4) The financial impact that the residential building code may have on the public's ability to purchase affordable housing.

(E) Members of the advisory committee shall receive no salary for the performance of their duties as members, but shall receive their actual and necessary expenses incurred in the performance of their duties as members of the advisory committee and shall receive a per diem for each day in attendance at an official meeting of the committee, to be paid from the industrial compliance operating fund in the state treasury, using fees collected in connection with residential buildings pursuant to division (F)(2) of section 3781.102 of the Revised Code and deposited in that fund.

(F) The advisory committee is not subject to divisions (A) and (B) of section 101.84 of the Revised Code.

Sec. 4753.03. There is hereby created the board of speech-language pathology and audiology consisting of eight residents of this state to be appointed by the governor with the advice and consent of the senate. Three members of the board shall be licensed speech-language pathologists, and three members shall be licensed audiologists, who have been licensed and engaged in the practice, teaching, administration, or research in the area of appointment for at least five years prior to the dates of their appointment. Beginning with the first appointment of an audiologist to the board after ~~the effective date of this amendment~~ November 5, 1992, at all times one of the audiologists serving on the board must be an audiologist engaged in the practice of fitting and dispensing hearing aids. At all times, two members shall be representatives of the general public, and neither shall be a speech-language pathologist or audiologist or a person licensed under this chapter. At least one of the members representing the general public shall be at least sixty years of age. ~~Any speech-language pathologists and audiologists among the initial appointees shall have at least a bachelor's degree in speech-language pathology or audiology and shall meet the standards for licensure, other than examination, established by section 4753.06 or 4753.08 of the Revised Code. Any speech-language pathologist or audiologist appointed to the board after the effective date of this amendment, must hold a master's or doctorate degree.~~

Terms of office shall be for three years, each term commencing on the twenty-seventh day of September and ending on the twenty-sixth day of September. Each member shall hold office from the date of ~~his~~ appointment until the end of the term for which ~~he was~~ appointed. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which ~~his~~ the member's predecessor was appointed shall hold office for the remainder of such term. Any member shall continue in office subsequent to

the expiration date of ~~his~~ the member's term until ~~his~~ the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first. No person shall be appointed to serve consecutively more than two full terms. The executive council of the Ohio speech and hearing association may recommend, within forty-five days after any vacancy or expiration of a member's term occurs, no more than three persons to fill each position or vacancy on the board, and the governor may make ~~his~~ the appointment from the persons so recommended. If the council fails to make recommendations within the required time, the governor shall make the appointment without its recommendations.

The terms of all speech-language pathology members shall not end in the same year; the terms of all audiology members shall not end in the same year. Upon the first appointment following ~~the effective date of this amendment~~ November 5, 1992, the governor shall appoint speech-language pathology members and audiology members to one-, two-, or three-year terms to prevent the terms of all speech-language pathology members or all audiology members from ending in the same year. Thereafter, all terms shall be for three years.

Sec. 4753.06. No person is eligible for licensure as a speech-language pathologist or audiologist unless:

(A) ~~He~~ The person has obtained a broad general education to serve as a background for ~~his~~ the person's specialized academic training and preparatory professional experience. Such background may include study from among the areas of human psychology, sociology, psychological and physical development, the physical sciences, especially those that pertain to acoustic and biological phenomena, and human anatomy and physiology, including neuroanatomy and neurophysiology.

(B) ~~He~~ If the person seeks licensure as a speech-language pathologist, the person submits to the board of speech-language pathology and audiology an official transcript demonstrating that ~~he~~ the person has at least a master's degree in ~~the area in which licensure is sought~~ speech-language pathology or the equivalent as determined by the board. ~~His~~ The person's academic credit must include course work accumulated in the completion of a well-integrated course of study approved by the board and delineated by rule dealing with the normal aspects of human communication, development and disorders thereof, and clinical techniques for the evaluation and the improvement or eradication of such disorders. The course work must have been completed at colleges or universities accredited by regional or national accrediting organizations recognized by the board.

(C) ~~He~~ If the person seeks licensure as an audiologist, the person

submits to the board an official transcript demonstrating that the person has at least a doctor of audiology degree or the equivalent as determined by the board. The person's academic credit must include course work accumulated in the completion of a well-integrated course of study approved by the board and delineated by rules dealing with the normal aspects of human hearing, balance, and related development and clinical evaluation, audiologic diagnosis, and treatment of disorders of human hearing, balance, and related development. The course work must have been completed in an audiology program that is accredited by an organization recognized by the United States department of education and operated by a college or university accredited by a regional or national accrediting organization recognized by the board.

(D) The person submits to the board evidence of the completion of appropriate, supervised clinical experience in the professional area, speech-language pathology or audiology, for which licensure is requested, dealing with a variety of communication disorders. The appropriateness of the experience shall be determined under rules of the board. This experience shall have been obtained in an accredited college or university, in a cooperating program of an accredited college or university, or in another program approved by the board.

~~(D) He~~ (E) The person submits to the board evidence that the person has passed the examination for licensure to practice speech-language pathology or audiology pursuant to division (B) of section 4753.05 of the Revised Code.

(F) If the person submits to the board an application for licensure as an audiologist before January 1, 2006, and meets the requirements of division (B) of this section regarding a master's degree in audiology as that division existed on December 31, 2005, but not the requirements of division (C) of this section regarding a doctor of audiology degree or if the person seeks licensure as a speech-language pathologist, the person presents to the board written evidence that he the person has obtained professional experience. The professional experience shall be appropriately supervised as determined by board rule. The amount of professional experience shall be determined by board rule and shall be bona fide clinical work that has been accomplished in the major professional area, speech-language pathology or audiology, in which licensure is being sought. This If the person seeks licensure as a speech-language pathologist, this experience shall not begin until the requirements of divisions (B) and (C), (D), and (E) of this section have been completed unless approved by the board. If the person seeks licensure as an audiologist, this experience shall not begin until the

requirements of division (B) of this section, as that division existed on December 31, 2005, and divisions (D) and (E) of this section have been completed unless approved by the board. Before beginning the supervised professional experience pursuant to this section, ~~any~~ the applicant for licensure to practice speech-language pathology or audiology shall ~~meet the requirements for~~ obtain a conditional license pursuant to section 4753.071 of the Revised Code.

~~(E) He submits to the board evidence that he has passed the examination for licensure to practice speech-language pathology or audiology pursuant to division (B) of section 4753.05 of the Revised Code.~~

Sec. 4753.071. A person who is required to meet the supervised professional experience requirement of division (F) of section 4753.06 of the Revised Code shall submit to the board of speech-language pathology and audiology an application for a conditional license. The application shall include a plan for the content of the supervised professional experience on a form the board shall prescribe. The board of speech-language pathology and audiology shall issue a the conditional license to ~~an~~ the applicant ~~who, except for the supervised professional experience:~~

~~(A) Meets if the applicant meets the academic, practicum, and examination requirements of divisions (B), (C), and (E) of section 4753.06 of the Revised Code;~~

~~(B) Submits an application to the board, including a plan for the content of the supervised professional experience on a form prescribed by the board, other than the requirement to have obtained the supervised professional experience, and pays to the board the appropriate fee for a conditional license. An applicant may not begin employment until the conditional license has been ~~approved~~ issued.~~

A conditional license authorizes an individual to practice speech-language pathology or audiology while completing the supervised professional experience as required by division ~~(D)~~ (F) of section 4753.06 of the Revised Code. A person holding a conditional license may practice speech-language pathology or audiology while working under the supervision of a person fully licensed in accordance with this chapter. A conditional license is valid for eighteen months unless suspended or revoked pursuant to section 3123.47 or 4753.10 of the Revised Code.

A person holding a conditional license may perform services for which reimbursement will be sought under the medicare program established under Title XVIII of the "Social Security Act," ~~49~~ 79 Stat. ~~620~~ 286 (~~1935~~ 1965), 42 U.S.C. ~~304~~ 1395, as amended, or the ~~medical assistance~~ medicaid program established under Chapter 5111. of the Revised Code ~~and Title~~

~~XIX of the "Social Security Act"~~ but all requests for reimbursement for such services shall be made by the person who supervises the person performing the services.

Sec. 4753.08. The board of speech-language pathology and audiology shall waive the examination, educational, and professional experience requirements for any applicant who meets any of the following requirements:

(A) On September 26, 1975, has at least a bachelor's degree with a major in speech-language pathology or audiology from an accredited college or university, or who has been employed as a speech-language pathologist or audiologist for at least nine months at any time within the three years prior to September 26, 1975, if an application providing bona fide proof of such degree or employment is filed with the board within one year after September 26, 1975, and is accompanied by the application fee as prescribed in division (A) of section 4753.11 of the Revised Code;

(B) Presents proof of current certification or licensure in good standing in the area in which licensure is sought in a state ~~which~~ that has standards at least equal to ~~those~~ the standards for licensure that are in effect in this state at the time the applicant applies for the license;

(C) Presents proof of both of the following:

(1) Having current certification or licensure in good standing in audiology in a state that has standards at least equal to the standards for licensure as an audiologist that were in effect in this state on December 31, 2005;

(2) Having first obtained that certification or licensure not later than December 31, 2007.

(D) Presents proof of a current certificate of clinical competence in speech-language pathology or audiology that is in good standing and received from the American speech-language-hearing association in the area in which licensure is sought.

Sec. 4753.09. Except as provided in this section and in section 4753.10 of the Revised Code, a license issued by the board of speech-language pathology and audiology shall be renewed biennially in accordance with the standard renewal procedure contained in Chapter 4745. of the Revised Code. If the application for renewal is made ~~after~~ one year or longer after the renewal application is due, the person shall apply for licensure as provided in section 4753.06 or division (B) ~~or~~ (C), or (D) of section 4753.08 of the Revised Code. The board shall not renew a conditional license; however, the board may grant an applicant a second conditional license.

The board shall establish by rule adopted pursuant to Chapter 119. of the Revised Code the qualifications for license renewal. Applicants shall demonstrate continued competence, which may include continuing education, examination, self-evaluation, peer review, performance appraisal, or practical simulation. The board may establish other requirements as a condition for license renewal as considered appropriate by the board.

The board may renew a license which expires while the license is suspended, but the renewal shall not affect the suspension. The board shall not renew a license which has been revoked. If a revoked license is reinstated under section 4753.10 of the Revised Code after it has expired, the licensee, as a condition of reinstatement, shall pay a reinstatement fee in the amount equal to the renewal fee in effect on the last preceding regular renewal date on which it is reinstated, plus any delinquent fees accrued from the time of the revocation, if such a fee is prescribed by the board by rule. ~~A license shall not be renewed six years after the initial date on which the license was granted for a person initially licensed by exemption until that person presents to the board proof of completion of the following requirements:~~

~~(A) Upon presentation of proof of a bachelor's degree with a major in the area of licensure or successful completion of at least eighteen semester hours of academic credit, or its equivalent as determined by the board by rule for colleges and universities not using semesters, accumulated from accredited colleges and universities. These eighteen semester hours shall be in a variety of courses that provide instruction related to the nature of communication disorders and present information pertaining to and training in the evaluation and management of speech, language, and hearing disorders and shall be in the professional area, speech language pathology or audiology, for which licensure is requested.~~

~~(B) Successful completion of at least one hundred fifty clock hours of appropriately supervised, as determined by board rule, clinical experience in the professional area, speech language pathology or audiology, for which licensure is requested, with individuals who present a variety of communication disorders, and the experience shall have been obtained under the supervision of a licensed speech language pathologist or audiologist, or within another program approved by the board.~~

Sec. 4755.03. There is hereby created the Ohio occupational therapy, physical therapy, and athletic trainers board consisting of sixteen residents of this state, who shall be appointed by the governor with the advice and consent of the senate. The board shall be composed of a physical therapy section, an occupational therapy section, and an athletic trainers section.



Five members of the board shall be physical therapists who are licensed to practice physical therapy and who have been engaged in or actively associated with the practice of physical therapy in this state for at least five years immediately preceding appointment. Such members of the board shall sit on the physical therapy section. The physical therapy section also shall consist of four additional members, appointed by the governor with the advice and consent of the senate, who satisfy the same qualifications as the members of the board sitting on the physical therapy section, but who are not members of the board. Such additional members of the physical therapy section are vested with only such powers and shall perform only such duties as relate to the affairs of that section, shall serve for the same terms as do members of the board sitting on the physical therapy section, and shall subscribe to and file with the secretary of state the constitutional oath of office.

~~Five~~ Four members of the board shall be occupational therapists ~~who~~ and one member shall be a licensed occupational therapy assistant, all of whom have been engaged in or actively associated with the practice of occupational therapy or practice as an occupational therapy assistant in this state for at least five years immediately preceding appointment. Such members of the board shall sit on the occupational therapy section.

Four members of the board shall be athletic trainers who have been engaged in the practice of athletic training in Ohio for at least five years immediately preceding appointment. One member of the board shall be a physician licensed to practice medicine and surgery in this state. Such members of the board shall sit on the athletic trainers section.

One member of the board shall represent the public and shall be at least sixty years of age. This member shall sit on the board.

Terms of office are for three years, each term commencing on the twenty-eighth day of August and ending on the twenty-seventh day of August. Each member shall serve subsequent to the expiration of ~~his~~ the member's term until ~~his~~ the member's successor is appointed and qualifies, or until a period of sixty days has elapsed, whichever occurs first. Each member, before entering upon ~~the official~~ the official duties ~~of his office~~, shall subscribe to and file with the secretary of state the constitutional oath of office. All vacancies shall be filled in the manner prescribed for the regular appointments to the board and are limited to the unexpired terms.

Annually, upon the qualification of the member or members appointed in that year, the board shall organize by selecting from its members a president and secretary. Each section of the board shall organize by selecting from its members a ~~chairman~~ chairperson and secretary.

The majority of the members of the board constitutes a quorum to transact and vote on the business of the board. A majority of the members of each section constitutes a quorum to transact and vote on the affairs of that section.

Each member of the board and each additional member of the physical therapy section shall receive an amount fixed pursuant to division (J) of section 124.15 of the Revised Code for each day employed in the discharge of ~~his~~ official duties. In addition, each member of the board and each additional member of the physical therapy section shall receive ~~his~~ the member's actual and necessary expenses incurred in the performance of ~~his~~ official duties.

The board of trustees of the Ohio occupational therapy association, inc., may recommend, after any term expires or vacancy occurs in an occupational therapy position, at least three persons to fill each such position or vacancy on the board, and the governor may make ~~his~~ the appointment from the persons so recommended. The executive board of the Ohio chapter, inc., of the American physical therapy association may recommend, after any term expires or vacancy occurs in a physical therapy position, at least three persons to fill each such vacancy on the board, and the governor may make ~~his~~ appointments from the persons so recommended. The Ohio athletic trainers association shall recommend to the governor at least three persons for each of the initial appointments to an athletic trainer's position. The Ohio athletic trainers association shall also recommend to the governor at least three persons when any term expires or any vacancy occurs in such a position. The governor may select one of the association's recommendations in making such an appointment.

The board shall meet as a whole to determine all administrative, personnel, and budgetary matters. The executive director of the board appointed by the board shall not be a physical therapist, an occupational therapist, or an athletic trainer who has been licensed to practice physical therapy, occupational therapy, or as an athletic trainer in this state within three years immediately preceding appointment. The executive director shall serve at the pleasure of the board.

The occupational therapy section of the board shall have the full authority to act on behalf of the board on all matters concerning the practice of occupational therapy and, in particular, the examination, licensure, and suspension or revocation of licensure of applicants, occupational therapists, and occupational therapy assistants. The physical therapy section of the board shall have the full authority to act on behalf of the board on all matters concerning the practice of physical therapy and, in particular, the

examination, licensure, and suspension or revocation of licensure of applicants, physical therapists, and physical therapist assistants. The athletic trainers section of the board shall have the full authority to act on behalf of the board on all matters concerning the practice of athletic training and, in particular, the examination, licensure, and suspension or revocation of licensure of applicants and athletic trainers. All actions taken by any section of the board under this paragraph shall be in accordance with Chapter 119. of the Revised Code.

Sec. 4755.48. (A) No person shall employ fraud or deception in applying for or securing a license to practice physical therapy or to be a physical therapist assistant.

(B) No person shall practice or in any way claim to the public to be able to practice physical therapy, including practice as a physical therapist assistant, unless the person holds a valid license under sections 4755.40 to 4755.56 of the Revised Code or except as provided in section 4755.56 of the Revised Code.

(C) No person shall use the words or letters, physical therapist, physical therapy, physiotherapist, licensed physical therapist, P.T., Ph.T., P.T.T., R.P.T., L.P.T., M.P.T., D.P.T., M.S.P.T., P.T.A., physical therapy assistant, physical therapist assistant, physical therapy technician, licensed physical therapist assistant, L.P.T.A., R.P.T.A., or any other letters, words, abbreviations, or insignia, indicating or implying that the person is a physical therapist or physical therapist assistant without a valid license under sections 4755.40 to 4755.56 of the Revised Code.

(D) No person who practices physical therapy or assists in the provision of physical therapy treatments under the supervision of a physical therapist shall fail to display the person's current license granted under sections 4755.40 to 4755.56 of the Revised Code in a conspicuous location in the place where the person spends the major part of the person's time so engaged.

(E) Nothing in sections 4755.40 to 4755.56 of the Revised Code shall affect or interfere with the performance of the duties of any physical therapist or physical therapist assistant in active service in the army, navy, coast guard, marine corps, air force, public health service, or marine hospital service of the United States, while so serving.

(F) No person shall practice physical therapy other than on the prescription of, or the referral of a patient by, a person who is licensed in this or another state to practice medicine and surgery, chiropractic, dentistry, osteopathic medicine and surgery, podiatric medicine and surgery, or to practice nursing as a certified registered nurse anesthetist, clinical nurse

specialist, certified nurse-midwife, or certified nurse practitioner, within the scope of such practices, and whose license is in good standing, unless either of the following conditions is met:

(1) The person holds a master's or doctorate degree from a professional physical therapy program that is accredited by a national accreditation agency recognized by the United States department of education and by the Ohio occupational therapy, physical therapy, and athletic trainers board.

(2) On or before December 31, ~~2003~~ 2004, the person has completed at least two years of practical experience as a licensed physical therapist.

(G) In the prosecution of any person for violation of division (B) or (C) of this section, it is not necessary to allege or prove want of a valid license to practice physical therapy or to practice as a physical therapist assistant, but such matters shall be a matter of defense to be established by the accused.

Sec. 4766.09. (A) This chapter does not apply to any of the following:

~~(A)~~(1) A person rendering services with an ambulance in the event of a disaster situation when licensees' vehicles based in the locality of the disaster situation are incapacitated or insufficient in number to render the services needed;

~~(B)~~(2) Any person operating an ambulance, ambulette, rotorcraft air ambulance, or fixed wing air ambulance outside this state unless receiving a person within this state for transport to a location within this state;

~~(C)~~(3) A publicly owned or operated emergency medical service organization and the vehicles it owns or leases and operates, except as provided in section 307.051, division (G) of section 307.055, division (F) of section 505.37, division (B) of section 505.375, and division (B)(3) of section 505.72 of the Revised Code;

~~(D)~~(4) An ambulance, ambulette, rotorcraft air ambulance, fixed wing air ambulance, or nontransport vehicle owned or leased and operated by the federal government;

~~(E)~~(5) A publicly owned and operated fire department vehicle;

~~(F)~~(6) Emergency vehicles owned by a corporation and operating only on the corporation's premises, for the sole use by that corporation;

~~(G)~~(7) An ambulance, nontransport vehicle, or other emergency medical service organization vehicle owned and operated by a municipal corporation;

~~(H)~~(8) A motor vehicle titled in the name of a volunteer rescue service organization, as defined in section 4503.172 of the Revised Code;

~~(I)~~(9) A public emergency medical service organization;

~~(J)~~(10) A fire department, rescue squad, or life squad comprised of

volunteers who provide services without expectation of remuneration and do not receive payment for services other than reimbursement for expenses;

~~(K)~~(11) A private, nonprofit emergency medical service organization when fifty per cent or more of its personnel are volunteers, as defined in section 4765.01 of the Revised Code;

~~(L)~~(12) Emergency medical service personnel who are regulated by the state board of emergency medical services under Chapter 4765. of the Revised Code;

~~(M)~~(13) A public nonemergency medical service organization.

(B) Except for the requirements specified in section 4766.14 of the Revised Code, this chapter does not apply to an ambulette service provider operating under standards adopted by rule by the department of aging, but only during the period of time on any day that the provider is solely serving the department or the department's designee. This chapter applies to an ambulette service provider at any time that the ambulette service provider is not solely serving the department or the department's designee.

Sec. 4766.14. (A) An ambulette service provider described in division (B) of section 4766.09 of the Revised Code shall do all of the following:

(1) Make available to all its ambulette drivers while operating ambulette vehicles a means of two-way communication using either ambulette vehicle radios or cellular telephones;

(2) Equip every ambulette vehicle with one isolation and biohazard disposal kit that is permanently installed or secured in the vehicle's cabin;

(3) Before hiring an applicant for employment as an ambulette driver, obtain all of the following:

(a) A valid copy of a signed statement from a licensed physician acting within the scope of the physician's practice declaring that the applicant does not have a medical condition or physical condition, including vision impairment that cannot be corrected, that could interfere with safe driving, passenger assistance, and emergency treatment activity or could jeopardize the health and welfare of a client or the general public;

(b) All of the certificates and results required under divisions (A)(2), (3), and (4) of section 4766.15 of the Revised Code.

(B) No ambulette service provider described in division (B) of section 4766.09 of the Revised Code shall employ an applicant as an ambulette driver if the applicant has six or more points on the applicant's driving record pursuant to section 4510.036 of the Revised Code.

(C) The department of aging shall administer and enforce this section.

Sec. 4905.10. (A) For the sole purpose of maintaining and administering the public utilities commission and exercising its supervision and

jurisdiction over the railroads and public utilities of this state, an amount equivalent to the appropriation from the public utilities fund created under division (B) of this section to the public utilities commission for railroad and public utilities regulation in each fiscal year shall be apportioned among and assessed against each railroad and public utility within this state by the commission by first computing an assessment as though it were to be made in proportion to the intrastate gross earnings or receipts, excluding earnings or receipts from sales to other public utilities for resale, of the railroad or public utility for the calendar year next preceding that in which the assessment is made. The commission may include in that first computation any amount of a railroad's or public utility's intrastate gross earnings or receipts that were underreported in a prior year. In addition to whatever penalties apply under the Revised Code to such underreporting, the commission shall assess the railroad or public utility interest at the rate stated in division (A) of section 1343.01 of the Revised Code. The commission shall deposit any interest so collected into the public utilities fund. The commission may exclude from that first computation any such amounts that were overreported in a prior year.

The final computation of the assessment shall consist of imposing upon each railroad and public utility whose assessment under the first computation would have been ~~fifty~~ one hundred dollars or less an assessment of ~~fifty~~ one hundred dollars and recomputing the assessments of the remaining railroads and public utilities by apportioning an amount equal to the appropriation to the public utilities commission for administration of the utilities division in each fiscal year less the total amount to be recovered from those paying the minimum assessment, in proportion to the intrastate gross earnings or receipts of the remaining railroads and public utilities for the calendar year next preceding that in which the assessments are made.

In the case of an assessment based on intrastate gross receipts under this section against a public utility that is an electric utility as defined in section 4928.01 of the Revised Code, or an electric services company, electric cooperative, or governmental aggregator subject to certification under section 4928.08 of the Revised Code, such receipts shall be those specified in the utility's, company's, cooperative's, or aggregator's most recent report of intrastate gross receipts and sales of kilowatt hours of electricity, filed with the commission pursuant to division (F) of section 4928.06 of the Revised Code, and verified by the commission.

In the case of an assessment based on intrastate gross receipts under this section against a retail natural gas supplier or governmental aggregator subject to certification under section 4929.20 of the Revised Code, such

receipts shall be those specified in the supplier's or aggregator's most recent report of intrastate gross receipts and sales of hundred cubic feet of natural gas, filed with the commission pursuant to division (B) of section 4929.23 of the Revised Code, and verified by the commission. However, no such retail natural gas supplier or such governmental aggregator serving or proposing to serve customers of a particular natural gas company, as defined in section 4929.01 of the Revised Code, shall be assessed under this section until after the commission, pursuant to section 4905.26 or 4909.18 of the Revised Code, has removed from the base rates of the natural gas company the amount of assessment under this section that is attributable to the value of commodity sales service, as defined in section 4929.01 of the Revised Code, in the base rates paid by those customers of the company that do not purchase that service from the natural gas company.

(B) ~~On~~ Through calendar year 2005, on or before the first day of October in each year, the commission shall notify each such railroad and public utility of the sum assessed against it, whereupon payment shall be made to the commission, which shall deposit it into the state treasury to the credit of the public utilities fund, which is hereby created. Beginning in calendar year 2006, on or before the fifteenth day of May in each year, the commission shall notify each railroad and public utility that had a sum assessed against it for the current fiscal year of more than one thousand dollars that fifty per cent of that amount shall be paid to the commission by the twentieth day of June of that year as an initial payment of the assessment against the company for the next fiscal year. On or before the first day of October in each year, the commission shall make a final determination of the sum of the assessment against each railroad and public utility and shall notify each railroad and public utility of the sum assessed against it. The commission shall deduct from the assessment for each railroad or public utility any initial payment received. Payment of the assessment shall be made to the commission by the first day of November of that year. The commission shall deposit the payments received into the state treasury to the credit of the public utilities fund. Any such amounts paid into the fund but not expended by the commission shall be credited ratably, after first deducting any deficits accumulated from prior years, by the commission to railroads and public utilities that pay more than the minimum assessment, according to the respective portions of such sum assessable against them for the ensuing ~~calendar~~ fiscal year. The assessments for such ~~calendar~~ fiscal year shall be reduced correspondingly.

(C) Within five days after the beginning of each fiscal year through fiscal year 2006, the director of budget and management shall transfer from

the general revenue fund to the public utilities fund an amount sufficient for maintaining and administering the public utilities commission and exercising its supervision and jurisdiction over the railroads and public utilities of the state during the first four months of the fiscal year. The director shall transfer the same amount back to the general revenue fund from the public utilities fund at such time as the director determines that the balance of the public utilities fund is sufficient to support the appropriations from the fund for the fiscal year. The director may transfer less than that amount if the director determines that the revenues of the public utilities fund during the fiscal year will be insufficient to support the appropriations from the fund for the fiscal year, in which case the amount not paid back to the general revenue fund shall be payable to the general revenue fund in future fiscal years.

(D) For the purpose of this section only, "public utility" includes:

(1) In addition to an electric utility as defined in section 4928.01 of the Revised Code, an electric services company, an electric cooperative, or a governmental aggregator subject to certification under section 4928.08 of the Revised Code, to the extent of the company's, cooperative's, or aggregator's engagement in the business of supplying or arranging for the supply in this state of any retail electric service for which it must be so certified;

(2) In addition to a natural gas company as defined in section 4929.01 of the Revised Code, a retail natural gas supplier or governmental aggregator subject to certification under section 4929.20 of the Revised Code, to the extent of the supplier's or aggregator's engagement in the business of supplying or arranging for the supply in this state of any competitive retail natural gas service for which it must be certified.

(E) Each public utilities commissioner shall receive a salary fixed at the level set by pay range 49 under schedule E-2 of section 124.152 of the Revised Code.

Sec. 4905.261. The public utilities commission shall operate a telephone call center for consumer complaints, to receive complaints by any person, firm, or corporation against any public utility. The commission shall expeditiously provide the consumers' counsel with all information concerning residential consumer complaints received by the commission in the operation of the telephone call center and with any materials produced in the operation of the telephone call center by the commission concerning residential consumer complaints. If technology is reasonably available, the commission shall provide the consumers' counsel with real-time access to the commission's residential consumer complaint information.



Sec. 4905.54. Every public utility or railroad and every officer of a public utility or railroad shall comply with every order, direction, and requirement of the public utilities commission made under authority of this chapter and Chapters 4901., 4903., 4907., 4909., 4921., and 4923. of the Revised Code, so long as they remain in force. Except as otherwise specifically provided in sections 4905.83, 4905.95, 4919.99, 4921.99, and 4923.99 of the Revised Code, the public utilities commission may assess a forfeiture of not more than ten thousand dollars for each violation or failure against a public utility or railroad that violates a provision of those chapters or that after due notice fails to comply with an order, direction, or requirement of the commission that was officially promulgated shall forfeit to the state not more than one thousand dollars for each such violation or failure. Each day's continuance of the violation or failure is a separate offense. All forfeitures collected under this section shall be credited to the general revenue fund.

Sec. 4905.95. (A) Except as otherwise provided in division (C) of this section:

(1) The public utilities commission, regarding any proceeding under this section, shall provide reasonable notice and the opportunity for a hearing in accordance with rules adopted under section 4901.13 of the Revised Code.

(2) Sections 4903.02 to 4903.082, 4903.09 to 4903.16, and 4903.20 to 4903.23 of the Revised Code apply to all proceedings and orders of the commission under this section and to all operators subject to those proceedings and orders.

(B) If, pursuant to a proceeding it specially initiates or to any other proceeding and after the hearing provided for under division (A) of this section, the commission finds that:

(1) An operator has violated or failed to comply with, or is violating or failing to comply with, sections 4905.90 to 4905.96 of the Revised Code or the pipe-line safety code, the commission by order:

(a) Shall require the operator to comply and to undertake corrective action necessary to protect the public safety;

(b) May assess upon the operator forfeitures of not more than ~~ten~~ one hundred thousand dollars for each day of each violation or noncompliance, except that the aggregate of such forfeitures shall not exceed five hundred thousand dollars for any related series of violations or noncompliances. In determining the amount of any such forfeiture, the commission shall consider all of the following:

(i) The gravity of the violation or noncompliance;

(ii) The operator's history of prior violations or noncompliances;

(iii) The operator's good faith efforts to comply and undertake corrective action;

(iv) The operator's ability to pay the forfeiture;

(v) The effect of the forfeiture on the operator's ability to continue as an operator;

(vi) Such other matters as justice may require.

All forfeitures collected under this division or section 4905.96 of the Revised Code shall be deposited in the state treasury to the credit of the general revenue fund.

(c) May direct the attorney general to seek the remedies provided in section 4905.96 of the Revised Code.

(2) An intrastate pipe-line transportation facility is hazardous to life or property, the commission by order:

(a) Shall require the operator of the facility to take corrective action to remove the hazard. Such corrective action may include suspended or restricted use of the facility, physical inspection, testing, repair, replacement, or other action.

(b) May direct the attorney general to seek the remedies provided in section 4905.96 of the Revised Code.

(C) If, pursuant to a proceeding it specially initiates or to any other proceeding, the commission finds that an emergency exists due to a condition on an intrastate pipe-line transportation facility posing a clear and immediate danger to life or health or threatening a significant loss of property and requiring immediate corrective action to protect the public safety, the commission may issue, without notice or prior hearing, an order reciting its finding and may direct the attorney general to seek the remedies provided in section 4905.96 of the Revised Code. The order shall remain in effect for not more than forty days after the date of its issuance. The order shall provide for a hearing as soon as possible, but not later than thirty days after the date of its issuance. After the hearing the commission shall continue, revoke, or modify the order and may make findings under and seek appropriate remedies as provided in division (B) of this section.

Sec. 4911.021. The consumers' counsel shall not operate a telephone call center for consumer complaints. Any calls received by the consumers' counsel concerning consumer complaints shall be forwarded to the public utilities commission's call center.

Sec. 4911.18. (A) For the sole purpose of maintaining and administering the office of the consumers' counsel and exercising the powers of the consumers' counsel under this chapter, an amount equal to the appropriation to the office of the consumers' counsel in each fiscal year shall be

apportioned among and assessed against each public utility within this state, as defined in section 4911.01 of the Revised Code, by first computing an assessment as though it were to be made in proportion to the intrastate gross earnings or receipts of the public utility for the calendar year next preceding that in which the assessment is made, excluding earnings or receipts from sales to other public utilities for resale. The office may include in that first computation any amount of a public utility's intrastate gross earnings or receipts underreported in a prior year. In addition to whatever penalties apply under the Revised Code to such underreporting, the office shall assess the public utility interest at the rate stated in division (A) of section 1343.01 of the Revised Code. The office shall deposit any interest so collected into the consumers' counsel operating fund. The office may exclude from that first computation any such amounts that were over-reported in a prior year.

The final computation of the assessment shall consist of imposing upon each public utility whose assessment under the first computation would have been ~~fifty one hundred~~ dollars or less an assessment of ~~fifty one hundred~~ dollars and recomputing the assessment of the remaining companies by apportioning an amount equal to the appropriation to the office of consumers' counsel in each fiscal year less the total amount to be recovered from those paying the minimum assessment, in proportion to the intrastate gross earnings or receipts of the remaining companies for the calendar year next preceding that in which the assessments are made, excluding earnings or receipts from sales to other public utilities for resale.

In the case of an assessment based on intrastate gross receipts under this section against a public utility that is an electric utility as defined in section 4928.01 of the Revised Code, or an electric services company, electric cooperative, or governmental aggregator subject to certification under section 4928.08 of the Revised Code, such receipts shall be those specified in the utility's, company's, cooperative's, or aggregator's most recent report of intrastate gross receipts and sales of kilowatt hours of electricity, filed with the public utilities commission pursuant to division (F) of section 4928.06 of the Revised Code, and verified by the commission.

In the case of an assessment based on intrastate gross receipts under this section against a retail natural gas supplier or governmental aggregator subject to certification under section 4929.20 of the Revised Code, such receipts shall be those specified in the supplier's or aggregator's most recent report of intrastate gross receipts and sales of hundred cubic feet of natural gas, filed with the commission pursuant to division (B) of section 4929.23 of the Revised Code, and verified by the commission. However, no such retail natural gas supplier or such governmental aggregator serving or

proposing to serve customers of a particular natural gas company, as defined in section 4929.01 of the Revised Code, shall be assessed under this section until after the commission, pursuant to section 4905.26 or 4909.18 of the Revised Code, has removed from the base rates of the natural gas company the amount of assessment under this section that is attributable to the value of commodity sales service, as defined in section 4929.01 of the Revised Code, in the base rates paid by those customers of the company that do not purchase that service from the natural gas company.

(B) ~~On~~ Through calendar year 2005, on or before the first day of October in each year, the office of consumers' counsel shall notify each public utility of the sum assessed against it, whereupon payment shall be made to the counsel, who shall deposit it into the state treasury to the credit of the consumers' counsel operating fund, which is hereby created. Beginning in calendar year 2006, on or before the fifteenth day of May in each year, the consumers' counsel shall notify each public utility that had a sum assessed against it for the current fiscal year of more than one thousand dollars that fifty per cent of that amount shall be paid to the consumers' counsel by the twentieth day of June of that year as an initial payment of the assessment against the company for the next fiscal year. On or before the first day of October in each year, the consumers' counsel shall make a final determination of the sum of the assessment against each public utility and shall notify each public utility of the sum assessed against it. The consumers' counsel shall deduct from the assessment for each public utility any initial payment received. Payment of the assessment shall be made to the consumers' counsel by the first day of November of that year. The consumers' counsel shall deposit the payments received into the state treasury to the credit of the consumers' counsel operating fund. Any such amounts paid into the fund but not expended by the office shall be credited ratably by the office to the public utilities that pay more than the minimum assessment, according to the respective portions of such sum assessable against them for the ensuing ~~calendar~~ fiscal year, after first deducting any deficits accumulated from prior years. The assessments for such ~~calendar~~ fiscal year shall be reduced correspondingly.

(C) Within five days after the beginning of each fiscal year through fiscal year 2006, the director of budget and management shall transfer from the general revenue fund to the consumers' counsel operating fund an amount sufficient for maintaining and administering the office of the consumers' counsel and exercising the powers of the consumers' counsel under this chapter during the first four months of the fiscal year. Not later than the thirty-first day of December of the fiscal year, the same amount

shall be transferred back to the general revenue fund from the consumers' counsel operating fund.

(D) As used in this section, "public utility" includes:

(1) In addition to an electric utility as defined in section 4928.01 of the Revised Code, an electric services company, an electric cooperative, or a governmental aggregator subject to certification under section 4928.08 of the Revised Code, to the extent of the company's, cooperative's, or aggregator's engagement in the business of supplying or arranging for the supply in this state of any retail electric service for which it must be so certified;

(2) In addition to a natural gas company as defined in section 4929.01 of the Revised Code, a retail natural gas supplier or governmental aggregator subject to certification under section 4929.20 of the Revised Code, to the extent of the supplier's or aggregator's engagement in the business of supplying or arranging for the supply in this state of any competitive retail natural gas service for which it must be certified.

Sec. 4973.171. (A) As used in this section, "felony" has the same meaning as in section 109.511 of the Revised Code.

(B)(1) The ~~governor~~ secretary of state shall not appoint or commission a person as a police officer for a railroad company under division (B) of section 4973.17 of the Revised Code and shall not appoint or commission a person as a police officer for a hospital under division (D) of section 4973.17 of the Revised Code on a permanent basis, on a temporary basis, for a probationary term, or on other than a permanent basis if the person previously has been convicted of or has pleaded guilty to a felony.

(2)(a) The ~~governor~~ secretary of state shall revoke the appointment or commission of a person appointed or commissioned as a police officer for a railroad company or as a police officer for a hospital under division (B) or (D) of section 4973.17 of the Revised Code if that person does either of the following:

(i) Pleads guilty to a felony;

(ii) Pleads guilty to a misdemeanor pursuant to a negotiated plea agreement as provided in division (D) of section 2929.43 of the Revised Code in which the person agrees to surrender the certificate awarded to that person under section 109.77 of the Revised Code.

(b) The ~~governor~~ secretary of state shall suspend the appointment or commission of a person appointed or commissioned as a police officer for a railroad company or as a police officer for a hospital under division (B) or (D) of section 4973.17 of the Revised Code if that person is convicted, after trial, of a felony. If the person files an appeal from that conviction and the

conviction is upheld by the highest court to which the appeal is taken or if the person does not file a timely appeal, the ~~governor~~ secretary of state shall revoke the appointment or commission of that person as a police officer for a railroad company or as a police officer for a hospital. If the person files an appeal that results in that person's acquittal of the felony or conviction of a misdemeanor, or in the dismissal of the felony charge against that person, the ~~governor~~ secretary of state shall reinstate the appointment or commission of that person as a police officer for a railroad company or as a police officer for a hospital. A person whose appointment or commission is reinstated under division (B)(2)(b) of this section shall not receive any back pay unless that person's conviction of the felony was reversed on appeal, or the felony charge was dismissed, because the court found insufficient evidence to convict the person of the felony.

(3) Division (B) of this section does not apply regarding an offense that was committed prior to January 1, 1997.

(4) The suspension or revocation of the appointment or commission of a person as a police officer for a railroad company or as a police officer for a hospital under division (B)(2) of this section shall be in accordance with Chapter 119. of the Revised Code.

(C)(1) A judge of a municipal court or county court that has territorial jurisdiction over an amusement park shall not appoint or commission a person as a police officer for the amusement park under division (E) of section 4973.17 of the Revised Code on a permanent basis, on a temporary basis, for a probationary term, or on other than a permanent basis if the person previously has been convicted of or has pleaded guilty to a felony.

(2) The judge shall revoke the appointment or commission of a person appointed or commissioned as a police officer for an amusement park under division (E) of section 4973.17 of the Revised Code if that person does either of the following:

(a) Pleads guilty to a felony;

(b) Pleads guilty to a misdemeanor pursuant to a negotiated plea agreement as provided in division (D) of section 2929.43 of the Revised Code in which the person agrees to surrender the certificate awarded to that person under section 109.77 of the Revised Code.

(3) The judge shall suspend the appointment or commission of a person appointed or commissioned as a police officer for an amusement park under division (E) of section 4973.17 of the Revised Code if that person is convicted, after trial, of a felony. If the person files an appeal from that conviction and that conviction is upheld by the highest court to which the appeal is taken or if the person does not file a timely appeal, the judge shall

revoke the appointment or commission of that person as a police officer for an amusement park. If the person files an appeal that results in that person's acquittal of the felony or conviction of a misdemeanor or in the dismissal of the felony charge against that person, the judge shall reinstate the appointment or commission of that person as a police officer for an amusement park. A person whose appointment or commission is reinstated under division (C)(3) of this section shall not receive any back pay unless that person's conviction of the felony was reversed on appeal, or the felony charge was dismissed, because the court found insufficient evidence to convict the person of a felony.

(4) Division (C) of this section does not apply regarding an offense that was committed prior to January 1, 1997.

(5) The suspension or revocation of the appointment or commission of a person as a police officer for an amusement park under division (C)(2) of this section shall be in accordance with Chapter 119. of the Revised Code.

Sec. 5101.07. There is hereby created in the state treasury the support services federal operating fund. The fund shall consist of federal funds the department of job and family services receives and that the director of job and family services determines are appropriate for deposit into the fund. Money in the fund shall be used to pay the federal share of both of the following:

(A) The department's costs for computer projects;

(B) The operating costs of the parts of the department that provide general support services for the department's work units established under section 5101.06 of the Revised Code.

Sec. 5101.071. There is hereby created in the state treasury the support services state operating fund. The fund shall consist of payments made to the fund from other appropriation items by intrastate transfer voucher. Money in the fund shall be used to pay for both of the following:

(A) The department of job and family services' costs for computer projects;

(B) The operating costs of the parts of the department that provide general support services for the department's work units established under section 5101.06 of the Revised Code.

Sec. 5101.16. (A) As used in this section and sections 5101.161 and 5101.162 of the Revised Code:

(1) "Disability financial assistance" means the financial assistance program established under Chapter 5115. of the Revised Code.

(2) "Disability medical assistance" means the medical assistance program established under Chapter 5115. of the Revised Code.

(3) "Food stamps" means the program administered by the department of job and family services pursuant to section 5101.54 of the Revised Code.

(4) "Medicaid" means the medical assistance program established by Chapter 5111. of the Revised Code, excluding transportation services provided under that chapter.

(5) "Ohio works first" means the program established by Chapter 5107. of the Revised Code.

(6) "Prevention, retention, and contingency" means the program established by Chapter 5108. of the Revised Code.

(7) "Public assistance expenditures" means expenditures for all of the following:

- (a) Ohio works first;
- (b) County administration of Ohio works first;
- (c) Prevention, retention, and contingency;
- (d) County administration of prevention, retention, and contingency;
- (e) Disability financial assistance;
- (f) Disability medical assistance;
- (g) County administration of disability financial assistance;
- (h) County administration of disability medical assistance;
- (i) County administration of food stamps;
- (j) County administration of medicaid.

(8) "Title IV-A program" has the same meaning as in section 5101.80 of the Revised Code.

(B) Each board of county commissioners shall pay the county share of public assistance expenditures in accordance with section 5101.161 of the Revised Code. Except as provided in division (C) of this section, a county's share of public assistance expenditures is the sum of all of the following for state fiscal year 1998 and each state fiscal year thereafter:

(1) The amount that is twenty-five per cent of the county's total expenditures for disability financial assistance and disability medical assistance and county administration of those programs during the state fiscal year ending in the previous calendar year that the department of job and family services determines are allowable.

(2) The amount that is ten per cent, or other percentage determined under division (D) of this section, of the county's total expenditures for county administration of food stamps and medicaid during the state fiscal year ending in the previous calendar year that the department determines are allowable, less the amount of federal reimbursement credited to the county under division (E) of this section for the state fiscal year ending in the previous calendar year;



(3) A percentage of the actual amount of the county share of program and administrative expenditures during federal fiscal year 1994 for assistance and services, other than child care, provided under Titles IV-A and IV-F of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as those titles existed prior to the enactment of the "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," 110 Stat. 2105. The department of job and family services shall determine the actual amount of the county share from expenditure reports submitted to the United States department of health and human services. The percentage shall be the percentage established in rules adopted under division (F) of this section.

(C)(1) If a county's share of public assistance expenditures determined under division (B) of this section for a state fiscal year exceeds one hundred ten per cent of the county's share for those expenditures for the immediately preceding state fiscal year, the department of job and family services shall reduce the county's share for expenditures under divisions (B)(1) and (2) of this section so that the total of the county's share for expenditures under division (B) of this section equals one hundred ten per cent of the county's share of those expenditures for the immediately preceding state fiscal year.

(2) A county's share of public assistance expenditures determined under division (B) of this section may be increased pursuant to section 5101.163 of the Revised Code and a sanction under section 5101.24 of the Revised Code. An increase made pursuant to section 5101.163 of the Revised Code may cause the county's share to exceed the limit established by division (C)(1) of this section.

(D)(1) If the per capita tax duplicate of a county is less than the per capita tax duplicate of the state as a whole and division (D)(2) of this section does not apply to the county, the percentage to be used for the purpose of division (B)(2) of this section is the product of ten multiplied by a fraction of which the numerator is the per capita tax duplicate of the county and the denominator is the per capita tax duplicate of the state as a whole. The department of job and family services shall compute the per capita tax duplicate for the state and for each county by dividing the tax duplicate for the most recent available year by the current estimate of population prepared by the department of development.

(2) If the percentage of families in a county with an annual income of less than three thousand dollars is greater than the percentage of such families in the state and division (D)(1) of this section does not apply to the county, the percentage to be used for the purpose of division (B)(2) of this section is the product of ten multiplied by a fraction of which the numerator is the percentage of families in the state with an annual income of less than

three thousand dollars a year and the denominator is the percentage of such families in the county. The department of job and family services shall compute the percentage of families with an annual income of less than three thousand dollars for the state and for each county by multiplying the most recent estimate of such families published by the department of development, by a fraction, the numerator of which is the estimate of average annual personal income published by the bureau of economic analysis of the United States department of commerce for the year on which the census estimate is based and the denominator of which is the most recent such estimate published by the bureau.

(3) If the per capita tax duplicate of a county is less than the per capita tax duplicate of the state as a whole and the percentage of families in the county with an annual income of less than three thousand dollars is greater than the percentage of such families in the state, the percentage to be used for the purpose of division (B)(2) of this section shall be determined as follows:

(a) Multiply ten by the fraction determined under division (D)(1) of this section;

(b) Multiply the product determined under division (D)(3)(a) of this section by the fraction determined under division (D)(2) of this section.

(4) The department of job and family services shall determine, for each county, the percentage to be used for the purpose of division (B)(2) of this section not later than the first day of July of the year preceding the state fiscal year for which the percentage is used.

(E) The department of job and family services shall credit to a county the amount of federal reimbursement the department receives from the United States departments of agriculture and health and human services for the county's expenditures for administration of food stamps and medicaid that the department determines are allowable administrative expenditures.

(F)(1) The director of job and family services shall adopt rules in accordance with section 111.15 of the Revised Code to establish all of the following:

(a) The method the department is to use to change a county's share of public assistance expenditures determined under division (B) of this section as provided in division (C) of this section;

(b) The allocation methodology and formula the department will use to determine the amount of funds to credit to a county under this section;

(c) The method the department will use to change the payment of the county share of public assistance expenditures from a calendar-year basis to a state fiscal year basis;

(d) The percentage to be used for the purpose of division (B)(3) of this section, which shall, except as provided in section 5101.163 of the Revised Code, meet both of the following requirements:

(i) The percentage shall not be less than seventy-five per cent nor more than eighty-two per cent;

(ii) The percentage shall not exceed the percentage that the state's qualified state expenditures is of the state's historic state expenditures as those terms are defined in 42 U.S.C. 609(a)(7).

(e) Other procedures and requirements necessary to implement this section.

(2) The director of job and family services may amend the rule adopted under division (F)(1)(d) of this section to modify the percentage on determination that the amount the general assembly appropriates for Title IV-A programs makes the modification necessary. The rule shall be adopted and amended as if an internal management rule and in consultation with the director of budget and management.

Sec. 5101.163. As used in this section, "maintenance of effort" means qualified state expenditures as defined in 42 U.S.C. 609(a)(7)(B)(i).

The department of job and family services may increase a county's share of public assistance expenditures determined under division (B) of section 5101.16 of the Revised Code if the United States secretary of health and human services requires an increase in the state's maintenance of effort because of one or more failures, resulting from the actions or inactions of one or more county family services agencies, to meet a requirement under Title IV-A of the "Social Security Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as amended. The department may so increase a county's share of public assistance expenditures only to the amount the county's county family services agencies are responsible for the increase in the state's maintenance of effort as determined pursuant to rules the director of job and family services shall adopt under section 111.15 of the Revised Code. The department is not required to make the increase in accordance with section 5101.24 of the Revised Code.

Sec. 5101.181. (A) As used in this section and section 5101.182 of the Revised Code, "public assistance" includes, in addition to Ohio works first, all of the following:

(1) Prevention, retention, and contingency;

(2) Medicaid;

(3) Disability financial assistance;

(4) Disability medical assistance provided before October 1, 2005, under former Chapter 5115. of the Revised Code;

(5) General assistance provided prior to July 17, 1995, under former Chapter 5113. of the Revised Code.

(B) As part of the procedure for the determination of overpayment to a recipient of public assistance under Chapter 5107., 5108., 5111., or 5115. of the Revised Code, the director of job and family services shall furnish quarterly the name and social security number of each individual who receives public assistance to the director of administrative services, the administrator of the bureau of workers' compensation, and each of the state's retirement boards. Within fourteen days after receiving the name and social security number of an individual who receives public assistance, the director of administrative services, administrator, or board shall inform the auditor of state as to whether such individual is receiving wages or benefits, the amount of any wages or benefits being received, the social security number, and the address of the individual. The director of administrative services, administrator, boards, and any agent or employee of those officials and boards shall comply with the rules of the director of job and family services restricting the disclosure of information regarding recipients of public assistance. Any person who violates this provision shall thereafter be disqualified from acting as an agent or employee or in any other capacity under appointment or employment of any state board, commission, or agency.

(C) The auditor of state may enter into a reciprocal agreement with the director of job and family services or comparable officer of any other state for the exchange of names, current or most recent addresses, or social security numbers of persons receiving public assistance under Title IV-A or under Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended.

(D)(1) The auditor of state shall retain, for not less than two years, at least one copy of all information received under this section and sections 145.27, 742.41, 3307.20, 3309.22, 4123.27, 5101.182, and 5505.04 of the Revised Code. The auditor shall review the information to determine whether overpayments were made to recipients of public assistance under Chapters 5107., 5108., 5111., and 5115. of the Revised Code. The auditor of state shall initiate action leading to prosecution, where warranted, of recipients who received overpayments by forwarding the name of each recipient who received overpayment, together with other pertinent information, to the director of job and family services and the attorney general, to the district director of job and family services of the district through which public assistance was received, and to the county director of job and family services and county prosecutor of the county through which

public assistance was received.

(2) The auditor of state and the attorney general or their designees may examine any records, whether in computer or printed format, in the possession of the director of job and family services or any county director of job and family services. They shall provide safeguards which restrict access to such records to purposes directly connected with an audit or investigation, prosecution, or criminal or civil proceeding conducted in connection with the administration of the programs and shall comply with the rules of the director of job and family services restricting the disclosure of information regarding recipients of public assistance. Any person who violates this provision shall thereafter be disqualified from acting as an agent or employee or in any other capacity under appointment or employment of any state board, commission, or agency.

(3) Costs incurred by the auditor of state in carrying out the auditor of state's duties under this division shall be borne by the auditor of state.

Sec. 5101.184. (A) The director of job and family services shall work with the tax commissioner to collect overpayments of assistance under Chapter 5107., 5111., or 5115., former Chapter 5113., or section 5101.54 of the Revised Code from refunds of state income taxes for taxable year 1992 and thereafter that are payable to the recipients of such overpayments.

Any overpayment of assistance, whether obtained by fraud or misrepresentation, as the result of an error by the recipient or by the agency making the payment, or in any other manner, may be collected under this section. Any reduction under section 5747.12 or 5747.121 of the Revised Code to an income tax refund shall be made before a reduction under this section. No reduction shall be made under this section if the amount of the refund is less than twenty-five dollars after any reduction under section 5747.12 of the Revised Code. A reduction under this section shall be made before any part of the refund is contributed under section 5747.113 of the Revised Code ~~to the natural areas and preserves fund or the nongame and endangered wildlife fund~~, or is credited under section 5747.12 of the Revised Code against tax due in any subsequent year.

The director and the tax commissioner, by rules adopted in accordance with Chapter 119. of the Revised Code, shall establish procedures to implement this division. The procedures shall provide for notice to a recipient of assistance and an opportunity for the recipient to be heard before the recipient's income tax refund is reduced.

(B) The director of job and family services may enter into agreements with the federal government to collect overpayments of assistance from refunds of federal income taxes that are payable to recipients of the

overpayments.

Sec. 5101.21. (A) As used in this section, "county signer" means all of the following:

- (1) A board of county commissioners;
- (2) A county children services board appointed under section 5153.03 of the Revised Code if required by division (B) of this section to enter into a fiscal agreement;
- (3) A county elected official that is a child support enforcement agency if required by division (B) of this section to enter into a fiscal agreement.

(B) The director of job and family services may enter into one or more written fiscal agreements with boards of county commissioners under which financial assistance is awarded for family services duties included in the agreements. Boards of county commissioners shall select which family services duties to include in a fiscal agreement. If a board of county commissioners elects to include family services duties of a public children services agency and a county children services board appointed under section 5153.03 of the Revised Code serves as the county's public children services agency, the board of county commissioners and county children services board shall jointly enter into the fiscal agreement with the director. If a board of county commissioners elects to include family services duties of a child support enforcement agency and the entity designated under former section 2301.35 of the Revised Code prior to October 1, 1997, or designated under section 307.981 of the Revised Code as the county's child support enforcement agency is an elected official of the county, the board of county commissioners and county elected official shall jointly enter into the fiscal agreement with the director. A fiscal agreement shall do all of the following:

- (1) Specify the family services duties included in the agreement and the private and government entities designated under section 307.981 of the Revised Code to serve as the county family services agencies performing the family services duties;
- (2) Provide for the department of job and family services to award financial assistance for the family services duties included in the agreement in accordance with a methodology for determining the amount of the award established by rules adopted under division (D) of this section;
- (3) Specify the form of the award of financial assistance which may be an allocation, cash draw, reimbursement, property, or, to the extent authorized by an appropriation made by the general assembly and to the extent practicable and not in conflict with a federal or state law, a consolidated funding allocation for two or more family services duties

included in the agreement;

(4) Provide that the award of financial assistance is subject to the availability of federal funds and appropriations made by the general assembly;

(5) Specify annual financial, administrative, or other incentive awards, if any, to be provided in accordance with section 5101.23 of the Revised Code;

(6) Include the assurance of each county signer that the county signer will do all of the following:

(a) Ensure that the financial assistance awarded under the agreement is used, and the family services duties included in the agreement are performed, in accordance with requirements for the duties established by the department, a federal or state law, or any of the following that concern the family services duties included in the fiscal agreement and are published under section 5101.212 of the Revised Code: state plans for receipt of federal financial participation, grant agreements between the department and a federal agency, and executive orders issued by the governor;

(b) Ensure that the board and county family services agencies utilize a financial management system and other accountability mechanisms for the financial assistance awarded under the agreement that meet requirements the department establishes;

(c) Require the county family services agencies to do both of the following:

(i) Monitor all private and government entities that receive a payment from financial assistance awarded under the agreement to ensure that each entity uses the payment in accordance with requirements for the family services duties included in the agreement;

(ii) Take action to recover payments that are not used in accordance with the requirements for the family services duties included in the agreement.

(d) Require county family services agencies to promptly reimburse the department the amount that represents the amount an agency is responsible for, pursuant to action the department takes under division (C) of section 5101.24 of the Revised Code, of funds the department pays to any entity because of an adverse audit finding, adverse quality control finding, final disallowance of federal financial participation, or other sanction or penalty;

(e) Require county family services agencies to take prompt corrective action, including paying amounts resulting from an adverse finding, sanction, or penalty, if the department, auditor of state, federal agency, or other entity authorized by federal or state law to determine compliance with

requirements for a family services duty included in the agreement determines compliance has not been achieved;

~~(f) If the department establishes a consolidated funding allocation for two or more family services duties included in the agreement, require the county family services agencies to use funds available in the consolidated funding allocation only for the purpose for which the funds are appropriated.~~

(7) Provide for the department taking action pursuant to division (C) of section 5101.24 of the Revised Code if authorized by division (B)(1), (2), (3), or (4) of that section;

(8) Provide for timely audits required by federal and state law and require prompt release of audit findings and prompt action to correct problems identified in an audit;

(9) Comply with all of the requirements for the family services duties that are included in the agreement and have been established by the department, federal or state law, or any of the following that concern the family services duties included in the fiscal agreement and are published under section 5101.212 of the Revised Code: state plans for receipt of federal financial participation, grant agreements between the department and a federal agency, and executive orders issued by the governor;

(10) Provide for dispute resolution procedures in accordance with section 5101.24 of the Revised Code;

(11) Establish the method of amending or terminating the agreement and an expedited process for correcting terms or conditions of the agreement that the director and each county signer agree are erroneous;

(12) Except as provided in rules adopted under division (D) of this section, begin on the first day of July of an odd-numbered year and end on the last day of June of the next odd-numbered year.

(C) The department shall make payments authorized by a fiscal agreement on vouchers it prepares and may include any funds appropriated or allocated to it for carrying out family services duties included in the agreement, including funds for personal services and maintenance.

(D)(1) The director shall adopt rules in accordance with section 111.15 of the Revised Code governing fiscal agreements. The director shall adopt the rules as if they were internal management rules. Before adopting the rules, the director shall give the public an opportunity to review and comment on the proposed rules. The rules shall establish methodologies to be used to determine the amount of financial assistance to be awarded under the agreements. The rules also shall establish terms and conditions under which an agreement may be entered into after the first day of July of an odd-numbered year. The rules may do any or all of the following:



~~(a) Govern the establishment of consolidated funding allocations and specify the time period for which a consolidated funding allocation is to be provided if the effective date of the agreement is after the first day of July of an odd-numbered year, which may include a time period before the effective date of the agreement;~~

~~(b)~~ Govern the establishment of other allocations;

~~(c)~~(b) Specify allowable uses of financial assistance awarded under the agreements;

~~(d)~~(c) Establish reporting, cash management, audit, and other requirements the director determines are necessary to provide accountability for the use of financial assistance awarded under the agreements and determine compliance with requirements established by the department, a federal or state law, or any of the following that concern the family services duties included in the agreements and are published under section 5101.212 of the Revised Code: state plans for receipt of federal financial participation, grant agreements between the department and a federal entity, and executive orders issued by the governor.

(2) A requirement of a fiscal agreement established by a rule adopted under this division is applicable to a fiscal agreement without having to be restated in the fiscal agreement.

Sec. 5101.241. (A) As used in this section:

(1) "Local area" and "chief elected official" have the same meaning as in section 5101.20 of the Revised Code.

(2) "Responsible entity" means the chief elected officials of a local area.

(B) The department of job and family services may take action under division (C) of this section against the responsible entity, regardless of who performs the workforce development activity, if the department determines any of the following are the case:

(1) A requirement of a grant agreement entered into under section 5101.20 of the Revised Code that includes the workforce development activity, including a requirement for grant agreements established by rules adopted under that section, is not complied with;

(2) A performance standard for the workforce development activity established by the federal government or the department is not met;

(3) A requirement for the workforce development activity established by the department or any of the following is not complied with: a federal or state law, state plan for receipt of federal financial participation, grant agreement between the department and a federal agency, or executive order;

(4) The responsible entity is solely or partially responsible, as determined by the director of job and family services, for an adverse audit

finding, adverse quality control finding, final disallowance of federal financial participation, or other sanction or penalty regarding the workforce development activity.

(C) The department may take one or more of the following actions against the responsible entity when authorized by division (B)(1), (2), (3), or (4) of this section:

(1) Require the responsible entity to submit to and comply with a corrective action plan, established or approved by the department, pursuant to a time schedule specified by the department;

(2) Require the responsible entity to do one of the following:

(a) Share with the department a final disallowance of federal financial participation or other sanction or penalty;

(b) Reimburse the department the amount the department pays to the federal government or another entity that represents the amount the responsible entity is responsible for of an adverse audit finding, adverse quality control finding, final disallowance of federal financial participation, or other sanction or penalty issued by the federal government, auditor of state, or other entity;

(c) Pay the federal government or another entity the amount that represents the amount the responsible entity is responsible for of an adverse audit finding, adverse quality control finding, final disallowance of federal financial participation, or other sanction or penalty issued by the federal government, auditor of state, or other entity;

(d) Pay the department the amount that represents the amount the responsible entity is responsible for of an adverse audit finding, adverse quality control finding, or other sanction or penalty issued by the department.

(3) Impose a financial or administrative sanction or adverse audit finding issued by the department against the responsible entity, which may be increased with each subsequent action taken against the responsible entity;

(4) Perform or contract with a government or private entity for the entity to perform the workforce development activity until the department is satisfied that the responsible entity ensures that the activity will be performed to the department's satisfaction. If the department performs or contracts with an entity to perform the workforce development activity under division (C)(4) of this section, the department may withhold funds allocated to or reimbursements due to the responsible entity for the activity and use those funds to implement division (C)(4) of this section.

(5) Request the attorney general to bring mandamus proceedings to

compel the responsible entity to take or cease the actions listed in division (B) of this section. The attorney general shall bring any mandamus proceedings in the Franklin county court of appeals at the department's request.

(6) If the department takes action under this division because of division (B)(3) of this section, withhold funds allocated or reimbursement due to the responsible entity until the department determines that the responsible entity is in compliance with the requirement. The department shall release the funds when the department determines that compliance has been achieved.

(7) Issue a notice of intent to revoke approval of all or part of the local plan effected that conflicts with state or federal law and effectuate the revocation.

(D) The department shall notify the responsible entity and the appropriate county auditor when the department proposes to take action under division (C) of this section. The notice shall be in writing and specify the action the department proposes to take. The department shall send the notice by regular United States mail. Except as provided in division (E) of this section, the responsible entity may request an administrative review of a proposed action in accordance with administrative review procedures the department shall establish. The administrative review procedures shall comply with all of the following:

(1) A request for an administrative review shall state specifically all of the following:

(a) The proposed action specified in the notice from the department for which the review is requested;

(b) The reason why the responsible entity believes the proposed action is inappropriate;

(c) All facts and legal arguments that the responsible entity wants the department to consider;

(d) The name of the person who will serve as the responsible entity's representative in the review.

(2) If the department's notice specifies more than one proposed action and the responsible entity does not specify all of the proposed actions in its request pursuant to division (D)(1)(a) of this section, the proposed actions not specified in the request shall not be subject to administrative review and the parts of the notice regarding those proposed actions shall be final and binding on the responsible entity.

~~(3) In the case of a proposed action under division (C)(1) of this section,~~  
the The responsible entity shall have fifteen calendar days after the department mails the notice to the responsible entity to send a written

~~request to the department for an administrative review. If it receives such a request within the required time, the department shall postpone taking action under division (C)(1) of this section for fifteen calendar days following the day it receives the request to allow a representative of the department and a representative of the responsible entity an informal opportunity to resolve any dispute during that fifteen day period. The responsible entity and the department shall attempt to resolve informally any dispute and may develop a written resolution to the dispute at any time prior to submitting the written report described in division (D)(7) of this section to the director.~~

~~(4) In the case of a proposed action under division (C)(2), (3), or (4) of this section, the responsible entity shall have thirty calendar days after the department mails the notice to the responsible entity to send a written request to the department for an administrative review. If it receives such a request within the required time, the department shall postpone taking action under division (C)(2), (3), or (4) of this section for thirty calendar days following the day it receives the request to allow a representative of the department and a representative of the responsible entity an informal opportunity to resolve any dispute during that thirty day period.~~

(5) In the case of a proposed action under division (C)(2) of this section, the responsible entity may not include in its request disputes over a finding, final disallowance of federal financial participation, or other sanction or penalty issued by the federal government, auditor of state, or other entity other than the department.

~~(6)~~(5) If the responsible entity fails to request an administrative review within the required time, the responsible entity loses the right to request an administrative review of the proposed actions specified in the notice and the notice becomes final and binding on the responsible entity.

~~(7) If the informal opportunity provided in division (D)(3) or (4) of this section does not result in a written resolution to the dispute, the~~ (6) The director of job and family services shall appoint an administrative review panel to conduct the administrative review. The review panel shall consist of department employees who are not involved in the department's proposal to take action against the responsible entity. The review panel shall review the responsible entity's request. The review panel may require that the department or responsible entity submit additional information and schedule and conduct an informal hearing to obtain testimony or additional evidence. A review of a proposal to take action under division (C)(2) of this section shall be limited solely to the issue of the amount the responsible entity shall share with the department, reimburse the department, or pay to the federal government, department, or other entity under division (C)(2) of this

section. The review panel is not required to make a stenographic record of its hearing or other proceedings.

~~(8)(7)~~ After finishing an administrative review, an administrative review panel appointed under division (D)~~(7)(6)~~ of this section shall submit a written report to the director setting forth its findings of fact, conclusions of law, and recommendations for action. The director may approve, modify, or disapprove the recommendations. ~~If the director modifies or disapproves the recommendations, the director shall state the reasons for the modification or disapproval and the actions to be taken against the responsible entity.~~

~~(9)(8)~~ The director's approval, modification, or disapproval under division (D)~~(8)(7)~~ of this section shall be final and binding on the responsible entity and shall not be subject to further departmental review.

(E) The responsible entity is not entitled to an administrative review under division (D) of this section for any of the following:

- (1) An action taken under division (C)(5) or (6) of this section;
- (2) An action taken under section 5101.242 of the Revised Code;
- (3) An action taken under division (C)(2) of this section if the federal government, auditor of state, or entity other than the department has identified the responsible entity as being solely or partially responsible for an adverse audit finding, adverse quality control finding, final disallowance of federal financial participation, or other sanction or penalty;
- (4) An adjustment to an allocation, cash draw, advance, or reimbursement to the responsible entity's local area that the department determines necessary for budgetary reasons;
- (5) Withholding of a cash draw or reimbursement due to noncompliance with a reporting requirement established in rules adopted under section 5101.243 of the Revised Code.

(F) This section does not apply to other actions the department takes against the responsible entity pursuant to authority granted by another state law unless the other state law requires the department to take the action in accordance with this section.

(G) The director of job and family services may adopt rules in accordance with Chapter 119. of the Revised Code as necessary to implement this section.

(H) The governor may decertify a local workforce development board for any of the following reasons in accordance with subsection (e) of section 117 of the "Workforce Investment Act of 1998" 112 Stat. 936, 29 U.S.C. 2801, as amended:

- (1) Fraud or abuse;
- (2) Failure to carry out the requirements of the federal "Workforce

Investment Act," 112 Stat. 936, 29 U.S.C. 2801, as amended, including failure to meet performance standards established by the federal government for two consecutive years.

If the governor finds that access to basic "Workforce Investment Act" services is not being provided in a local area, the governor may declare an emergency and, in consultation with the chief elected officials of the local area affected, arrange for provision of these services through an alternative entity during the time period in which resolution of the problem preventing service delivery in the local area is pending. An action taken by the governor pursuant to this section is not subject to appeal under this section.

Sec. 5101.244. If a county family services agency submits an expenditure report to the department of job and family services and the department subsequently determines that an allocation, advance, or reimbursement the department makes to the agency, or a cash draw the agency makes, for an expenditure exceeds the allowable amount for the expenditure, the department may adjust, offset, withhold, or reduce an allocation, cash draw, advance, reimbursement, or other financial assistance to the agency as necessary to recover the amount of the excess allocation, advance, reimbursement, or cash draw. The department is not required to make the adjustment, offset, withholding, or reduction in accordance with section 5101.24 of the Revised Code.

The director of job and family services may adopt rules under section 111.15 of the Revised Code as necessary to implement this section. The director shall adopt the rules as if they were internal management rules.

Sec. 5101.26. As used in this section and in sections 5101.27 to 5101.30 of the Revised Code:

(A) "County agency" means a county department of job and family services or a public children services agency.

(B) "Fugitive felon" means an individual who is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the individual is fleeing, for a crime or an attempt to commit a crime that is a felony under the laws of the place from which the individual is fleeing or, in the case of New Jersey, a high misdemeanor, regardless of whether the individual has departed from the individual's usual place of residence.

(C) "Information" means records as defined in section 149.011 of the Revised Code, any other documents in any format, and data derived from records and documents that are generated, acquired, or maintained by the department of job and family services, a county agency, or an entity performing duties on behalf of the department or a county agency.

(D) "Law enforcement agency" means the state highway patrol, an agency that employs peace officers as defined in section 109.71 of the Revised Code, the adult parole authority, a county department of probation, a prosecuting attorney, the attorney general, similar agencies of other states, federal law enforcement agencies, and postal inspectors. "Law enforcement agency" includes the peace officers and other law enforcement officers employed by the agency.

(E) "Medical assistance provided under a public assistance program" means medical assistance provided under the programs established under sections 5101.49, 5101.50 to 5101.503, and 5101.51 to 5101.5110, ~~Chapters Chapter 5111. and 5115.~~, or any other provision of the Revised Code.

(F) "Public assistance" means financial assistance, medical assistance, or social services provided under a program administered by the department of job and family services or a county agency pursuant to Chapter 329., 5101., 5104., 5107., 5108., 5111., or 5115. of the Revised Code or an executive order issued under section 107.17 of the Revised Code.

(G) "Public assistance recipient" means an applicant for or recipient or former recipient of public assistance.

Sec. 5101.31. Any record, data, pricing information, or other information regarding a drug rebate agreement or a supplemental drug rebate agreement for the medicaid program established under Chapter 5111. of the Revised Code ~~or the disability medical assistance program established under section 5115.10 of the Revised Code~~ that the department of job and family services receives from a pharmaceutical manufacturer or creates pursuant to negotiation of the agreement is not a public record under section 149.43 of the Revised Code and shall be treated by the department as confidential information.

Sec. 5101.35. (A) As used in this section:

(1) "Agency" means the following entities that administer a family services program:

- (a) The department of job and family services;
- (b) A county department of job and family services;
- (c) A public children services agency;

(d) A private or government entity administering, in whole or in part, a family services program for or on behalf of the department of job and family services or a county department of job and family services or public children services agency.

(2) "Appellant" means an applicant, participant, former participant, recipient, or former recipient of a family services program who is entitled by federal or state law to a hearing regarding a decision or order of the agency

that administers the program.

(3) "Family services program" means assistance provided under a Title IV-A program as defined in section 5101.80 of the Revised Code or under Chapter 5104., 5111., or 5115. or section 173.35, 5101.141, 5101.46, 5101.461, 5101.54, 5153.163, or 5153.165 of the Revised Code, other than assistance provided under section 5101.46 of the Revised Code by the department of mental health, the department of mental retardation and developmental disabilities, a board of alcohol, drug addiction, and mental health services, or a county board of mental retardation and developmental disabilities.

(B) Except as provided by ~~division~~divisions (G) and (H) of this section, an appellant who appeals under federal or state law a decision or order of an agency administering a family services program shall, at the appellant's request, be granted a state hearing by the department of job and family services. This state hearing shall be conducted in accordance with rules adopted under this section. The state hearing shall be tape-recorded, but neither the recording nor a transcript of the recording shall be part of the official record of the proceeding. A state hearing decision is binding upon the agency and department, unless it is reversed or modified on appeal to the director of job and family services or a court of common pleas.

(C) Except as provided by division (G) of this section, an appellant who disagrees with a state hearing decision may make an administrative appeal to the director of job and family services in accordance with rules adopted under this section. This administrative appeal does not require a hearing, but the director or the director's designee shall review the state hearing decision and previous administrative action and may affirm, modify, remand, or reverse the state hearing decision. Any person designated to make an administrative appeal decision on behalf of the director shall have been admitted to the practice of law in this state. An administrative appeal decision is the final decision of the department and is binding upon the department and agency, unless it is reversed or modified on appeal to the court of common pleas.

(D) An agency shall comply with a decision issued pursuant to division (B) or (C) of this section within the time limits established by rules adopted under this section. If a county department of job and family services or a public children services agency fails to comply within these time limits, the department may take action pursuant to section 5101.24 of the Revised Code. If another agency fails to comply within the time limits, the department may force compliance by withholding funds due the agency or imposing another sanction established by rules adopted under this section.



(E) An appellant who disagrees with an administrative appeal decision of the director of job and family services or the director's designee issued under division (C) of this section may appeal from the decision to the court of common pleas pursuant to section 119.12 of the Revised Code. The appeal shall be governed by section 119.12 of the Revised Code except that:

(1) The person may appeal to the court of common pleas of the county in which the person resides, or to the court of common pleas of Franklin county if the person does not reside in this state.

(2) The person may apply to the court for designation as an indigent and, if the court grants this application, the appellant shall not be required to furnish the costs of the appeal.

(3) The appellant shall mail the notice of appeal to the department of job and family services and file notice of appeal with the court within thirty days after the department mails the administrative appeal decision to the appellant. For good cause shown, the court may extend the time for mailing and filing notice of appeal, but such time shall not exceed six months from the date the department mails the administrative appeal decision. Filing notice of appeal with the court shall be the only act necessary to vest jurisdiction in the court.

(4) The department shall be required to file a transcript of the testimony of the state hearing with the court only if the court orders the department to file the transcript. The court shall make such an order only if it finds that the department and the appellant are unable to stipulate to the facts of the case and that the transcript is essential to a determination of the appeal. The department shall file the transcript not later than thirty days after the day such an order is issued.

(F) The department of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section, including rules governing the following:

(1) State hearings under division (B) of this section. The rules shall include provisions regarding notice of eligibility termination and the opportunity of an appellant appealing a decision or order of a county department of job and family services to request a county conference with the county department before the state hearing is held.

(2) Administrative appeals under division (C) of this section;

(3) Time limits for complying with a decision issued under division (B) or (C) of this section;

(4) Sanctions that may be applied against an agency under division (D) of this section.

(G) The department of job and family services may adopt rules in

accordance with Chapter 119. of the Revised Code establishing an appeals process for an appellant who appeals a decision or order regarding a Title IV-A program identified under division (A)~~(3)(4)(c)~~ ~~or~~, (d), (e), or (f) of section 5101.80 of the Revised Code that is different from the appeals process established by this section. The different appeals process may include having a state agency that administers the Title IV-A program pursuant to an interagency agreement entered into under section 5101.801 of the Revised Code administer the appeals process.

(H) If an appellant receiving medicaid through a health insuring corporation that holds a certificate of authority under Chapter 1751. of the Revised Code is appealing a denial of medicaid services based on lack of medical necessity or other clinical issues regarding coverage by the health insuring corporation, the person hearing the appeal may order an independent medical review if that person determines that a review is necessary. The review shall be performed by a health care professional with appropriate clinical expertise in treating the recipient's condition or disease. The department shall pay the costs associated with the review.

A review ordered under this division shall be part of the record of the hearing and shall be given appropriate evidentiary consideration by the person hearing the appeal.

(I) The requirements of Chapter 119. of the Revised Code apply to a state hearing or administrative appeal under this section only to the extent, if any, specifically provided by rules adopted under this section.

Sec. 5101.36. Any application for public assistance gives a right of subrogation to the department of job and family services for any workers' compensation benefits payable to a person who is subject to a support order, as defined in section 3119.01 of the Revised Code, on behalf of the applicant, to the extent of any public assistance payments made on the applicant's behalf. If the director of job and family services, in consultation with a child support enforcement agency and the administrator of the bureau of workers' compensation, determines that a person responsible for support payments to a recipient of public assistance is receiving workers' compensation, the director shall notify the administrator of the amount of the benefit to be paid to the department of job and family services.

For purposes of this section, "public assistance" means medical assistance provided through the medical assistance program established under section 5111.01 of the Revised Code; Ohio works first provided under Chapter 5107. of the Revised Code; prevention, retention, and contingency benefits and services provided under Chapter 5108. of the Revised Code; disability financial assistance provided under Chapter 5115. of the Revised

Code; or disability medical assistance provided under former Chapter 5115. of the Revised Code.

Sec. 5101.46. (A) As used in this section:

(1) "Title XX" means Title XX of the "Social Security Act," 88 Stat. 2337 (1974), 42 U.S.C.A. 1397, as amended.

(2) "Respective local agency" means, with respect to the department of job and family services, a county department of job and family services; with respect to the department of mental health, a board of alcohol, drug addiction, and mental health services; and with respect to the department of mental retardation and developmental disabilities, a county board of mental retardation and developmental disabilities.

(3) "Federal poverty guidelines" means the poverty guidelines as revised annually by the United States department of health and human services in accordance with section 673(2) of the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C.A. 9902, as amended, for a family size equal to the size of the family of the person whose income is being determined.

(B) The departments of job and family services, mental health, and mental retardation and developmental disabilities, with their respective local agencies, shall administer the provision of social services funded through grants made under Title XX. The social services furnished with Title XX funds shall be directed at the following goals:

(1) Achieving or maintaining economic self-support to prevent, reduce, or eliminate dependency;

(2) Achieving or maintaining self-sufficiency, including reduction or prevention of dependency;

(3) Preventing or remedying neglect, abuse, or exploitation of children and adults unable to protect their own interests, or preserving, rehabilitating, or reuniting families;

(4) Preventing or reducing inappropriate institutional care by providing for community-based care, home-based care, or other forms of less intensive care;

(5) Securing referral or admission for institutional care when other forms of care are not appropriate, or providing services to individuals in institutions.

(C)(1) All federal funds received under Title XX shall be appropriated as follows:

(a) Seventy-two and one-half per cent to the department of job and family services;

(b) Twelve and ninety-three one-hundredths per cent to the department of

mental health;

(c) Fourteen and fifty-seven one-hundredths per cent to the department of mental retardation and developmental disabilities.

(2) Each state department shall, subject to the approval of the controlling board, develop formulas for the distribution of their Title XX appropriations to their respective local agencies. The formulas shall take into account the total population of the area that is served by the agency, the percentage of the population in the area that falls below the federal poverty guidelines, and the agency's history of and ability to utilize Title XX funds.

(3) Each of the state departments shall expend no more than three per cent of its Title XX appropriation for state administrative costs. Each of the department's respective local agencies shall expend no more than fourteen per cent of its Title XX appropriation for local administrative costs.

(4) The department of job and family services shall expend no more than two per cent of its Title XX appropriation for the training of the following:

(a) Employees of county departments of job and family services;

(b) Providers of services under contract with the state departments' respective local agencies;

(c) Employees of a public children services agency directly engaged in providing Title XX services.

(D) The department of job and family services shall prepare a biennial comprehensive Title XX social services plan on the intended use of Title XX funds. The department shall develop a method for obtaining public comment during the development of the plan and following its completion.

For each state fiscal year, the department of job and family services shall prepare a report on the actual use of Title XX funds. The department shall make the annual report available for public inspection.

The departments of mental health and mental retardation and developmental disabilities shall prepare and submit to the department of job and family services the portions of each biennial plan and annual report that apply to services for mental health and mental retardation and developmental disabilities. Each respective local agency of the three state departments shall submit information as necessary for the preparation of biennial plans and annual reports.

(E) Each county department shall adopt a county profile for the administration and provision of Title XX social services in the county. In developing its county profile, the county department shall take into consideration the comments and recommendations received from the public by the county family services planning committee pursuant to section

329.06 of the Revised Code. As part of its preparation of the county profile, the county department may prepare a local needs report analyzing the need for Title XX social services.

The county department shall submit the county profile to the board of county commissioners for its review. Once the county profile has been approved by the board, the county department shall file a copy of the county profile with the department of job and family services. The department shall approve the county profile if the department determines the profile provides for the Title XX social services to meet the goals specified in division (B) of this section.

~~(F) Not less often than every two years, the departments of job and family services, mental health, and mental retardation and developmental disabilities each shall commission an entity independent of itself to conduct an audit of its Title XX expenditures in accordance with generally accepted auditing principles. Within thirty days following the completion of its audit, each department shall submit a copy of the audit to the general assembly and to the United States secretary of health and human services.~~

~~(G)~~ Any of the three state departments and their respective local agencies may require that an entity under contract to provide social services with Title XX funds submit to an audit on the basis of alleged misuse or improper accounting of funds. The If an audit is required, the social services provider shall reimburse the state department or local agency for the cost it incurred in conducting the audit or having the audit conducted.

If an audit demonstrates that a social services provider is responsible for one or more adverse findings, the provider shall reimburse the appropriate state department or its respective local agency the amount of the adverse findings. The amount shall not be reimbursed with Title XX funds received under this section. The three state departments and their respective local agencies may terminate or refuse to enter into a Title XX contract with a ~~provider of social services~~ provider if there are adverse findings in an audit that are the responsibility of the provider. ~~The amount of any adverse findings shall not be reimbursed with Title XX funds. The cost of conducting an audit shall be reimbursed under a subsequent or amended Title XX contract with the provider.~~

~~(H) If federal funds received by the department of job and family services for use under Chapters 5107. and 5108. of the Revised Code are transferred by the controlling board for use in providing social services under this section, the distribution and use of the funds are not subject to the provisions of division (C) of this section. The department may do one or both of the following with the funds:~~

~~(1) Distribute the funds to the county departments of job and family services;~~

~~(2) Use the funds for services that benefit individuals eligible for services consistent with the principles of Title IV-A of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended.~~

~~(I) Except for the authority to adopt rules under division (J) of this section as necessary to carry out this division, this section does not apply to any distribution by the department of job and family services of funds for reimbursement of allowable Title XX expenditures when the funds for the reimbursement are received from a federal funding source other than Title XX.~~

~~(J)(G) The department of job and family services may adopt rules necessary to implement and carry out the purposes of this section. Rules adopted under this division shall be adopted in accordance with Chapter 119. of the Revised Code, unless they are internal management rules governing fiscal and administrative matters. Internal governing financial and operational matters of the department or matters between the department and county departments of job and family services shall be adopted as internal management rules may be adopted in accordance with section 111.15 of the Revised Code. Rules governing eligibility for services, program participation, and other matters pertaining to applicants and participants shall be adopted in accordance with Chapter 119. of the Revised Code.~~

Sec. 5101.461. (A) As used in this section:

(1) "Title IV-A" means Title IV-A of the "Social Security Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as amended.

(2) "Title XX" has the same meaning as in section 5101.46 of the Revised Code.

(B) To the extent authorized by federal law, the department of job and family services may use funds received through the Title IV-A temporary assistance for needy families block grant for purposes of providing Title XX social services. The amount used under this section shall not exceed the maximum amount permitted by federal law. The funds and provision of Title XX social services with the funds are not subject to section 5101.46 of the Revised Code.

(C) The department and any county department of job and family services may require an entity under contract to provide Title XX social services with funds used under this section to submit to an audit on the basis of alleged misuse or improper accounting of funds. If an audit is required, the social services provider shall reimburse the state department or county

department for the cost it incurred in conducting the audit or having the audit conducted.

If an audit demonstrates that a social services provider is responsible for one or more adverse findings, the provider shall reimburse the state department or county department the amount of the adverse findings. The amount shall not be reimbursed with funds received under this section. The state department and county departments may terminate or refuse to enter into a contract with a social services provider to provide services with funds available pursuant to this section if there are adverse findings in an audit that are the responsibility of the provider.

(D) The state department of job and family services may adopt rules to implement and carry out the purposes of this section. Rules governing financial and operational matters of the department or matters between the department and county departments of job and family services shall be adopted as internal management rules in accordance with section 111.15 of the Revised Code. Rules governing eligibility for services, program participation, and other matters pertaining to applicants and participants shall be adopted in accordance with Chapter 119. of the Revised Code.

Sec. 5101.47. (A) The Except as provided in division (B) of this section, the director of job and family services may accept applications, determine eligibility, redetermine eligibility, and perform related administrative activities for one or more of the following:

(1) The medicaid program established by Chapter 5111. of the Revised Code;

(2) The children's health insurance program parts I and II provided for under sections 5101.50 and 5101.51 of the Revised Code;

(3) Publicly funded child care provided under Chapter 5104. of the Revised Code;

(4) The food stamp program administered by the department of job and family services pursuant to section 5101.54 of the Revised Code;

(5) Other programs the director determines are supportive of children, adults, or families ~~with at least one employed member;~~

(6) Other programs regarding which the director determines administrative cost savings and efficiency may be achieved through the department accepting applications, determining eligibility, redetermining eligibility, or performing related administrative activities.

(B) If federal law requires a face-to-face interview to complete an eligibility determination for a program specified in or pursuant to division (A) of this section, the face-to-face interview shall not be conducted by the department of job and family services.

(C) Subject to division (B) of this section, if the director elects to accept applications, determine eligibility, redetermine eligibility, and perform related administrative activities for a program specified in or pursuant to division (A) of this section, both of the following apply:

(1) An individual seeking services under the program may apply for the program to the director or to the entity that state law governing the program authorizes to accept applications for the program.

(2) The director is subject to federal statutes and regulations and state ~~law~~ statutes and rules that require, permit, or prohibit an action regarding accepting applications, determining or redetermining eligibility, and performing related administrative activities for the program.

~~(C)(D)~~ The director may adopt rules as necessary to implement this section.

Sec. 5101.80. (A) As used in this section and in section 5101.801 of the Revised Code:

(1) "County family services agency" has the same meaning as in section 307.981 of the Revised Code.

(2) "State agency" has the same meaning as in section 9.82 of the Revised Code.

(3) "Title IV-A administrative agency" means both of the following:

(a) A county family services agency or state agency administering a Title IV-A program under the supervision of the department of job and family services;

(b) A government agency or private, not-for-profit entity administering a project funded in whole or in part with funds provided under the Title IV-A demonstration program created under section 5101.803 of the Revised Code.

(4) "Title IV-A program" means all of the following that are funded in part with funds provided under the temporary assistance for needy families block grant established by Title IV-A of the "Social Security Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as amended:

(a) The Ohio works first program established under Chapter 5107. of the Revised Code;

(b) The prevention, retention, and contingency program established under Chapter 5108. of the Revised Code;

(c) A program established by the general assembly or an executive order issued by the governor that is administered or supervised by the department of job and family services pursuant to section 5101.801 of the Revised Code;

(d) The kinship permanency incentive program created under section



5101.802 of the Revised Code:

(e) The Title IV-A demonstration program created under section 5101.803 of the Revised Code;

(f) A component of a Title IV-A program identified under divisions (A)(3)(4)(a) to (e)(e) of this section that the Title IV-A state plan prepared under division (C)(1) of this section identifies as a component.

(B) The department of job and family services shall act as the single state agency to administer and supervise the administration of Title IV-A programs. The Title IV-A state plan and amendments to the plan prepared under division (C) of this section are binding on ~~county family services agencies and state agencies that administer a Title IV-A program~~ administrative agencies. No ~~county family services agency or state agency administering a Title IV-A program~~ administrative agency may establish, by rule or otherwise, a policy governing ~~the a~~ a Title IV-A program that is inconsistent with a Title IV-A program policy established, in rule or otherwise, by the director of job and family services.

(C) The department of job and family services shall do all of the following:

(1) Prepare and submit to the United States secretary of health and human services a Title IV-A state plan for Title IV-A programs;

(2) Prepare and submit to the United States secretary of health and human services amendments to the Title IV-A state plan that the department determines necessary, including amendments necessary to implement Title IV-A programs identified in ~~division~~ divisions (A)(3)(4)(c) ~~and (d)~~ to (f) of this section;

(3) Prescribe forms for applications, certificates, reports, records, and accounts of ~~county family services agencies and state agencies administering a Title IV-A program~~ administrative agencies, and other matters related to Title IV-A programs;

(4) Make such reports, in such form and containing such information as the department may find necessary to assure the correctness and verification of such reports, regarding Title IV-A programs;

(5) Require reports and information from each ~~county family services agency and state agency administering a Title IV-A program~~ administrative agency as may be necessary or advisable regarding ~~the a~~ a Title IV-A program;

(6) Afford a fair hearing in accordance with section 5101.35 of the Revised Code to any applicant for, or participant or former participant of, a Title IV-A program aggrieved by a decision regarding the program;

(7) Administer and expend, pursuant to Chapters 5104., 5107., and

5108. of the Revised Code and ~~section~~ sections 5101.801, 5101.802, and 5101.803 of the Revised Code, any sums appropriated by the general assembly for the purpose of those chapters and ~~section~~ sections and all sums paid to the state by the secretary of the treasury of the United States as authorized by Title IV-A of the "Social Security Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as amended;

(8) Conduct investigations and audits as are necessary regarding Title IV-A programs;

(9) Enter into reciprocal agreements with other states relative to the provision of Ohio works first and prevention, retention, and contingency to residents and nonresidents;

(10) Contract with a private entity to conduct an independent on-going evaluation of the Ohio works first program and the prevention, retention, and contingency program. The contract must require the private entity to do all of the following:

(a) Examine issues of process, practice, impact, and outcomes;

(b) Study former participants of Ohio works first who have not participated in Ohio works first for at least one year to determine whether they are employed, the type of employment in which they are engaged, the amount of compensation they are receiving, whether their employer provides health insurance, whether and how often they have received benefits or services under the prevention, retention, and contingency program, and whether they are successfully self sufficient;

(c) Provide the department with reports at times the department specifies.

(11) Not later than January 1, 2001, and the first day of each January and July thereafter, prepare a report containing information on the following:

(a) Individuals exhausting the time limits for participation in Ohio works first set forth in section 5107.18 of the Revised Code.

(b) Individuals who have been exempted from the time limits set forth in section 5107.18 of the Revised Code and the reasons for the exemption.

~~(12) Not later than January 1, 2001, and on a quarterly basis thereafter until December 1, 2003, prepare, to the extent the necessary data is available to the department, a report based on information determined under section 5107.80 of the Revised Code that states how many former Ohio works first participants entered the workforce during the most recent previous quarter for which the information is known and includes information regarding the earnings of those former participants. The report shall include a county by county breakdown and shall not contain the names or social~~

~~security numbers of former participants.~~

~~(13) To the extent authorized by section 5101.801 of the Revised Code, enter into interagency agreements with state agencies for the administration of Title IV-A programs identified under division (A)(3)(c) and (d) of this section.~~

(D) The department shall provide copies of the reports it receives under division (C)(10) of this section and prepares under ~~divisions~~ division (C)(11) ~~and (12)~~ of this section to the governor, the president and minority leader of the senate, and the speaker and minority leader of the house of representatives. The department shall provide copies of the reports to any private or government entity on request.

(E) An authorized representative of the department or a county family services agency or state agency administering a Title IV-A program shall have access to all records and information bearing thereon for the purposes of investigations conducted pursuant to this section. An authorized representative of a government entity or private, not-for-profit entity administering a project funded in whole or in part with funds provided under the Title IV-A demonstration program shall have access to all records and information bearing on the project for the purpose of investigations conducted pursuant to this section.

Sec. 5101.801. (A) Except as otherwise provided by the law enacted by the general assembly or executive order issued by the governor establishing the Title IV-A program, a Title IV-A program identified under division (A)~~(3)(4)(c) or~~, (d), ~~(e), or (f)~~ of section 5101.80 of the Revised Code shall provide benefits and services that are not "assistance" as defined in 45 C.F.R. 260.31(a) and are benefits and services that 45 C.F.R. 260.31(b) excludes from the definition of assistance.

(B)(1) Except as otherwise provided by the law enacted by the general assembly or executive order issued by the governor establishing the Title IV-A program, the department of job and family services shall do either of the following regarding a Title IV-A program identified under division (A)~~(3)(4)(c) or~~, (d), ~~(e), or (f)~~ of section 5101.80 of the Revised Code:

~~(1)(a)~~ Administer the program or supervise a county family services agency's administration of the program;

~~(2)(b)~~ Enter into an interagency agreement with a state agency for the state agency to administer the program under the department's supervision.

(2) The department may enter into an agreement with a government entity and, to the extent permitted by federal law, a private, not-for-profit entity for the entity to receive funding for a project under the Title IV-A demonstration program.

~~(C) If the department administers or supervises the administration of a Title IV-A program identified under division (A)(3)(e) or (d) of section 5101.80 of the Revised Code pursuant to division (B)(1) of this section, the~~  
The department may adopt rules governing the program Title IV-A programs identified under divisions (A)(4)(c), (d), (e), and (f) of section 5101.80 of the Revised Code. Rules governing financial and operational matters of the department or between the department and the county family services ~~agency~~ agencies shall be adopted as internal management rules adopted in accordance with section 111.15 of the Revised Code. All other rules shall be adopted in accordance with Chapter 119. of the Revised Code.

(D) If the department enters into an ~~interagency~~ agreement regarding a Title IV-A program identified under division (A)(~~3~~)(4)(c) ~~or (d), (e), or (f)~~ of section 5101.80 of the Revised Code pursuant to division (B)(1)(b) or (2) of this section, the agreement shall include at least all of the following:

(1) A requirement that the state agency or entity comply with the requirements for the program or project, including all of the following requirements established by federal statutes and regulations, state statutes and rules, the United States office of management and budget, and the Title IV-A state plan prepared under section 5101.80 of the Revised Code:

- (a) Eligibility;
  - (b) Reports;
  - (c) Benefits and services;
  - (d) Use of funds;
  - (e) Appeals for applicants for, and recipients and former recipients of, the benefits and services;
  - (f) Audits.
- (2) A complete description of all of the following:
- (a) The benefits and services that the program or project is to provide;
  - (b) The methods of program or project administration;
  - (c) The appeals process under section 5101.35 of the Revised Code for applicants for, and recipients and former recipients of, the ~~program's~~ program or project's benefits and services;
  - (d) Other ~~program and administrative~~ requirements that the department requires be included.

(3) Procedures for the department to approve a policy, established by rule or otherwise, that the state agency or entity establishes for the program or project before the policy is established;

(4) Provisions regarding how the department is to reimburse the state agency or entity for allowable expenditures under the program or project that the department approves, including all of the following:

(a) Limitations on administrative costs;

(b) The department, at its discretion, ~~withholding~~ doing either of the following:

(i) Withholding no more than five per cent of the funds that the department would otherwise provide to the state agency or entity for the program ~~or charging project~~;

(ii) Charging the state agency or entity for the costs to the department of performing, or contracting for the performance of, audits and other administrative functions associated with the program or project.

(5) If the state agency or entity arranges by contract, grant, or other agreement for another entity to perform a function the state agency or entity would otherwise perform regarding the program or project, the state ~~agency's~~ agency or entity's responsibilities for both of the following:

(a) Ensuring that the other entity complies with the ~~interagency~~ agreement between the state agency or entity and department and federal statutes and regulations and state statutes and rules governing the use of funds for the program or project;

(b) Auditing the other entity in accordance with requirements established by the United States office of management and budget.

(6) The state ~~agency's~~ agency or entity's responsibilities regarding the prompt payment, including any interest assessed, of any adverse audit finding, final disallowance of federal funds, or other sanction or penalty imposed by the federal government, auditor of state, department, a court, or other entity regarding funds for the program or project;

(7) Provisions for the department to terminate the ~~interagency~~ agreement or withhold reimbursement from the state agency or entity if either of the following occur:

(a) The federal government disapproves the program or project or reduces federal funds for the program or project;

(b) The state agency or entity fails to comply with the terms of the ~~interagency~~ agreement.

(8) Provisions for both of the following:

(a) The department and state agency or entity determining the performance outcomes expected for the program or project;

(b) An evaluation of the program or project to determine its success in achieving the performance outcomes determined under division (D)(8)(a) of this section.

(E) To the extent consistent with the law enacted by the general assembly or executive order issued by the governor establishing the Title IV-A program and subject to the approval of the director of budget and

management, the director of job and family services may terminate a Title IV-A program identified under division (A)(3)(4)(c) or (d), (e), or (f) of section 5101.80 of the Revised Code or reduce funding for the program if the director of job and family services determines that federal or state funds are insufficient to fund the program. If the director of budget and management approves the termination or reduction in funding for such a program, the director of job and family services shall issue instructions for the termination or funding reduction. If a ~~county family services agency or state~~ Title IV-A administrative agency is administering the program, the ~~county family services agency or state~~ agency is bound by the termination or funding reduction and shall comply with the director's instructions.

(F) The director of job and family services may adopt internal management rules in accordance with section 111.15 of the Revised Code as necessary to implement this section. The rules are binding on each ~~county family services agency and state agency administering, pursuant to this section, a Title IV-A program identified in division (A)(3)(e) or (d) of section 5101.80 of the Revised Code~~ administrative agency.

Sec. 5101.802. (A) As used in this section:

(1) "Custodian," "guardian," and "minor child" have the same meanings as in section 5107.02 of the Revised Code.

(2) "Federal poverty guidelines" has the same meaning as in section 5101.46 of the Revised Code.

(3) "Kinship caregiver" has the same meaning as in section 5101.85 of the Revised Code.

(B) Subject to division (E) of section 5101.801 of the Revised Code, there is hereby created the kinship permanency incentive program to promote permanency for a minor child in the legal and physical custody of a kinship caregiver. The program shall provide an initial one-time incentive payment to the kinship caregiver to defray the costs of initial placement of the minor child in the kinship caregiver's home. The program may provide additional permanency incentive payments for the minor child at six month intervals for a total period not to exceed thirty-six months.

(C) A kinship caregiver may participate in the program if all of the following requirements are met:

(1) The kinship caregiver applies to a public children services agency in accordance with the application process established in rules authorized by division (E) of this section;

(2) The minor child the kinship caregiver is caring for is a child with special needs as that term is defined in rules adopted under section 5153.163 of the Revised Code;

(3) A juvenile court has adjudicated the minor child to be an abused, neglected, dependent, or unruly child and determined that it is in the child's best interest to be in the legal custody of the kinship caregiver or the probate court has determined that it is in the child's best interest to be in the guardianship of the kinship caregiver;

(4) The kinship caregiver is either the minor child's custodian or guardian;

(5) The minor child resides with the kinship caregiver pursuant to a placement approval process established in rules authorized by division (E) of this section;

(6) The gross income of the kinship caregiver's family, including the minor child, does not exceed two hundred per cent of the federal poverty guidelines.

(D) Public children services agencies shall make initial and ongoing eligibility determinations for the kinship permanency incentive program in accordance with rules authorized by division (E) of this section. The director of job and family services shall supervise public children services agencies' duties under this section.

(E) The director of job and family services shall adopt rules under division (C) of section 5101.801 of the Revised Code as necessary to implement the kinship permanency incentive program. The rules shall establish all of the following:

(1) The application process for the program;

(2) The placement approval process through which a minor child is placed with a kinship caregiver for the kinship caregiver to be eligible for the program;

(3) The initial and ongoing eligibility determination process for the program;

(4) The amount of the incentive payments provided under the program;

(5) The method by which the incentive payments are provided to a kinship caregiver;

(6) Anything else the director considers necessary to implement the program.

(F) The director shall begin implementation of the kinship permanency incentive program no later than January 1, 2006.

Sec. 5101.803. (A) Subject to division (E) of section 5101.801 of the Revised Code, there is hereby created the Title IV-A demonstration program to provide funding for innovative and promising prevention and intervention projects that meet one or more of the four purposes of the temporary assistance for needy families block grant as specified in 42 U.S.C. 601 and

are for individuals with specific and multiple barriers to achieving or maintaining self-sufficiency and personal responsibility. The department of job and family services may provide funding for such projects to government entities and, to the extent permitted by federal law, private, not-for-profit entities with which the department enters into agreements under division (B)(2) of section 5101.801 of the Revised Code.

In accordance with criteria the department develops, the department may solicit proposals for entities seeking to enter into an agreement with the department under division (B)(2) of section 5101.801 of the Revised Code. The department may enter into such agreements with entities that do both of the following:

(1) Meet the proposals' criteria;

(2) If the entity's proposed project does not potentially affect persons in each county of the state, provides the department evidence that the entity has notified, in writing, the county department of job and family services of each county where persons may be affected by the implementation of the project.

(B) In developing the criteria, soliciting the proposals, and entering in the agreements, the department shall comply with all applicable federal and state laws, the Title IV-A state plan submitted to the United States secretary of health and human services under section 5101.80 of the Revised Code, amendments to the Title IV-A state plan submitted to the United States secretary under that section, and federal waivers the United States secretary grants.

(C) The department shall begin implementation of the Title IV-A demonstration program no later than January 1, 2006.

Sec. 5101.821. Except as otherwise approved by the director of budget and management, the department of job and family services shall deposit federal funds received under Title IV-A of the "Social Security Act," 42 U.S.C.A. 601, 110 Stat. 2113 (1996), into the temporary assistance for needy families (TANF) federal fund, which is hereby created in the state treasury. The department shall use money in the fund for the Ohio works first program established under Chapter 5107. of the Revised Code; the prevention, retention, and contingency program established under Chapter 5108. of the Revised Code; social services provided pursuant to section 5101.461 of the Revised Code; and any other purposes consistent with Title IV-A, federal regulations, federal waivers granted by the United States secretary of health and human services, state law, the Title IV-A state plan and amendments submitted to the United States secretary of health and human services under section 5101.80 of the Revised Code, and rules



adopted by the department under section 5107.05 of the Revised Code.

Sec. 5101.93. (A) The director of job and family services shall determine whether a waiver of federal medicaid requirements is necessary to fulfill the requirements of section 3901.3814 of the Revised Code. If the director determines a waiver is necessary, the department of job and family services shall apply to the United States secretary of health and human services for the waiver.

(B)(1) If the director determines that section 3901.3814 of the Revised Code can be implemented without a waiver or a waiver is granted, the department shall notify the department of insurance that the section can be implemented. Implementation of the section shall be effective eighteen months after the notice is sent.

(2) At the time the notice is given under division (B)(1) of this section, the department shall also give notice to each health insuring corporation that provides coverage to medicaid recipients. The notice shall inform the corporation that sections 3901.38 and 3901.381 to 3901.3814 of the Revised Code apply to claims for services rendered to recipients on the date determined under division (B)(1) of this section. That date shall be specified in the notice.

Sec. 5101.98. (A) There is hereby created in the state treasury the military injury relief fund, which shall consist of money contributed to it under section 5747.113 of the Revised Code and of contributions made directly to it. Any person may contribute directly to the fund in addition to or independently of the income tax refund contribution system established in section 5747.113 of the Revised Code.

(B) Upon application, the director of job and family services shall grant money in the fund to individuals injured while in active service as a member of the armed forces of the United States and while serving under operation Iraqi freedom or operation enduring freedom.

(C) An individual who receives a grant under this section is not precluded from receiving one or more additional grants under this section and is not precluded from being considered for or receiving other assistance offered by the department of job and family services.

(D) The director shall adopt rules under Chapter 119. of the Revised Code establishing:

(1) Forms and procedures by which individuals may apply for a grant under this section;

(2) Criteria for reviewing, evaluating, and ranking grant applications;

(3) Criteria for determining the amount of grants awarded under this section; and

(4) Any other rules necessary to administer the grant program established in this section.

Sec. 5104.01. As used in this chapter:

(A) "Administrator" means the person responsible for the daily operation of a center or type A home. The administrator and the owner may be the same person.

(B) "Approved child day camp" means a child day camp approved pursuant to section 5104.22 of the Revised Code.

(C) "Authorized provider" means a person authorized by a county director of job and family services to operate a certified type B family day-care home.

(D) "Border state child care provider" means a child care provider that is located in a state bordering Ohio and that is licensed, certified, or otherwise approved by that state to provide child care.

(E) "Caretaker parent" means the father or mother of a child whose presence in the home is needed as the caretaker of the child, a person who has legal custody of a child and whose presence in the home is needed as the caretaker of the child, a guardian of a child whose presence in the home is needed as the caretaker of the child, and any other person who stands in loco parentis with respect to the child and whose presence in the home is needed as the caretaker of the child.

(F) "Certified type B family day-care home" and "certified type B home" mean a type B family day-care home that is certified by the director of the county department of job and family services pursuant to section 5104.11 of the Revised Code to receive public funds for providing child care pursuant to this chapter and any rules adopted under it.

(G) "Chartered nonpublic school" means a school that meets standards for nonpublic schools prescribed by the state board of education for nonpublic schools pursuant to section 3301.07 of the Revised Code.

(H) "Child" includes an infant, toddler, preschool child, or school child.

(I) "Child care block grant act" means the "Child Care and Development Block Grant Act of 1990," established in section 5082 of the "Omnibus Budget Reconciliation Act of 1990," 104 Stat. 1388-236 (1990), 42 U.S.C. 9858, as amended.

(J) "Child day camp" means a program in which only school children attend or participate, that operates for no more than seven hours per day, that operates only during one or more public school district's regular vacation periods or for no more than fifteen weeks during the summer, and that operates outdoor activities for each child who attends or participates in the program for a minimum of fifty per cent of each day that children attend or

participate in the program, except for any day when hazardous weather conditions prevent the program from operating outdoor activities for a minimum of fifty per cent of that day. For purposes of this division, the maximum seven hours of operation time does not include transportation time from a child's home to a child day camp and from a child day camp to a child's home.

(K) "Child care" means administering to the needs of infants, toddlers, preschool children, and school children outside of school hours by persons other than their parents or guardians, custodians, or relatives by blood, marriage, or adoption for any part of the twenty-four-hour day in a place or residence other than a child's own home.

(L) "Child day-care center" and "center" mean any place in which child care or publicly funded child care is provided for thirteen or more children at one time or any place that is not the permanent residence of the licensee or administrator in which child care or publicly funded child care is provided for seven to twelve children at one time. In counting children for the purposes of this division, any children under six years of age who are related to a licensee, administrator, or employee and who are on the premises of the center shall be counted. "Child day-care center" and "center" do not include any of the following:

(1) A place located in and operated by a hospital, as defined in section 3727.01 of the Revised Code, in which the needs of children are administered to, if all the children whose needs are being administered to are monitored under the on-site supervision of a physician licensed under Chapter 4731. of the Revised Code or a registered nurse licensed under Chapter 4723. of the Revised Code, and the services are provided only for children who, in the opinion of the child's parent, guardian, or custodian, are exhibiting symptoms of a communicable disease or other illness or are injured;

(2) A child day camp;

(3) A place that provides child care, but not publicly funded child care, if all of the following apply:

(a) An organized religious body provides the child care;

(b) A parent, custodian, or guardian of at least one child receiving child care is on the premises and readily accessible at all times;

(c) The child care is not provided for more than thirty days a year;

(d) The child care is provided only for preschool and school children.

(M) "Child care resource and referral service organization" means a community-based nonprofit organization that provides child care resource and referral services but not child care.

(N) "Child care resource and referral services" means all of the following services:

(1) Maintenance of a uniform data base of all child care providers in the community that are in compliance with this chapter, including current occupancy and vacancy data;

(2) Provision of individualized consumer education to families seeking child care;

(3) Provision of timely referrals of available child care providers to families seeking child care;

(4) Recruitment of child care providers;

(5) Assistance in the development, conduct, and dissemination of training for child care providers and provision of technical assistance to current and potential child care providers, employers, and the community;

(6) Collection and analysis of data on the supply of and demand for child care in the community;

(7) Technical assistance concerning locally, state, and federally funded child care and early childhood education programs;

(8) Stimulation of employer involvement in making child care more affordable, more available, safer, and of higher quality for their employees and for the community;

(9) Provision of written educational materials to caretaker parents and informational resources to child care providers;

(10) Coordination of services among child care resource and referral service organizations to assist in developing and maintaining a statewide system of child care resource and referral services if required by the department of job and family services;

(11) Cooperation with the county department of job and family services in encouraging the establishment of parent cooperative child care centers and parent cooperative type A family day-care homes.

(O) "Child-care staff member" means an employee of a child day-care center or type A family day-care home who is primarily responsible for the care and supervision of children. The administrator may be a part-time child-care staff member when not involved in other duties.

(P) "Drop-in child day-care center," "drop-in center," "drop-in type A family day-care home," and "drop-in type A home" mean a center or type A home that provides child care or publicly funded child care for children on a temporary, irregular basis.

(Q) "Employee" means a person who either:

(1) Receives compensation for duties performed in a child day-care center or type A family day-care home;

(2) Is assigned specific working hours or duties in a child day-care center or type A family day-care home.

(R) "Employer" means a person, firm, institution, organization, or agency that operates a child day-care center or type A family day-care home subject to licensure under this chapter.

(S) "Federal poverty line" means the official poverty guideline as revised annually in accordance with section 673(2) of the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C. 9902, as amended, for a family size equal to the size of the family of the person whose income is being determined.

(T) "Head start program" means a comprehensive child development program that receives funds distributed under the "Head Start Act," 95 Stat. 499 (1981), 42 U.S.C.A. 9831, as amended, ~~or under sections 3301.31 to 3301.37 of the Revised Code~~ and is licensed as a child day-care center.

(U) "Income" means gross income, as defined in section 5107.10 of the Revised Code, less any amounts required by federal statutes or regulations to be disregarded.

(V) "Indicator checklist" means an inspection tool, used in conjunction with an instrument-based program monitoring information system, that contains selected licensing requirements that are statistically reliable indicators or predictors of a child day-care center or type A family day-care home's compliance with licensing requirements.

(W) "Infant" means a child who is less than eighteen months of age.

(X) "In-home aide" means a person certified by a county director of job and family services pursuant to section 5104.12 of the Revised Code to provide publicly funded child care to a child in a child's own home pursuant to this chapter and any rules adopted under it.

(Y) "Instrument-based program monitoring information system" means a method to assess compliance with licensing requirements for child day-care centers and type A family day-care homes in which each licensing requirement is assigned a weight indicative of the relative importance of the requirement to the health, growth, and safety of the children that is used to develop an indicator checklist.

(Z) "License capacity" means the maximum number in each age category of children who may be cared for in a child day-care center or type A family day-care home at one time as determined by the director of job and family services considering building occupancy limits established by the department of commerce, number of available child-care staff members, amount of available indoor floor space and outdoor play space, and amount of available play equipment, materials, and supplies.

(AA) "Licensed preschool program" or "licensed school child program" means a preschool program or school child program, as defined in section 3301.52 of the Revised Code, that is licensed by the department of education pursuant to sections 3301.52 to 3301.59 of the Revised Code.

(BB) "Licensee" means the owner of a child day-care center or type A family day-care home that is licensed pursuant to this chapter and who is responsible for ensuring its compliance with this chapter and rules adopted pursuant to this chapter.

(CC) "Operate a child day camp" means to operate, establish, manage, conduct, or maintain a child day camp.

(DD) "Owner" includes a person, as defined in section 1.59 of the Revised Code, or government entity.

(EE) "Parent cooperative child day-care center," "parent cooperative center," "parent cooperative type A family day-care home," and "parent cooperative type A home" mean a corporation or association organized for providing educational services to the children of members of the corporation or association, without gain to the corporation or association as an entity, in which the services of the corporation or association are provided only to children of the members of the corporation or association, ownership and control of the corporation or association rests solely with the members of the corporation or association, and at least one parent-member of the corporation or association is on the premises of the center or type A home during its hours of operation.

(FF) "Part-time child day-care center," "part-time center," "part-time type A family day-care home," and "part-time type A home" mean a center or type A home that provides child care or publicly funded child care for no more than four hours a day for any child.

(GG) "Place of worship" means a building where activities of an organized religious group are conducted and includes the grounds and any other buildings on the grounds used for such activities.

(HH) "Preschool child" means a child who is three years old or older but is not a school child.

(II) "Protective child care" means publicly funded child care for the direct care and protection of a child to whom either of the following applies:

(1) A case plan prepared and maintained for the child pursuant to section 2151.412 of the Revised Code indicates a need for protective care and the child resides with a parent, stepparent, guardian, or another person who stands in loco parentis as defined in rules adopted under section 5104.38 of the Revised Code;

(2) The child and the child's caretaker either temporarily reside in a

facility providing emergency shelter for homeless families or are determined by the county department of job and family services to be homeless, and are otherwise ineligible for publicly funded child care.

(JJ) "Publicly funded child care" means administering to the needs of infants, toddlers, preschool children, and school children under age thirteen during any part of the twenty-four-hour day by persons other than their caretaker parents for remuneration wholly or in part with federal or state funds, including funds available under the child care block grant act, Title IV-A, and Title XX, distributed by the department of job and family services.

(KK) "Religious activities" means any of the following: worship or other religious services; religious instruction; Sunday school classes or other religious classes conducted during or prior to worship or other religious services; youth or adult fellowship activities; choir or other musical group practices or programs; meals; festivals; or meetings conducted by an organized religious group.

(LL) "School child" means a child who is enrolled in or is eligible to be enrolled in a grade of kindergarten or above but is less than fifteen years old.

(MM) "School child day-care center," "school child center," "school child type A family day-care home," and "school child type A family home" mean a center or type A home that provides child care for school children only and that does either or both of the following:

(1) Operates only during that part of the day that immediately precedes or follows the public school day of the school district in which the center or type A home is located;

(2) Operates only when the public schools in the school district in which the center or type A home is located are not open for instruction with pupils in attendance.

(NN) "State median income" means the state median income calculated by the department of development pursuant to division (A)(1)(g) of section 5709.61 of the Revised Code.

(OO) "Title IV-A" means Title IV-A of the "Social Security Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as amended.

(PP) "Title XX" means Title XX of the "Social Security Act," 88 Stat. 2337 (1974), 42 U.S.C. 1397, as amended.

(QQ) "Toddler" means a child who is at least eighteen months of age but less than three years of age.

(RR) "Type A family day-care home" and "type A home" mean a permanent residence of the administrator in which child care or publicly funded child care is provided for seven to twelve children at one time or a

permanent residence of the administrator in which child care is provided for four to twelve children at one time if four or more children at one time are under two years of age. In counting children for the purposes of this division, any children under six years of age who are related to a licensee, administrator, or employee and who are on the premises of the type A home shall be counted. "Type A family day-care home" does not include a residence in which the needs of children are administered to, if all of the children whose needs are being administered to are siblings of the same immediate family and the residence is the home of the siblings. "Type A family day-care home" and "type A home" do not include any child day camp.

(SS) "Type B family day-care home" and "type B home" mean a permanent residence of the provider in which child care is provided for one to six children at one time and in which no more than three children are under two years of age at one time. In counting children for the purposes of this division, any children under six years of age who are related to the provider and who are on the premises of the type B home shall be counted. "Type B family day-care home" does not include a residence in which the needs of children are administered to, if all of the children whose needs are being administered to are siblings of the same immediate family and the residence is the home of the siblings. "Type B family day-care home" and "type B home" do not include any child day camp.

Sec. 5104.02. (A) The director of job and family services is responsible for the licensing of child day-care centers and type A family day-care homes, ~~and. Each entity operating a head start program shall meet the criteria for, and be licensed as, a child day-care center. The director is responsible~~ for the enforcement of this chapter and of rules promulgated pursuant to this chapter. ~~No~~

No person, firm, organization, institution, or agency shall operate, establish, manage, conduct, or maintain a child day-care center or type A family day-care home without a license issued under section 5104.03 of the Revised Code. The current license shall be posted in a conspicuous place in the center or type A home that is accessible to parents, custodians, or guardians and employees of the center or type A home at all times when the center or type A home is in operation.

(B) A person, firm, institution, organization, or agency operating any of the following programs is exempt from the requirements of this chapter:

(1) A program of child care that operates for two or less consecutive weeks;

(2) Child care in places of worship during religious activities during



which children are cared for while at least one parent, guardian, or custodian of each child is participating in such activities and is readily available;

(3) Religious activities which do not provide child care;

(4) Supervised training, instruction, or activities of children in specific areas, including, but not limited to: art; drama; dance; music; gymnastics, swimming, or another athletic skill or sport; computers; or an educational subject conducted on an organized or periodic basis no more than one day a week and for no more than six hours duration;

(5) Programs in which the director determines that at least one parent, custodian, or guardian of each child is on the premises of the facility offering child care and is readily accessible at all times, except that child care provided on the premises at which a parent, custodian, or guardian is employed more than two and one-half hours a day shall be licensed in accordance with division (A) of this section;

(6)(a) Programs that provide child care funded and regulated or operated and regulated by state departments other than the department of job and family services or the state board of education when the director of job and family services has determined that the rules governing the program are equivalent to or exceed the rules promulgated pursuant to this chapter.

Notwithstanding any exemption from regulation under this chapter, each state department shall submit to the director of job and family services a copy of the rules that govern programs that provide child care and are regulated or operated and regulated by the department. Annually, each state department shall submit to the director a report for each such program it regulates or operates and regulates that includes the following information:

(i) The site location of the program;

(ii) The maximum number of infants, toddlers, preschool children, or school children served by the program at one time;

(iii) The number of adults providing child care for the number of infants, toddlers, preschool children, or school children;

(iv) Any changes in the rules made subsequent to the time when the rules were initially submitted to the director.

The director shall maintain a record of the child care information submitted by other state departments and shall provide this information upon request to the general assembly or the public.

(b) Child care programs conducted by boards of education or by chartered nonpublic schools that are conducted in school buildings and that provide child care to school children only shall be exempt from meeting or exceeding rules promulgated pursuant to this chapter.

(7) Any preschool program or school child program, except a head start

program, that is subject to licensure by the department of education under sections 3301.52 to 3301.59 of the Revised Code.

(8) Any program providing child care that meets all of the following requirements and, on October 20, 1987, was being operated by a nonpublic school that holds a charter issued by the state board of education for kindergarten only:

(a) The nonpublic school has given the notice to the state board and the director of job and family services required by Section 4 of Substitute House Bill No. 253 of the 117th general assembly;

(b) The nonpublic school continues to be chartered by the state board for kindergarten, or receives and continues to hold a charter from the state board for kindergarten through grade five;

(c) The program is conducted in a school building;

(d) The program is operated in accordance with rules promulgated by the state board under sections 3301.52 to 3301.57 of the Revised Code.

(9) A youth development program operated outside of school hours by a community-based center to which all of the following apply:

(a) The children enrolled in the program are under nineteen years of age and enrolled in or eligible to be enrolled in a grade of kindergarten or above.

(b) The program provides informal child care and at least two of the following supervised activities: educational, recreational, culturally enriching, social, and personal development activities.

(c) The state board of education has approved the program's participation in the child and adult care food program as an outside-school-hours care center pursuant to standards established under section 3313.813 of the Revised Code.

(d) The community-based center operating the program is exempt from federal income taxation pursuant to 26 U.S.C. 501(a) and (c)(3).

Sec. 5104.32. (A) Except as provided in division (C) of this section, all purchases of publicly funded child care shall be made under a contract entered into by a licensed child day-care center, licensed type A family day-care home, certified type B family day-care home, certified in-home aide, approved child day camp, licensed preschool program, licensed school child program, or border state child care provider and the county department of job and family services. A county department of job and family services may enter into a contract with a provider for publicly funded child care for a specified period of time or upon a continuous basis for an unspecified period of time. All contracts for publicly funded child care shall be contingent upon the availability of state and federal funds. The department of job and family services shall prescribe a standard form to be used for all contracts for the

purchase of publicly funded child care, regardless of the source of public funds used to purchase the child care. To the extent permitted by federal law and notwithstanding any other provision of the Revised Code that regulates state or county contracts or contracts involving the expenditure of state, county, or federal funds, all contracts for publicly funded child care shall be entered into in accordance with the provisions of this chapter and are exempt from any other provision of the Revised Code that regulates state or county contracts or contracts involving the expenditure of state, county, or federal funds.

(B) Each contract for publicly funded child care shall specify at least the following:

(1) That the provider of publicly funded child care agrees to be paid for rendering services at the lowest of the rate customarily charged by the provider for children enrolled for child care, the reimbursement ceiling or rate of payment established pursuant to section 5104.30 of the Revised Code, or a rate the county department negotiates with the provider;

(2) That, if a provider provides child care to an individual potentially eligible for publicly funded child care who is subsequently determined to be eligible, the county department agrees to pay for all child care provided between the date the county department receives the individual's completed application and the date the individual's eligibility is determined;

(3) Whether the county department of job and family services, the provider, or a child care resource and referral service organization will make eligibility determinations, whether the provider or a child care resource and referral service organization will be required to collect information to be used by the county department to make eligibility determinations, and the time period within which the provider or child care resource and referral service organization is required to complete required eligibility determinations or to transmit to the county department any information collected for the purpose of making eligibility determinations;

(4) That the provider, other than a border state child care provider ~~or except as provided in division (B) of section 3301.37 of the Revised Code,~~ shall continue to be licensed, approved, or certified pursuant to this chapter and shall comply with all standards and other requirements in this chapter and in rules adopted pursuant to this chapter for maintaining the provider's license, approval, or certification;

(5) That, in the case of a border state child care provider, the provider shall continue to be licensed, certified, or otherwise approved by the state in which the provider is located and shall comply with all standards and other requirements established by that state for maintaining the provider's license,

certificate, or other approval;

(6) Whether the provider will be paid by the county department of job and family services or the state department of job and family services;

(7) That the contract is subject to the availability of state and federal funds.

(C) Unless specifically prohibited by federal law, the county department of job and family services shall give individuals eligible for publicly funded child care the option of obtaining certificates for payment that the individual may use to purchase services from any provider qualified to provide publicly funded child care under section 5104.31 of the Revised Code. Providers of publicly funded child care may present these certificates for payment for reimbursement in accordance with rules that the director of job and family services shall adopt. Only providers may receive reimbursement for certificates for payment. The value of the certificate for payment shall be based on the lowest of the rate customarily charged by the provider, the reimbursement ceiling or rate of payment established pursuant to section 5104.30 of the Revised Code, or a rate the county department negotiates with the provider. The county department may provide the certificates for payment to the individuals or may contract with child care providers or child care resource and referral service organizations that make determinations of eligibility for publicly funded child care pursuant to contracts entered into under section 5104.34 of the Revised Code for the providers or resource and referral service organizations to provide the certificates for payment to individuals whom they determine are eligible for publicly funded child care.

For each six-month period a provider of publicly funded child care provides publicly funded child day-care to the child of an individual given certificates for payment, the individual shall provide the provider certificates for days the provider would have provided publicly funded child care to the child had the child been present. County departments shall specify the maximum number of days providers will be provided certificates of payment for days the provider would have provided publicly funded child care had the child been present. The maximum number of days shall not exceed ten days in a six-month period during which publicly funded child care is provided to the child regardless of the number of providers that provide publicly funded child care to the child during that period.

Sec. 5107.05. The director of job and family services shall adopt rules to implement this chapter. The rules shall be consistent with Title IV-A, Title IV-D, federal regulations, state law, the Title IV-A state plan submitted to the United States secretary of health and human services under section 5101.80 of the Revised Code, amendments to the plan, and waivers granted

by the United States secretary. Rules governing eligibility, program participation, and other applicant and participant requirements shall be adopted in accordance with Chapter 119. of the Revised Code. Rules governing financial and other administrative requirements applicable to the department of job and family services and county departments of job and family services shall be adopted in accordance with section 111.15 of the Revised Code.

(A) The rules shall specify, establish, or govern all of the following:

(1) A payment standard for Ohio works first based on federal and state appropriations;

(2) The method of determining the amount of cash assistance an assistance group receives under Ohio works first;

(3) Requirements for initial and continued eligibility for Ohio works first, including requirements regarding income, citizenship, age, residence, and assistance group composition. The rules regarding income shall specify what is countable income, gross earned income, and gross unearned income for the purpose of section 5107.10 of the Revised Code.

(4) For the purpose of section 5107.12 of the Revised Code, application and verification procedures, including the minimum information an application must contain;

(5) The extent to which a participant of Ohio works first must notify, pursuant to section 5107.12 of the Revised Code, a county department of job and family services of additional income not previously reported to the county department;

(6) The department of job and family services providing written notice of a sanction under section 5107.161 of the Revised Code;

(7) Requirements for the collection and distribution of support payments owed participants of Ohio works first pursuant to section 5107.20 of the Revised Code;

(8) For the purpose of section 5107.22 of the Revised Code, what constitutes cooperating in establishing a minor child's paternity or establishing, modifying, or enforcing a child support order and good cause for failure or refusal to cooperate. The rule shall be consistent with 42 U.S.C.A. 654(29).

(9) ~~The administration of requirements governing the LEAP program provided for under section 5107.30 of the Revised Code, including the definitions of "equivalent of a high school diploma" and "good cause," and the incentives provided under the LEAP program;~~

(10) If the director implements section 5107.301 of the Revised Code, the requirements governing the award provided under that section, including

the form that the award is to take and requirements an individual must satisfy to receive the award;

(11) Circumstances under which a county department of job and family services may exempt a minor head of household or adult from participating in a work activity or developmental activity for all or some of the weekly hours otherwise required by section 5107.43 of the Revised Code. Circumstances shall include that a school or place of work is closed due to a holiday or weather or other emergency and that an employer grants the minor head of household or adult leave for illness or earned vacation.

~~(H)~~(12) The maximum amount of time the department will subsidize positions created by state agencies and political subdivisions under division (C) of section 5107.52 of the Revised Code.

(B) The rules may provide that a county department of job and family services is not required to take action under section 5107.76 of the Revised Code to recover an erroneous payment that is below an amount the department specifies.

Sec. 5107.10. (A) As used in this section:

(1) "Countable income," "gross earned income," and "gross unearned income" have the meanings established in rules adopted under section 5107.05 of the Revised Code.

(2) "Federal poverty guidelines" has the same meaning as in section 5101.46 of the Revised Code, except that references to a person's family in the definition shall be deemed to be references to the person's assistance group.

(3) "Gross income" means gross earned income and gross unearned income.

~~(3)~~(4) "Initial eligibility threshold" means the higher of the following:

(a) Fifty per cent of the federal poverty guidelines;

(b) The gross income maximum for initial eligibility for Ohio works first as that maximum was set by division (D)(1)(a) of this section on the day before the effective date of this amendment.

(5) "Strike" means continuous concerted action in failing to report to duty; willful absence from one's position; or stoppage of work in whole from the full, faithful, and proper performance of the duties of employment, for the purpose of inducing, influencing, or coercing a change in wages, hours, terms, and other conditions of employment. "Strike" does not include a stoppage of work by employees in good faith because of dangerous or unhealthful working conditions at the place of employment that are abnormal to the place of employment.

(B) Under the Ohio works first program, an assistance group shall

receive, except as otherwise provided by this chapter, time-limited cash assistance. In the case of an assistance group that includes a minor head of household or adult, assistance shall be provided in accordance with the self-sufficiency contract entered into under section 5107.14 of the Revised Code.

(C) To be eligible to participate in Ohio works first, an assistance group must meet all of the following requirements:

(1) The assistance group, except as provided in division (E) of this section, must include at least one of the following:

(a) A minor child who, except as provided in section 5107.24 of the Revised Code, resides with a parent, or specified relative caring for the child, or, to the extent permitted by Title IV-A and federal regulations adopted until Title IV-A, resides with a guardian or custodian caring for the child;

(b) A parent residing with and caring for the parent's minor child who receives supplemental security income under Title XVI of the "Social Security Act," 86 Stat. 1475 (1972), 42 U.S.C.A. 1383, as amended, or federal, state, or local adoption assistance;

(c) A specified relative residing with and caring for a minor child who is related to the specified relative in a manner that makes the specified relative a specified relative and receives supplemental security income or federal, state, or local foster care or adoption assistance;

(d) A woman at least six months pregnant.

(2) The assistance group must meet the income requirements established by division (D) of this section.

(3) No member of the assistance group may be involved in a strike.

(4) The assistance group must satisfy the requirements for Ohio works first established by this chapter and sections 5101.58, 5101.59, and 5101.83 of the Revised Code.

(5) The assistance group must meet requirements for Ohio works first established by rules adopted under section 5107.05 of the Revised Code.

(D)(1) Except as provided in division (D)(3)(4) of this section, to determine whether an assistance group is initially eligible to participate in Ohio works first, a county department of job and family services shall do the following:

(a) Determine whether the assistance group's gross income exceeds the following amount:

Size of Assistance Group	Gross Income
1	\$423
2	\$537

3	\$630
4	\$750
5	\$858
6	\$942
7	\$1,038
8	\$1,139
9	\$1,241
10	\$1,343
11	\$1,440
12	\$1,542
13	\$1,643
14	\$1,742
15	\$1,844

~~For each person in the assistance group that brings the assistance group to more than fifteen persons, add one hundred two dollars to the amount of gross income for an assistance group of fifteen specified in division (D)(1)(a) of this section.~~

~~In~~ initial eligibility threshold. In making this determination, the county department shall disregard amounts that federal statutes or regulations and sections 5101.17 and 5117.10 of the Revised Code require be disregarded. The assistance group is ineligible to participate in Ohio works first if the assistance group's gross income, less the amounts disregarded, exceeds the ~~amount specified in division (D)(1)(a) of this section~~ initial eligibility threshold.

(b) If the assistance group's gross income, less the amounts disregarded pursuant to division (D)(1)(a) of this section, does not exceed the ~~amount specified in that division~~ initial eligibility threshold, determine whether the assistance group's countable income is less than the payment standard. The assistance group is ineligible to participate in Ohio works first if the assistance group's countable income equals or exceeds the payment standard.

(2) For the purpose of determining whether an assistance group meets the income requirement established by division (D)(1)(a) of this section, the annual revision that the United States department of health and human services makes to the federal poverty guidelines shall go into effect on the first day of July of the year for which the revision is made.

(3) To determine whether an assistance group participating in Ohio works first continues to be eligible to participate, a county department of job and family services shall determine whether the assistance group's countable income continues to be less than the payment standard. In making this



determination, the county department shall disregard the first two hundred fifty dollars and fifty per cent of the remainder of the assistance group's gross earned income. No amounts shall be disregarded from the assistance group's gross unearned income. The assistance group ceases to be eligible to participate in Ohio works first if its countable income, less the amounts disregarded, equals or exceeds the payment standard.

~~(3)~~(4) If an assistance group reapplies to participate in Ohio works first not more than four months after ceasing to participate, a county department of job and family services shall use the income requirement established by division (D)~~(2)~~(3) of this section to determine eligibility for resumed participation rather than the income requirement established by division (D)(1) of this section.

(E)(1) An assistance group may continue to participate in Ohio works first even though a public children services agency removes the assistance group's minor children from the assistance group's home due to abuse, neglect, or dependency if the agency does both of the following:

(a) Notifies the county department of job and family services at the time the agency removes the children that it believes the children will be able to return to the assistance group within six months;

(b) Informs the county department at the end of each of the first five months after the agency removes the children that the parent, guardian, custodian, or specified relative of the children is cooperating with the case plans prepared for the children under section 2151.412 of the Revised Code and that the agency is making reasonable efforts to return the children to the assistance group.

(2) An assistance group may continue to participate in Ohio works first pursuant to division (E)(1) of this section for not more than six payment months. This division does not affect the eligibility of an assistance group that includes a woman at least six months pregnant.

Sec. 5107.26. (A) As used in this section:

(1) "Transitional child care" means publicly funded child care provided under division (A)(3) of section 5104.34 of the Revised Code.

(2) "Transitional medicaid" means the medical assistance provided under section ~~5111.023~~ 5111.0115 of the Revised Code.

(B) Except as provided in division (C) of this section, each member of an assistance group participating in Ohio works first is ineligible to participate in the program for six payment months if a county department of job and family services determines that a member of the assistance group terminated the member's employment and each person who, on the day prior to the day a recipient begins to receive transitional child care or transitional

medicaid, was a member of the recipient's assistance group is ineligible to participate in Ohio works first for six payment months if a county department determines that the recipient terminated the recipient's employment.

(C) No assistance group member shall lose or be denied eligibility to participate in Ohio works first pursuant to division (B) of this section if the termination of employment was because an assistance group member or recipient of transitional child care or transitional medicaid secured comparable or better employment or the county department of job and family services certifies that the member or recipient terminated the employment with just cause.

Just cause includes the following:

(1) Discrimination by an employer based on age, race, sex, color, handicap, religious beliefs, or national origin;

(2) Work demands or conditions that render continued employment unreasonable, such as working without being paid on schedule;

(3) Employment that has become unsuitable due to any of the following:

(a) The wage is less than the federal minimum wage;

(b) The work is at a site subject to a strike or lockout, unless the strike has been enjoined under section 208 of the "Labor-Management Relations Act," 61 Stat. 155 (1947), 29 U.S.C.A. 178, as amended, an injunction has been issued under section 10 of the "Railway Labor Act," 44 Stat. 586 (1926), 45 U.S.C.A. 160, as amended, or an injunction has been issued under section 4117.16 of the Revised Code;

(c) The documented degree of risk to the member or recipient's health and safety is unreasonable;

(d) The member or recipient is physically or mentally unfit to perform the employment, as documented by medical evidence or by reliable information from other sources.

(4) Documented illness of the member or recipient or of another assistance group member of the member or recipient requiring the presence of the member or recipient;

(5) A documented household emergency;

(6) Lack of adequate child care for children of the member or recipient who are under six years of age.

Sec. 5107.30. (A) As used in this section:

(1) "Equivalent of a high school diploma" and "good cause" have the meanings established in rules adopted under section 5107.05 of the Revised Code.

(2) "LEAP program" means the learning, earning, and parenting

program.

~~(2) "Teen"~~ (3) "Participating teen" means an individual to whom all of the following apply:

(a) The individual is a participant of Ohio works first who;

(b) The individual is under age eighteen or is age eighteen and in school and is a natural or adoptive parent or is pregnant;

(c) The individual is subject to the LEAP program's requirements.

~~(3)(4)~~ "School" means an educational program that is designed to lead to the attainment of a high school diploma or the equivalent of a high school diploma.

(B) The director of job and family services may ~~adopt rules under section 5107.05 of the Revised Code, to the extent that such rules are consistent with federal law, to do all of the following:~~

~~(1) Define "good cause" and "the equivalent of a high school diploma" for the purposes of this section;~~

~~(2) Conduct~~ conduct a program titled the "LEAP program" ~~and establish requirements governing the program in accordance with rules adopted under section 5107.05 of the Revised Code.~~ The purpose of the LEAP program is to encourage teens to complete school.

~~(3) Require every~~ Every participating teen ~~who is subject to LEAP program requirements to~~ shall attend school in accordance with the requirements governing the LEAP program unless the participating teen shows good cause for not attending school. The department shall provide, in addition to the cash assistance payment provided under Ohio works first, an incentive payment, in an amount determined by the department, to every participating teen ~~who is participating in the LEAP program and~~ attends school in accordance with the requirements governing the LEAP program. In addition to the incentive payment, the department may provide other incentives to participating teens who attend school in accordance with the LEAP program's requirements. The department shall reduce the cash assistance payment, in an amount determined by the department, under Ohio works first to every participating teen ~~participating in the LEAP program~~ who fails or refuses, without good cause, to meet the LEAP program's requirements governing the program.

~~(4) Require every~~ Every participating teen ~~who is subject to LEAP program requirements to~~ shall enter into a written agreement with the county department of job and family services that ~~provides~~ specifies all of the following:

~~(a)(1)~~ The participating teen, to be eligible to receive the incentive payment and other incentives, if any, under ~~division (B)(3) of this section,~~

must meet the requirements of the LEAP program.

~~(b)(2)~~ The ~~county department will provide the~~ incentive payment ~~to the~~ teen and other incentives, if any, will be provided if the participating teen meets the requirements of the LEAP program.

~~(e)(3)~~ The ~~county department will reduce the~~ participating teen's cash assistance payment under Ohio works first will be reduced if the participating teen fails or refuses without good cause to attend school in accordance with the requirements governing the LEAP program.

(C) A minor head of household who is participating in the LEAP program shall be considered to be participating in a work activity for the purpose of sections 5107.40 to 5107.69 of the Revised Code. However, the minor head of household is not subject to the requirements or sanctions of those sections.

(D) Subject to the availability of funds, county departments of job and family services shall provide for ~~LEAP participants~~ participating teens to receive support services the county department determines to be necessary for LEAP participation. Support services may include publicly funded child care under Chapter 5104. of the Revised Code, transportation, and other services.

Sec. 5107.301. For the purpose of encouraging individuals who have successfully completed the requirements of the LEAP program to enroll in post-secondary education, the director of job and family services may provide an award to such individuals who enroll in post-secondary education. If provided, the award shall be provided in accordance with rules adopted under section 5107.05 of the Revised Code.

Sec. 5107.58. In accordance with a federal waiver granted by the United States secretary of health and human services pursuant to a request made under former section 5101.09 of the Revised Code, county departments of job and family services may establish and administer as a work activity for minor heads of households and adults participating in Ohio works first an education program under which the participant is enrolled full-time in post-secondary education leading to vocation at a state institution of higher education, as defined in section 3345.031 of the Revised Code; a private nonprofit college or university that possesses a certificate of authorization issued by the Ohio board of regents pursuant to Chapter 1713. of the Revised Code, or is exempted by division (E) of section 1713.02 of the Revised Code from the requirement of a certificate; a school that holds a certificate of registration and program authorization issued by the state board of career colleges and schools under Chapter 3332. of the Revised Code; a private institution exempt from regulation under Chapter 3332. of

the Revised Code as prescribed in section 3333.046 of the Revised Code; or a school that has entered into a contract with the county department of job and family services. The participant shall make reasonable efforts, as determined by the county department, to obtain a loan, scholarship, grant, or other assistance to pay for the tuition, including a federal Pell grant under 20 U.S.C.A. 1070a ~~and, an Ohio instructional grant under section 3333.12 of the Revised Code, and an Ohio college opportunity grant under section 3333.122 of the Revised Code.~~ If the participant has made reasonable efforts but is unable to obtain sufficient assistance to pay the tuition the program may pay the tuition. On or after October 1, 1998, the county department may enter into a loan agreement with the participant to pay the tuition. The total period for which tuition is paid and loans made shall not exceed two years. If the participant, pursuant to division (B)(3) of section 5107.43 of the Revised Code, volunteers to participate in the education program for more hours each week than the participant is assigned to the program, the program may pay or the county department may loan the cost of the tuition for the additional voluntary hours as well as the cost of the tuition for the assigned number of hours. The participant may receive, for not more than three years, support services, including publicly funded child care under Chapter 5104. of the Revised Code and transportation, that the participant needs to participate in the program. To receive support services in the third year, the participant must be, as determined by the educational institution in which the participant is enrolled, in good standing with the institution.

A county department that provides loans under this section shall establish procedures governing loan application for and approval and administration of loans granted pursuant to this section.

Sec. 5110.01. As used in this chapter:

(A) "Administrative fee" means the amount specified in rules adopted under division (G) of section 5110.35 of the Revised Code.

(B) "Children's health insurance program" means the children's health insurance program part I and part II established under sections 5101.50 to 5101.5110 of the Revised Code.

(C) ~~"Disability medical assistance program" means the program established under section 5115.10 of the Revised Code.~~

(~~D~~) "Medicaid" means the medical assistance program established under Chapter 5111. of the Revised Code.

(~~E~~)(D) "National drug code number" means the number registered for a drug pursuant to the listing system established by the United States food and drug administration under the "Drug Listing Act of 1972," 86 Stat. 559, 21 U.S.C. 360, as amended.

~~(F)~~(E) "Ohio's best Rx program administrator" means the entity, if any, the department of job and family services contracts with pursuant to section 5110.10 of the Revised Code to perform administrative functions of the Ohio's best Rx program and to offer the mail order system through which Ohio's best Rx program participants may obtain drugs by mail.

~~(G)~~(F) "Ohio's best Rx program applicant" or "applicant" means an individual who signs an application for the Ohio's best Rx program and submits it to the department of job and family services, or the Ohio's best Rx program administrator, for a determination of eligibility for the program.

~~(H)~~(G) "Ohio's best Rx program participant" or "participant" means an individual determined eligible for the Ohio's best Rx program and included under a valid Ohio's best Rx program enrollment card.

~~(I)~~(H) "Ohio's best Rx program price" means the price a participating terminal distributor is to charge an Ohio's best Rx program participant for a drug included in the Ohio's best Rx program as determined under section 5110.14 of the Revised Code. "Ohio's best Rx program price" does not include either of the following:

(1) The amount of the professional fee, if any, the participating terminal distributor adds to the Ohio's best Rx program price pursuant to an agreement under section 5110.12 of the Revised Code;

(2) The amount of the administrative fee, if any, the department of job and family services reports to the participating terminal distributor under section 5110.29 of the Revised Code.

~~(J)~~(I) "Participating manufacturer" means a drug manufacturer participating in the Ohio's best Rx program pursuant to a rebate agreement.

~~(K)~~(J) "Participating terminal distributor" means a terminal distributor of dangerous drugs participating in the Ohio's best Rx program pursuant to an agreement entered into with the department of job and family services under section 5110.12 of the Revised Code.

~~(L)~~(K) "Per unit price," with regard to a state health benefit plan or state retirement system health benefit plan, means the total amount paid to a terminal distributor of dangerous drugs under a state health benefit plan or state retirement system health benefit plan for one unit of a drug covered by the plan, after the plan discounts or otherwise reduces the amount to be paid to the terminal distributor. "Per unit price" includes both of the following:

(1) The amount that the state health benefit plan or state retirement system health benefit plan, or other government entity or person authorized to make the payment on behalf of the plan, pays to the terminal distributor of dangerous drugs;

(2) The amount that the beneficiary of the state health benefit plan or

state retirement system health benefit plan pays to the terminal distributor of dangerous drugs in the form of a copayment, coinsurance, or other cost-sharing charge.

~~(M)~~(L) "Per unit rebate," with regard to a state health benefit plan or state retirement system health benefit plan, means all rebates, discounts, formulary fees, administrative fees, and other allowances a drug manufacturer pays to the plan, or other government entity or person authorized to receive all or part of such payments, for a drug during a calendar year, divided by the total number of units of that drug dispensed under the plan during the same calendar year.

~~(N)~~(M) "Rebate administration percentage" means the percentage specified in rules adopted under division (K) of section 5110.35 of the Revised Code.

~~(O)~~(N) "Rebate agreement" means an agreement under section 5110.21 of the Revised Code between the department of job and family services and a drug manufacturer.

~~(P)~~(O) "State health benefit plan" means a program of health care benefits offered through the Ohio med preferred provider organization, or a successor entity selected by the state, to which either of the following apply:

(1) It is provided by a collective bargaining agreement authorized by division (A)(4) of section 4117.03 of the Revised Code.

(2) It is offered by the department of administrative services to state employees in accordance with section 124.81 or 124.82 of the Revised Code.

~~(Q)~~(P) "State retirement system" means all of the following: the public employees retirement system, state teachers retirement system, school employees retirement system, Ohio police and fire pension fund, and state highway patrol retirement system.

~~(R)~~(Q) "State retirement system health benefit plan" means a plan of health care benefits offered by a state retirement system under section 145.58, 742.45, 3307.39, 3309.69, or 5505.28 of the Revised Code.

~~(S)~~(R) "Terminal distributor of dangerous drugs" has the same meaning as in section 4729.01 of the Revised Code.

~~(T)~~(S) "Third-party payer" has the same meaning as in section 3901.38 of the Revised Code.

~~(U)~~(T) "Trade secret" has the same meaning as in section 1333.61 of the Revised Code.

~~(V)~~(U) "Usual and customary charge" means the amount a participating terminal distributor or the Ohio's best Rx program administrator charges for a drug included in the program to an individual who does not receive a

discounted price for the drug pursuant to any drug discount program, including the Ohio's best Rx program, a prescription drug discount card program established under section 173.061 of the Revised Code, or a pharmacy assistance program established by any person or government entity, and for whom no third-party payer or program funded in whole or part with state or federal funds is responsible for all or part of the cost of the drug the distributor dispenses to the individual.

Sec. 5110.05. (A) To be eligible for the Ohio's best Rx program, an individual must meet all of the following requirements at the time of application or reapplication for the program:

- (1) Be a resident of this state;
- (2) Have family income, as determined under rules adopted pursuant to section 5110.35 of the Revised Code, that does not exceed two hundred fifty per cent of the federal poverty guidelines, as revised annually by the United States department of health and human services in accordance with section 673(2) of the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C. 9902, as amended, or be sixty years of age or older;
- (3) Not have outpatient prescription drug coverage paid for in whole or in part by any of the following:
  - (a) A third-party payer;
  - (b) The medicaid program;
  - (c) The children's health insurance program;
  - (d) ~~The disability medical assistance program;~~
  - (e) Another health plan or pharmacy assistance program that uses state or federal funds to pay part or all of the cost of the individual's outpatient prescription drugs, other than a prescription drug discount card program established under section 173.061 of the Revised Code.
- (4) Not have had outpatient prescription drug coverage specified in division (A)(3) of this section during any of the four months preceding the month in which the application or reapplication for the Ohio's best Rx program is made, unless any of the following applies:
  - (a) The individual is sixty years of age or older.
  - (b) The third-party payer that paid all or part of the coverage filed for bankruptcy under federal bankruptcy laws.
  - (c) The individual is no longer eligible for coverage provided through a retirement plan subject to protection under the "Employee Retirement Income Security Act of 1974," 88 Stat. 832, 29 U.S.C. 1001, as amended.
  - (d) The individual is no longer eligible for the medicaid program; or children's health insurance program; ~~or disability medical assistance program.~~



(B) Application and annual reapplication for the Ohio's best Rx program shall be made in accordance with rules adopted under section 5110.35 of the Revised Code on a form prescribed in those rules. An individual may apply or reapply on behalf of the individual and the individual's spouse and children. The guardian or custodian of an individual may apply or reapply on behalf of the individual.

Sec. 5110.352. As used in this section, "medicaid dispensing fee" means the dispensing fee established under section ~~5111.08~~ 5111.071 of the Revised Code for the medicaid program.

In adopting a rule under division (F) of section 5110.35 of the Revised Code increasing the maximum amount of the professional fee participating terminal distributors may charge Ohio's best Rx program participants under section 5110.12 of the Revised Code and the Ohio's best Rx program administrator may charge under a contract entered into under section 5110.10 of the Revised Code, the department of job and family services shall review the amount of the professional fee once a year or, at the department's discretion, at more frequent intervals and shall not increase the professional fee to an amount exceeding the medicaid dispensing fee.

A participating terminal distributor and the Ohio's best Rx program administrator may charge a maximum three dollar professional fee regardless of whether the medicaid dispensing fee for that drug is less than that amount. The department, however, may not adopt a rule increasing the maximum professional fee for that drug until the medicaid dispensing fee for that drug exceeds that amount.

Sec. 5110.39. Not later than ~~April 1, 2005~~ the first day of March of each year, the department of job and family services shall do all of the following:

(A) Create a list of the twenty-five drugs most often dispensed to Ohio's best Rx program participants under the program, using data from the most recent six-month period for which the data is available;

(B) Determine the average amount that participating terminal distributors charge, on a date selected by the department, participants for each drug included on the list created under division (A) of this section;

(C) Determine, for the date selected for division (B) of this section, the average usual and customary charge of participating terminal distributors for each drug included on the list created under division (A) of this section;

(D) By comparing the average charges determined under divisions (B) and (C) of this section, determine the average percentage savings in the amount participating terminal distributors charge Ohio's best Rx program participants for each drug included on the list created under division (A) of this section.

Sec. 5111.011. (A) As used in this section:

(1) "Intermediate care facility for the mentally retarded" has the same meaning as in section 5111.20 of the Revised Code.

(2) "Nursing facility" means a facility defined as a nursing facility under Sec. 1919 of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 1396r, as amended has the same meaning as in section 5111.20 of the Revised Code.

~~(2)~~(3) "Institutionalized individual" means an individual who is a patient in a nursing facility or who receives home and community-based services under a federal waiver granted the department of job and family services under 42 U.S.C. 1396a(10)(A)(ii)(VI).

(B) Subject to this section, the director of job and family services shall, pursuant to section 111.15 of the Revised Code, adopt rules establishing eligibility requirements for the ~~medical assistance~~ medicaid program and defining, consistent with federal law, the term "resources" as used in this section.

(C) In determining eligibility for ~~medical assistance~~ the medicaid program, the following shall apply with respect to real property used by an aged, blind or disabled applicant or recipient as a homestead or principal place of residence:

(1) The value of real the property of aged, blind, or disabled persons used as a homestead by such persons shall be the maximum allowed under Title XVI of the "Social Security Act-," 86 Stat. 1329 (1972), 42 U.S.C. 1381;

(2) Except as provided in division (C)(3) of this section, the department of job and family services may consider the property to not be the homestead or principal place of residence of the applicant or recipient if the applicant or recipient resides in a nursing facility, intermediate care facility for the mentally retarded, or other medical institution for thirteen months or longer.

(3) Division (C)(2) of this section does not apply if any of the following individuals reside in the applicant's or recipient's real property used as a homestead or principal place of residence:

(a) The applicant's or recipient's spouse;

(b) A son or daughter of the applicant or recipient, if the son or daughter is under twenty-one years of age or blind or disabled in accordance with rules adopted by the director of job and family services;

(c) A son or daughter of the applicant or recipient, if the son or daughter is financially dependent on the applicant or recipient for housing in accordance with rules adopted by the director of job and family services;

(d) A sibling of the applicant or recipient, if the sibling has a verified equity and ownership interest in the real property and has resided in the real property for at least one year immediately before the date the applicant or recipient was admitted to the nursing facility, intermediate care facility for the mentally retarded, or other medical institution.

(D) Except as provided in division (G) of this section, no person is eligible for ~~medical assistance~~ the medicaid program if on or prior to December 31, 1989, the person has transferred real or personal property for the purpose of securing ~~medical assistance under section 5111.01 of the Revised Code~~ medicaid eligibility and the transfer occurred during the two years preceding the person's application. In order to secure compliance with this division, the director of job and family services shall require all applicants for ~~assistance~~ medicaid to submit true and correct copies of any federal income or gift tax form or schedule filed, singly or jointly, by the applicant during the preceding five taxable years. Such copies, and the information disclosed thereon, shall be used solely for the purpose of determining the probability of whether the applicant has transferred assets in violation of this division. The director shall provide for the confidentiality and return of any copies of forms or schedules submitted under this division. Where such copies reveal the probability that an applicant has transferred assets in violation of this division, a presumption arises that the applicant has transferred assets in violation of this division, and the director shall deny the application until the applicant submits a true and accurate expenditure statement to the director that shows the applicant did not violate this division. The director of job and family services shall adopt rules to implement this provision.

(E)(1) Except as provided in ~~division~~ divisions (E)(2) and (G) of this section, an institutionalized individual who is otherwise eligible for ~~medical assistance~~ medicaid shall be ineligible for nursing facility services or services provided under a home and community-based waiver for a period specified in rules adopted under division (E)(2)(3) of this section if the institutionalized individual or individual's spouse, on or after January 1, 1990, transfers resources for less than fair market value at any time during or after a period of time, as specified in rules adopted under division (E)(2) of this section, the five-year period immediately prior to either of the following:

(a) The date the individual becomes an institutionalized individual if the individual is eligible for ~~medical assistance~~ medicaid on that date;

(b) The date the individual applies for ~~medical assistance~~ medicaid while an institutionalized individual.

(2) The director shall apply to the United States secretary of health and human services for a waiver of federal law governing the medicaid program as necessary for the implementation of the five-year look-back period provided for by division (E)(1) of this section. If a waiver is not approved, the look-back period shall be the period of time specified in 42 U.S.C. 1396p(c).

(3) The director shall adopt rules specifying, for the purpose of division (E)(1) of this section, ~~the period of time preceding institutionalization or application for medical assistance during which transfers of assets for less than fair market value are prohibited and the length of the resulting period of ineligibility due to transfers of resources for less than fair market value on or after the look-back date.~~ The period of ineligibility shall begin with the month in which the resources were transferred. The rules shall be consistent with Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396. The department shall allow exceptions to the period of ineligibility to the extent that exceptions are permitted by that title. An exception based on undue hardship to the institutionalized individual shall be allowed only so long as the individual cooperates with the department or the county department of job and family services in securing the return of transferred resources.

~~(3)~~(4) To secure compliance with this division, the department may require applicants for and recipients of ~~medical assistance~~ medicaid, as a condition of eligibility, to provide documentation of their income and resources up to five years prior to the ~~time of application~~ date the individual becomes an institutionalized individual if the individual is eligible for medicaid on that date or the date the individual applies for medicaid while an institutionalized individual. Documentation may include, but is not limited to, tax returns, records from financial institutions, and real property records.

(F) The director shall, by rule adopted in accordance with section 111.15 of the Revised Code, establish standards consistent with federal law for allocating income and resources as income and resources of the spouse, children, parents, or stepparents of a recipient of or applicant for ~~medical assistance~~ medicaid. Notwithstanding any provision of state law, including statutes, administrative rules, common law, and court rules, regarding real or personal property or domestic relations, the standards established under this division shall be used to determine eligibility for ~~medical assistance~~ medicaid.

(G) The director may, by rule adopted in accordance with section 111.15 of the Revised Code, exempt individuals who apply for or receive

~~any medical assistance~~ medicaid that may be provided pursuant to division (C) of section 5111.01 of the Revised Code from some or all of the requirements of this section.

Sec. 5111.019. (A) The director of job and family services shall submit to the United States secretary of health and human services an amendment to the state medicaid plan to make an individual who meets all of the following requirements eligible for medicaid for the amount of time provided by division (B) of this section:

(1) The individual is the parent of a child under nineteen years of age and resides with the child;

(2) The individual's family income does not exceed ~~one hundred~~ ninety per cent of the federal poverty guidelines;

(3) The individual is not otherwise eligible for medicaid;

(4) The individual satisfies all relevant requirements established by rules adopted under division (D) of section 5111.01 of the Revised Code.

(B) An individual is eligible to receive medicaid under this section for a period that does not exceed two years beginning on the date on which eligibility is established.

~~(C) If approved by the United States secretary of health and human services and the director of job and family services, the director shall implement the medicaid plan amendment submitted under this section not sooner than July 1, 2000. If a federal waiver is necessary for the United States secretary to approve the amendment, the director of job and family services shall submit a waiver request to the United States secretary not later than ninety days after the effective date of this section.~~

Sec. 5111.0112. ~~The (A) Not later than July 1, 2006, the director of job and family services shall examine instituting institute a copayment program under medicaid. As part of the examination, the director shall determine which groups of medicaid recipients may be subjected to a copayment requirement under The copayment program shall establish a copayment requirement for only dental services, vision services, nonemergency emergency department services, and prescription drugs, other than generic drugs, to the extent permitted by federal statutes and regulations. If, on completion of the examination, the director determines that it is feasible to institute such a copayment program, the director may seek approval from the United States secretary of health and human services to institute the copayment program. If necessary, the director may seek approval by applying for a waiver of federal statutes and regulations. If such approval is obtained, the The director shall adopt rules in accordance with Chapter 119: under section 5111.02 of the Revised Code governing the copayment~~

program.

(B) The copayment program shall, to the extent permitted by federal law, provide for all of the following with regard to any providers participating in the medicaid program:

(1) No provider shall refuse to provide a service to a medicaid recipient who is unable to pay a required copayment for the service.

(2) Division (B)(1) of this section shall not be considered to do either of the following with regard to a medicaid recipient who is unable to pay a required copayment:

(a) Relieve the medicaid recipient from the obligation to pay a copayment;

(b) Prohibit the provider from attempting to collect an unpaid copayment.

(3) No provider shall waive a medicaid recipient's obligation to pay the provider a copayment.

(4) No provider or drug manufacturer, including the manufacturer's representative, employee, independent contractor, or agent, shall pay any copayment on behalf of a medicaid recipient.

(5) If it is the routine business practice of the provider to refuse service to any individual who owes an outstanding debt to the provider, the provider may consider an unpaid copayment imposed by the copayment program as an outstanding debt and may refuse service to a medicaid recipient who owes the provider an outstanding debt. If the provider intends to refuse service to a medicaid recipient who owes the provider an outstanding debt, the provider shall notify the individual of the provider's intent to refuse services.

Sec. 5111.0114. (A) As used in this section, "dangerous drug" and "manufacturer of dangerous drugs" have the same meaning as in section 4729.01 of the Revised Code.

(B) The director of job and family services may enter into or administer an agreement or cooperative arrangement with other states to create or join a multiple-state prescription drug purchasing program for the purpose of negotiating with manufacturers of dangerous drugs to receive discounts or rebates for dangerous drugs dispensed under the medicaid program.

Sec. ~~5111.023~~ 5111.0115. (A) The department of job and family services may provide medical assistance under Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, in addition to such assistance provided under section 5111.01 of the Revised Code the medicaid program, as long as federal funds are provided for such assistance, to each former participant of the Ohio works first program established under

Chapter 5107. of the Revised Code who meets all of the following requirements:

(1) Is ineligible to participate in Ohio works first solely as a result of increased income due to employment;

(2) Is not covered by, and does not have access to, medical insurance coverage through the employer with benefits comparable to those provided under this section, as determined in accordance with rules adopted by the director of job and family services under division (B) of this section;

(3) Meets any other requirement established by rule adopted under division (B) of this section.

(B) The director of job and family services shall adopt such rules under Chapter 119. of the Revised Code as are necessary to implement and administer the medical assistance program under this section.

(C) A person seeking to participate in a program of medical assistance under this section shall apply to the county department of job and family services in the county in which the applicant resides. The application shall be made on a form prescribed by the department of job and family services and furnished by the county department.

(D) If the county department of job and family services determines that a person is eligible to receive medical assistance under this section, the department shall provide assistance, to the same extent and in the same manner as medical assistance is provided to a person eligible for medical assistance pursuant to division (A)(1)(a) of section 5111.01 of the Revised Code, for no longer than twelve months, beginning the month after the date the participant's eligibility for Ohio works first is terminated.

Sec. 5111.02. The director of job and family services shall adopt, and may amend or rescind, rules under Chapter 119. of the Revised Code establishing the amount, duration, and scope of medicaid services. The rules shall be consistent with federal and state law. The rules may be different for different medicaid services. The rules shall establish all of the following:

(A) The conditions under which the medicaid program shall cover and reimburse medicaid services;

(B) The method of reimbursement applicable to each medicaid service;

(C) The amount of reimbursement or, in lieu of amounts, methods by which amounts are to be determined for each medicaid service;

(D) Procedures for enforcing the rules adopted under this section that provide due process protections, including procedures for corrective action plans for, and imposing financial and administrative sanctions on, persons and government entities that violate the rules.

Sec. 5111.02 5111.021. (A) Under the ~~medical assistance~~ medicaid

program:

~~(1)(A)~~ Except as otherwise permitted by federal statute or regulation and at the department's discretion, reimbursement by the department of job and family services to a medical provider for any medical service rendered under the program shall not exceed the authorized reimbursement level for the same service under the medicare program established under Title XVIII of the "Social Security Act," ~~49~~ 79 Stat. ~~620~~ 286 (~~1935~~ 1965), 42 U.S.C.A. ~~304~~ 1395, as amended.

~~(2)(B)~~ Reimbursement for freestanding medical laboratory charges shall not exceed the customary and usual fee for laboratory profiles.

~~(3)(C)~~ The department may deduct from payments for services rendered by a medicaid provider under the ~~medical assistance~~ medicaid program any amounts the provider owes the state as the result of incorrect ~~medical assistance~~ medicaid payments the department has made to the provider.

~~(4)(D)~~ The department may conduct final fiscal audits in accordance with the applicable requirements set forth in federal laws and regulations and determine any amounts the provider may owe the state. When conducting final fiscal audits, the department shall consider generally accepted auditing standards, which include the use of statistical sampling.

~~(5)(E)~~ The number of days of inpatient hospital care for which reimbursement is made on behalf of a medicaid recipient ~~of medical assistance~~ to a hospital that is not paid under a diagnostic-related-group prospective payment system shall not exceed thirty days during a period beginning on the day of the recipient's admission to the hospital and ending sixty days after the termination of that hospital stay, except that the department may make exceptions to this limitation. The limitation does not apply to children participating in the program for medically handicapped children established under section 3701.023 of the Revised Code.

~~(B)~~ The director of job and family services may adopt, amend, or rescind rules under Chapter 119. of the Revised Code establishing the amount, duration, and scope of medical services to be included in the ~~medical assistance~~ program. Such rules shall establish the conditions under which services are covered and reimbursed, the method of reimbursement applicable to each covered service, and the amount of reimbursement or, in lieu of such amounts, methods by which such amounts are to be determined for each covered service. Any rules that pertain to nursing facilities or intermediate care facilities for the mentally retarded shall be consistent with sections 5111.20 to 5111.33 of the Revised Code.

~~(C)(F)~~ The division of any reimbursement between a collaborating physician or podiatrist and a clinical nurse specialist, certified



nurse-midwife, or certified nurse practitioner for services performed by the nurse shall be determined and agreed on by the nurse and collaborating physician or podiatrist. In no case shall reimbursement exceed the payment that the physician or podiatrist would have received had the physician or podiatrist provided the entire service.

Sec. ~~5111.021~~ 5111.022. Under the ~~medical-assistance~~ medicaid program, any amount determined to be owed the state by a final fiscal audit conducted pursuant to division ~~(A)(4)(D)~~ of section ~~5111.02~~ 5111.021 of the Revised Code, upon the issuance of an adjudication order pursuant to Chapter 119. of the Revised Code that contains a finding that there is a preponderance of the evidence that the provider will liquidate assets or file bankruptcy in order to prevent payment of the amount determined to be owed the state, becomes a lien upon the real and personal property of the provider. Upon failure of the provider to pay the amount to the state, the director of job and family services shall file notice of the lien, for which there shall be no charge, in the office of the county recorder of the county in which it is ascertained that the provider owns real or personal property. The director shall notify the provider by mail of the lien, but absence of proof that the notice was sent does not affect the validity of the lien. The lien is not valid as against the claim of any mortgagee, pledgee, purchaser, judgment creditor, or other lienholder of record at the time the notice is filed.

If the provider acquires real or personal property after notice of the lien is filed, the lien shall not be valid as against the claim of any mortgagee, pledgee, subsequent bona fide purchaser for value, judgment creditor, or other lienholder of record to such after-acquired property unless the notice of lien is refiled after the property is acquired by the provider and before the competing lien attaches to the after-acquired property or before the conveyance to the subsequent bona fide purchaser for value.

When the amount has been paid, the provider may record with the recorder notice of the payment. For recording such notice of payment, the recorder shall charge and receive from the provider a base fee of one dollar for services and a housing trust fund fee of one dollar pursuant to section 317.36 of the Revised Code.

In the event of a distribution of a provider's assets pursuant to an order of any court under the law of this state including any receivership, assignment for benefit of creditors, adjudicated insolvency, or similar proceedings, amounts then or thereafter due the state under this chapter have the same priority as provided by law for the payment of taxes due the state and shall be paid out of the receivership trust fund or other such trust fund in

the same manner as provided for claims for unpaid taxes due the state.

If the attorney general finds after investigation that any amount due the state under this chapter is uncollectable, in whole or in part, the attorney general shall recommend to the director the cancellation of all or part of the claim. The director may thereupon effect the cancellation.

Sec. ~~5111.022~~ 5111.023. (A) As used in this section:

(1) "Community mental health facility" means a community mental health facility that has a quality assurance program accredited by the joint commission on accreditation of healthcare organizations or is certified by the department of mental health or department of job and family services.

(2) "Mental health professional" means a person qualified to work with mentally ill persons under the standards established by the director of mental health pursuant to section 5119.611 of the Revised Code.

(B) The state medicaid plan shall include provision of the following mental health services when provided by community mental health facilities:

(1) Outpatient mental health services, including, but not limited to, preventive, diagnostic, therapeutic, rehabilitative, and palliative interventions rendered to individuals in an individual or group setting by a mental health professional in accordance with a plan of treatment appropriately established, monitored, and reviewed;

(2) Partial-hospitalization mental health services of three to fourteen hours per service day, rendered by persons directly supervised by a mental health professional;

(3) Unscheduled, emergency mental health services of a kind ordinarily provided to persons in crisis when rendered by persons supervised by a mental health professional;

(4) Subject to receipt of federal approval, assertive community treatment and intensive home-based mental health services.

(C) The comprehensive annual plan shall certify the availability of sufficient unencumbered community mental health state subsidy and local funds to match federal medicaid reimbursement funds earned by community mental health facilities.

(D) The department of job and family services shall enter into a separate contract with the department of mental health under section 5111.91 of the Revised Code with regard to the component of the medicaid program provided for by this section.

(E) Not later than July 21, ~~2004~~ 2006, the department of job and family services shall request federal approval to provide assertive community treatment and intensive home-based mental health services under medicaid

pursuant to this section.

(F) On receipt of federal approval sought under division (E) of this section, the director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code for assertive community treatment and intensive home-based mental health services provided under medicaid pursuant to this section. The director shall consult with the department of mental health in adopting the rules.

Sec. 5111.025. (A) In rules adopted under section 5111.02 of the Revised Code, the director of job and family services shall modify the manner or establish a new manner in which the following are paid under medicaid:

(1) Community mental health facilities for providing mental health services included in the state medicaid plan pursuant to section ~~5111.022~~ 5111.023 of the Revised Code;

(2) Providers of alcohol and drug addiction services for providing alcohol and drug addiction services included in the medicaid program pursuant to rules adopted under section 5111.02 of the Revised Code.

(B) The director's authority to modify the manner, or to establish a new manner, for medicaid to pay for the services specified in division (A) of this section is not limited by any rules adopted under section 5111.02 or 5119.61 of the Revised Code that are in effect on ~~the effective date of this section~~ June 26, 2003, and govern the way medicaid pays for those services. This is the case regardless of what state agency adopted the rules.

Sec. 5111.027. If the medicaid program provides prescription drug services to medicaid recipients, the program shall not provide reimbursement for prescription drugs for treatment of erectile dysfunction.

Sec. 5111.042. The departments of mental retardation and developmental disabilities and job and family services may approve, reduce, deny, or terminate a service included in the individualized service plan developed for a medicaid recipient with mental retardation or other developmental disability who is eligible for medicaid case management services. ~~The departments shall consider the recommendations a county board of mental retardation and developmental disabilities makes under division (B)(1) of section 5126.055 of the Revised Code.~~ If either department approves, reduces, denies, or terminates a service, that department shall timely notify the medicaid recipient that the recipient may request a hearing under section 5101.35 of the Revised Code.

Sec. 5111.06. (A)(1) As used in this section and in sections 5111.061 and 5111.062 of the Revised Code:

(a) "Provider" means any person, institution, or entity that furnishes

medicaid services under a provider agreement with the department of job and family services pursuant to Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended.

(b) "Party" has the same meaning as in division (G) of section 119.01 of the Revised Code.

(c) "Adjudication" has the same meaning as in division (D) of section 119.01 of the Revised Code.

(2) This section does not apply to any action taken by the department of job and family services under sections 5111.35 to 5111.62 of the Revised Code.

(B) Except as provided in division (D) of this section and section 5111.914 of the Revised Code, the department shall do either of the following by issuing an order pursuant to an adjudication conducted in accordance with Chapter 119. of the Revised Code:

(1) Enter into or refuse to enter into a provider agreement with a provider, or suspend, terminate, renew, or refuse to renew an existing provider agreement with a provider;

(2) Take any action based upon a final fiscal audit of a provider.

(C) Any party who is adversely affected by the issuance of an adjudication order under division (B) of this section may appeal to the court of common pleas of Franklin county in accordance with section 119.12 of the Revised Code.

(D) The department is not required to comply with division (B)(1) of this section whenever any of the following occur:

(1) The terms of a provider agreement require the provider to have a license, permit, or certificate issued by an official, board, commission, department, division, bureau, or other agency of state government other than the department of job and family services, and the license, permit, or certificate has been denied or revoked.

(2) The provider agreement is denied, terminated, or not renewed pursuant to division (C) or (E) of section 5111.03 of the Revised Code;

(3) The provider agreement is denied, terminated, or not renewed due to the provider's termination, suspension, or exclusion from the medicare program established under Title XVIII of the "Social Security Act," and the termination, suspension, or exclusion is binding on the provider's participation in the medicaid program;

(4) The provider agreement is denied, terminated, or not renewed due to the provider's pleading guilty to or being convicted of a criminal activity materially related to either the medicare or medicaid program;

(5) The provider agreement is denied, terminated, or suspended as a

result of action by the United States department of health and human services and that action is binding on the provider's participation in the medicaid program;

(6) The provider agreement is terminated or not renewed because the provider has not billed or otherwise submitted a medicaid claim to the department for two years or longer, and the department has determined that the provider has moved from the address on record with the department without leaving an active forwarding address with the department.

In the case of a provider described in division (D)(6) of this section, the department may terminate or not renew the provider agreement by sending a notice explaining the department's proposed action to the address on record with the department. The notice may be sent by regular mail.

(E) The department may withhold payments for services rendered by a medicaid provider under the medical assistance program during the pendency of proceedings initiated under division (B)(1) of this section. If the proceedings are initiated under division (B)(2) of this section, the department may withhold payments only to the extent that they equal amounts determined in a final fiscal audit as being due the state. This division does not apply if the department fails to comply with section 119.07 of the Revised Code, requests a continuance of the hearing, or does not issue a decision within thirty days after the hearing is completed. This division does not apply to nursing facilities and intermediate care facilities for the mentally retarded as defined in section 5111.20 of the Revised Code.

Sec. 5111.061. (A) The department of job and family services may recover a medicaid payment or portion of a payment made to a provider to which the provider is not entitled. The recovery may occur at any time during the five-year period immediately following the end of the state fiscal year in which the overpayment was made.

(B) Among the overpayments that may be recovered under this section are the following:

(1) Payment for a service, or a day of service, not rendered;

(2) Payment for a day of service at a full per diem rate that should have been paid at a percentage of the full per diem rate;

(3) Payment for a service, or day of service, that was paid by, or partially paid by, a third-party, as defined in section 5101.571 of the Revised Code, and the third-party's payment or partial payment was not offset against the amount paid by the medicaid program to reduce or eliminate the amount that was paid by the medicaid program;

(4) Payment when a medicaid recipient's responsibility for payment was understated and resulted in an overpayment to the provider.

(C) During the period specified in division (A) of this section, the department may recover an overpayment under this section prior to or after any of the following:

(1) Adjudication of a final fiscal audit that section 5111.06 of the Revised Code requires to be conducted in accordance with Chapter 119. of the Revised Code;

(2) Adjudication of a finding under any other provision of this chapter or the rules adopted under it;

(3) Expiration of the time to issue a final fiscal audit that section 5111.06 of the Revised Code requires to be conducted in accordance with Chapter 119. of the Revised Code;

(4) Expiration of the time to issue a finding under any other provision of this chapter or the rules adopted under it.

(D)(1) Subject to division (D)(2) of this section, the recovery of an overpayment under this section does not preclude the department from subsequently doing the following:

(a) Issuing a final fiscal audit in accordance with Chapter 119. of the Revised Code, as required under section 5111.06 of the Revised Code;

(b) Issuing a finding under any other provision of this chapter or the rules adopted under it.

(2) A final fiscal audit or finding issued subsequent to the recovery of an overpayment under this section shall be reduced by the amount of the prior recovery, as appropriate.

(E) Nothing in this section limits the department's authority to recover overpayments pursuant to any other provision of the Revised Code.

Sec. 5111.062. In any action taken by the department of job and family services under section 5111.06 or 5111.061 of the Revised Code or any other provision of this chapter that requires the department to give notice of an opportunity for a hearing in accordance with Chapter 119. of the Revised Code, if the department gives notice of the opportunity for a hearing but the provider or other entity subject to the notice does not request a hearing or timely request a hearing in accordance with section 119.07 of the Revised Code, the department is not required to hold a hearing. The director of job and family service may proceed by issuing a final adjudication order in accordance with Chapter 119. of the Revised Code.

Sec. 5111.082. The director of job and family services, in rules adopted under section 5111.02 of the Revised Code, may establish and implement a supplemental drug rebate program under which drug manufacturers may be required to provide the department of job and family services a supplemental rebate as a condition of having the drug manufacturers' drug

products covered by the medicaid program without prior approval. The department may receive a supplemental rebate negotiated under the program for a drug dispensed to a medicaid recipient pursuant to a prescription or a drug purchased by a medicaid provider for administration to a medicaid recipient in the provider's primary place of business. If necessary, the director may apply to the United States secretary of health and human services for a waiver of federal statutes and regulations to establish the supplemental drug rebate program.

If the director establishes a supplemental drug rebate program, the director shall consult with drug manufacturers regarding the establishment and implementation of the program.

~~If the director establishes a supplemental drug rebate program, the director shall exempt from the program all of a drug manufacturer's drug products that have been approved by the United States food and drug administration for the treatment of either of the following:~~

~~(A) Mental illness, as defined in section 5122.01 of the Revised Code, including schizophrenia, major depressive disorder, and bipolar disorder;~~

~~(B) HIV or AIDS, both as defined in section 3701.24 of the Revised Code.~~

Sec. 5111.083. (A) As used in this section:

(1) "State maximum allowable cost" means the per unit amount the department of job and family services reimburses a terminal distributor of dangerous drugs for a prescription drug included in the state maximum allowable cost program established under division (B) of this section. "State maximum allowable cost" excludes dispensing fees and copayments, coinsurance, or other cost-sharing charges, if any.

(2) "Terminal distributor of dangerous drugs" has the same meaning as in section 4729.01 of the Revised Code.

(B) The director of job and family services shall establish a state maximum allowable cost program for purposes of managing reimbursement to terminal distributors of dangerous drugs for prescription drugs identified by the director pursuant to this division. The director shall do all of the following with respect to the program:

(1) Identify and create a list of prescription drugs to be included in the program.

(2) Update the list of prescription drugs described in division (B)(1) of this section on a weekly basis.

(3) Review the state maximum allowable cost for each drug included on the list described in division (B)(1) of this section on a weekly basis.

(C) The director may adopt rules in accordance with Chapter 119. of the

Revised Code to implement this section.

Sec. 5111.084. (A) As used in this section, "licensed health professional authorized to prescribe drugs" has the same meaning as in section 4729.01 of the Revised Code.

(B) The director of job and family services may establish an e-prescribing system for the medicaid program under which a medicaid provider who is a licensed health professional authorized to prescribe drugs shall use an electronic system to prescribe a drug for a medicaid recipient when required to do so by division (C) of this section. The e-prescribing system shall eliminate the need for such medicaid providers to make prescriptions for medicaid recipients by handwriting or telephone. The e-prescribing system also shall provide such medicaid providers with an up-to-date, clinically relevant drug information database and a system of electronically monitoring medicaid recipients' medical history, drug regimen compliance, and fraud and abuse.

(C) If the director establishes an e-prescribing system under division (B) of this section, the director shall do all of the following:

(1) Require that a medicaid provider who is a licensed health professional authorized to prescribe drugs use the e-prescribing system during a fiscal year if the medicaid provider was one of the ten medicaid providers who, during the calendar year that precedes that fiscal year, issued the most prescriptions for medicaid recipients receiving hospital services;

(2) Before the beginning of each fiscal year, determine the ten medicaid providers that issued the most prescriptions for medicaid recipients receiving hospital services during the calendar year that precedes the upcoming fiscal year and notify those medicaid providers that they must use the e-prescribing system for the upcoming fiscal year;

(3) Seek the most federal financial participation available for the development and implementation of the e-prescribing system.

Sec. ~~5444.84~~ 5111.085. There is hereby established the pharmacy and therapeutics committee of the department of job and family services. The committee shall consist of ~~eight~~ nine members and shall be appointed by the director of job and family services. The membership of the committee shall include: ~~two~~ three pharmacists licensed under Chapter 4729. of the Revised Code; two doctors of medicine and two doctors of osteopathy licensed under Chapter 4731. of the Revised Code; a registered nurse licensed under Chapter 4723. of the Revised Code; and a pharmacologist who has a doctoral degree. The committee shall elect one of its members as chairperson.

Sec. 5111.10. The director of job and family services may conduct



reviews of the medicaid program. The reviews may include physical inspections of records and sites where medicaid-funded services are provided and interviews of providers and recipients of the services. If the director determines pursuant to a review that a person or government entity has violated a rule governing the medicaid program, the director may establish a corrective action plan for the violator and impose fiscal, administrative, or both types of sanctions on the violator in accordance with rules governing the medicaid program. Such action to be taken against a responsible entity, as defined in section 5101.24 of the Revised Code, shall be taken in accordance with that section.

Sec. 5111.11. (A) As used in this section, ~~"estate" means all~~ and section 5111.111 of the Revised Code:

(1) "Estate" includes both of the following:

(a) All real and personal property and other assets to be administered under Title XXI of the Revised Code and property that would be administered under that title if not for section 2113.03 or 2113.031 of the Revised Code;

(b) Any other real and personal property and other assets in which an individual had any legal title or interest at the time of death (to the extent of the interest), including assets conveyed to a survivor, heir, or assign of the individual through joint tenancy, tenancy in common, survivorship, life estate, living trust, or other arrangement.

(2) "Institution" means a nursing facility, intermediate care facility for the mentally retarded, or a medical institution.

(3) "Intermediate care facility for the mentally retarded" and "nursing facility" have the same meanings as in section 5111.20 of the Revised Code.

(4) "Permanently institutionalized individual" means an individual to whom all of the following apply:

(a) Is an inpatient in an institution;

(b) Is required, as a condition of the medicaid program paying for the individual's services in the institution, to spend for costs of medical or nursing care all of the individual's income except for an amount for personal needs specified by the department of job and family services;

(c) Cannot reasonably be expected to be discharged from the institution and return home as determined by the department of job and family services.

(5) "Time of death" shall not be construed to mean a time after which a legal title or interest in real or personal property or other asset may pass by survivorship or other operation of law due to the death of the decedent or terminate by reason of the decedent's death.

(B) ~~For the purpose of recovering the cost of services correctly paid~~

~~under the medical assistance program to a recipient age fifty-five or older, the~~ To the extent permitted by federal law, the department of job and family services shall institute an estate recovery program against the property and estates of medical assistance recipients to recover medical assistance correctly paid on their behalf to the extent that federal law and regulations permit the implementation of a program of that nature. The department shall seek to recover medical assistance correctly paid only after the recipient and the recipient's surviving spouse, if any, have died and only at a time when the recipient has no surviving child who is under age twenty-one or blind or permanently and totally disabled.

~~The department may enter into a contract with any person under which the person administers the estate recovery program on behalf of the department or performs any of the functions required to carry out the program. The contract may provide for the person to be compensated from the property recovered from the estates of medical assistance recipients or may provide for another manner of compensation agreed to by the person and the department. Regardless of whether it is administered by the department or a person under contract with the department, the program shall be administered in accordance with applicable requirements of federal law and regulations and state law and rules.~~

~~(C)~~ under which the department shall, except as provided in divisions (C) and (D) of this section, do both of the following:

(1) For the costs of medicaid services the medicaid program correctly paid or will pay on behalf of a permanently institutionalized individual of any age, seek adjustment or recovery from the individual's estate or on the sale of property of the individual or spouse that is subject to a lien imposed under section 5111.111 of the Revised Code;

(2) For the costs of medicaid services the medicaid program correctly paid or will pay on behalf of an individual fifty-five years of age or older who is not a permanently institutionalized individual, seek adjustment or recovery from the individual's estate.

(C)(1) No adjustment or recovery may be made under division (B)(1) of this section from a permanently institutionalized individual's estate or on the sale of property of a permanently institutionalized individual that is subject to a lien imposed under section 5111.111 of the Revised Code or under division (B)(2) of this section from an individual's estate while either of the following are alive:

(a) The spouse of the permanently institutionalized individual or individual;

(b) The son or daughter of a permanently institutionalized individual or

individual if the son or daughter is under age twenty-one or, under 42 U.S.C. 1382c, is considered blind or disabled.

(2) No adjustment or recovery may be made under division (B)(1) of this section from a permanently institutionalized individual's home that is subject to a lien imposed under section 5111.111 of the Revised Code while either of the following lawfully reside in the home:

(a) The permanently institutionalized individual's sibling who resided in the home for at least one year immediately before the date of the permanently institutionalized individual's admission to the institution and on a continuous basis since that time;

(b) The permanently institutionalized individual's son or daughter who provided care to the permanently institutionalized individual that delayed the permanently institutionalized individual's institutionalization and resided in the home for at least two years immediately before the date of the permanently institutionalized individual's admission to the institution and on a continuous basis since that time.

(D) The department ~~may~~ shall waive seeking an adjustment or recovery of medical assistance correctly paid otherwise required by this section if the director of job and family services determines that adjustment or recovery would work an undue hardship. The department may limit the duration of the waiver to the period during which the undue hardship exists.

The director, in accordance with Chapter 119. of the Revised Code, shall adopt rules establishing regarding the estate recovery program, including rules that establish procedures and criteria for waiver of adjustment or recovery due to an undue hardship, which. These rules shall meet the standards specified by the United States secretary of health and human services under 42 U.S.C. 1396p(b)(3), as amended.

~~(D) Any action that may be taken by the department under section 5111.111 of the Revised Code may be taken by a person administering the program, or performing actions specified in that section, pursuant to a contract with the department.~~

(E) For the purpose of determining whether an individual meets the definition of "permanently institutionalized individual" established for this section, a rebuttable presumption exists that the individual cannot reasonably be expected to be discharged from an institution and return home if either of the following is the case:

(1) The individual declares that he or she does not intend to return home.

(2) The individual has been an inpatient in an institution for at least six months.

Sec. 5111.111. ~~As used in this section, "home and community-based services" means services provided pursuant to a waiver under section 1915 of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 1396n, as amended.~~

The (A) Except as provided in division (B) of this section and section 5111.12 of the Revised Code, no lien may be imposed against the property of an individual before the individual's death on account of medicaid services correctly paid or to be paid on the individual's behalf.

(B) Except as provided in division (C) of this section, the department of job and family services may ~~place~~ impose a lien against the real property of a ~~medical assistance~~ medicaid recipient ~~or who is a permanently institutionalized individual and against the real property of the recipient's spouse, other than a recipient or spouse of a recipient of home and community-based services, that the department may recover as part of the program instituted under section 5111.11 of the Revised Code including any real property that is jointly held by the recipient and spouse. When medical assistance is paid on behalf of any person in circumstances under which federal law and regulations and this section permit the imposition of a lien,~~ The lien may be imposed on account of medicaid paid or to be paid on the recipient's behalf.

(C) No lien may be imposed under division (B) of this section against the home of a medicaid recipient if any of the following lawfully resides in the home:

(1) The recipient's spouse;

(2) The recipient's son or daughter who is under twenty-one years of age or, under 42 U.S.C. 1382c, considered to be blind or disabled;

(3) The recipient's sibling who has an equity interest in the home and resided in the home for at least one year immediately before the date of the recipient's admission to the institution.

(D) The director of job and family services or a person designated by the director ~~may~~ shall sign a certificate to ~~the effect~~ effectuate a lien required to be imposed under this section. The county department of job and family services shall file for recording and indexing the certificate, or a certified copy, in the real estate mortgage records in the office of the county recorder in every county in which real property of the recipient or spouse is situated. From the time of filing the certificate in the office of the county recorder, the lien attaches to all real property of the recipient or spouse described ~~therein~~ in the certificate for all amounts of aid which are paid or which thereafter are paid, for which adjustment or recovery may be made under section 5111.11 of the Revised Code and, except as provided in

division (E) of this section, shall remain a lien until satisfied.

Upon filing the certificate in the office of the recorder, all persons are charged with notice of the lien and the rights of the department of job and family services thereunder.

The county recorder shall keep a record of every certificate filed showing its date, the time of filing, the name and residence of the recipient or spouse, and any release, waivers, or satisfaction of the lien.

The priority of the lien shall be established in accordance with state and federal law.

The department may waive the priority of its lien to provide for the costs of the last illness as determined by the department, administration, attorney fees, administrator fees, a sum for the payment of the costs of burial, which shall be computed by deducting from five hundred dollars whatever amount is available for the same purpose from all other sources, and a similar sum for the spouse of the decedent.

(E) A lien imposed with respect to a medicaid recipient under this section shall dissolve on the recipient's discharge from the institution and return home.

Sec. 5111.112. The department of job and family services shall certify amounts due under the estate recovery program instituted under section 5111.11 of the Revised Code to the attorney general pursuant to section 131.02 of the Revised Code. The attorney general may enter into a contract with any person or government entity to collect the amounts due on behalf of the attorney general.

The attorney general, in entering into a contract under this section, shall comply with all of the requirements that must be met for the state to receive federal financial participation for the costs incurred in entering into the contract and carrying out actions under the contract. The contract may provide for the person or government entity with which the attorney general contracts to be compensated from the property recovered under the estate recovery program or may provide for another manner of compensation agreed to by the parties to the contract.

Regardless of whether the attorney general collects the amounts due under the estate recovery program or contracts with a person or government entity to collect the amounts due on behalf of the attorney general, the amounts due shall be collected in accordance with applicable requirements of federal statutes and regulations and state statutes and rules.

~~Sec. 5111.112~~ 5111.113. (A) As used in this section:

(1) "Adult care facility" has the same meaning as in section 3722.01 of the Revised Code.

(2) "Commissioner" means a person appointed by a probate court under division (B) of section 2113.03 of the Revised Code to act as a commissioner.

(3) "Home" has the same meaning as in section 3721.10 of the Revised Code.

(4) "Personal needs allowance account" means an account or petty cash fund that holds the money of a resident of an adult care facility or home and that the facility or home manages for the resident.

(B) Except as provided in divisions (C) and (D) of this section, the owner or operator of an adult care facility or home shall transfer to the department of job and family services the money in the personal needs allowance account of a resident of the facility or home who was a recipient of the medical assistance program no earlier than sixty days but not later than ninety days after the resident dies. The adult care facility or home shall transfer the money even though the owner or operator of the facility or home has not been issued letters testamentary or letters of administration concerning the resident's estate.

(C) If funeral or burial expenses for a resident of an adult care facility or home who has died have not been paid and the only resource the resident had that could be used to pay for the expenses is the money in the resident's personal needs allowance account, or all other resources of the resident are inadequate to pay the full cost of the expenses, the money in the resident's personal needs allowance account shall be used to pay for the expenses rather than being transferred to the department of job and family services pursuant to division (B) of this section.

(D) If, not later than sixty days after a resident of an adult care facility or home dies, letters testamentary or letters of administration are issued, or an application for release from administration is filed under section 2113.03 of the Revised Code, concerning the resident's estate, the owner or operator of the facility or home shall transfer the money in the resident's personal needs allowance account to the administrator, executor, commissioner, or person who filed the application for release from administration.

(E) The transfer or use of money in a resident's personal needs allowance account in accordance with division (B), (C), or (D) of this section discharges and releases the adult care facility or home, and the owner or operator of the facility or home, from any claim for the money from any source.

(F) If, sixty-one or more days after a resident of an adult care facility or home dies, letters testamentary or letters of administration are issued, or an application for release from administration under section 2113.03 of the

Revised Code is filed, concerning the resident's estate, the department of job and family services shall transfer the funds to the administrator, executor, commissioner, or person who filed the application, unless the department is entitled to recover the money under the estate recovery program instituted under section 5111.11 of the Revised Code.

Sec. ~~5111.113~~ 5111.114. As used in this section, "nursing facility" and "intermediate care facility for the ~~mental~~ mentally retarded" have the same meanings as in section 5111.20 of the Revised Code.

In determining the amount of income that a recipient of medical assistance must apply monthly toward payment of the cost of care in a nursing facility or intermediate care facility for the mentally retarded, the county department of job and family services shall deduct from the recipient's monthly income a monthly personal needs allowance in accordance with section 1902 of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 1396a, as amended.

For a resident of a nursing facility, the monthly personal needs allowance shall be not less than forty dollars for an individual resident and not less than eighty dollars for a married couple if both spouses are residents of a nursing facility.

For a resident of an intermediate care facility for the mentally retarded, the monthly personal needs allowance shall be forty dollars unless the resident has earned income, in which case the monthly personal needs allowance shall be determined by the state department of job and family services but shall not exceed one hundred five dollars.

Sec. 5111.16. (A) As part of the medicaid program, the department of job and family services shall establish a care management system. The department shall submit, if necessary, applications to the United States department of health and human services for waivers of federal medicaid requirements that would otherwise be violated in the implementation of the system.

(B) The department shall implement the care management system in some or all counties and shall designate the medicaid recipients who are required or permitted to participate in the system. In the department's implementation of the system and designation of participants, all of the following apply:

(1) In the case of individuals who receive medicaid on the basis of being included in the category identified by the department as covered families and children, the department shall implement the care management system in all counties. All individuals included in the category shall be designated for participation, except for individuals included in one or more of the

medicaid recipient groups specified in 42 C.F.R. 438.50(d). The department shall designate the participants not later than January 1, 2006. Beginning not later than December 31, 2006, the department shall ensure that all participants are enrolled in health insuring corporations under contract with the department pursuant to section 5111.17 of the Revised Code.

(2) In the case of individuals who receive medicaid on the basis of being aged, blind, or disabled, as specified in division (A)(2) of section 5111.01 of the Revised Code, the department shall implement the care management system in all counties. All individuals included in the category shall be designated for participation, except for the individuals specified in divisions (B)(2)(a) to (e) of this section. Beginning not later than December 31, 2006, the department shall ensure that all participants are enrolled in health insuring corporations under contract with the department pursuant to section 5111.17 of the Revised Code.

In designating participants who receive medicaid on the basis of being aged, blind, or disabled, the department shall not include any of the following:

(a) Individuals who are under twenty-one years of age;

(b) Individuals who are institutionalized;

(c) Individuals who become eligible for medicaid by spending down their income or resources to a level that meets the medicaid program's financial eligibility requirements;

(d) Individuals who are dually eligible under the medicaid program and the medicare program established under Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended;

(e) Individuals to the extent that they are receiving medicaid services through a medicaid waiver component, as defined in section 5111.85 of the Revised Code.

(3) Alcohol, drug addiction, and mental health services covered by medicaid shall not be included in any component of the care management system when the nonfederal share of the cost of those services is provided by a board of alcohol, drug adiction, and mental health services or a state agency other than the department of job and family services, but the recipients of those services may otherwise be designated for participation in the system.

~~(B) Under the care management system~~ (C) Subject to division (B) of this section, the department may do both of the following under the care management system:

(1) Require or permit participants in the system to obtain health care services from providers designated by the department;



(2) ~~require~~ Require or permit participants in the system to obtain health care services through managed care organizations under contract with the department pursuant to section 5111.17 of the Revised Code.

~~(C)~~(D)(1) The department shall prepare an annual report on the care management system. The report shall address the department's ability to implement the system, including all of the following components:

(a) The required designation of participants included in the category identified by the department as covered families and children;

(b) The required designation of participants included in the aged, blind, or disabled category of medicaid recipients;

(c) The conduct of the pilot program for chronically ill children established under section 5111.163 of the Revised Code;

(d) The use of any programs for enhanced care management.

(2) The department shall submit each annual report to the general assembly. The first report shall be submitted not later than October 1, 2007.

(E) The director of job and family services may adopt rules in accordance with Chapter 119. of the Revised Code to implement this section.

Sec. 5111.161. (A) There is hereby created the medicaid care management working group, consisting of the following members:

(1) Three individuals representing medicaid health insuring corporations, as defined in section 5111.176 of the Revised Code, one appointed by the president of the senate, one appointed by the speaker of the house of representatives, and one appointed by the governor;

(2) One individual representing programs that provide enhanced care management services, appointed by the governor;

(3) Four individuals representing health care professional and trade associations, appointed as follows:

(a) One representative of the American academy of pediatrics, appointed by the president of the senate;

(b) One representative of the American academy of family physicians, appointed by the speaker of the house of representatives;

(c) One representative of the Ohio state medical association, appointed by the president of the senate;

(d) One representative of the Ohio hospital association, appointed by the speaker of the house of representatives.

(4) One individual representing behavioral health professional and trade associations, appointed by the speaker of the house of representatives;

(5) Two individuals representing consumer advocates, one appointed by the president of the senate and one appointed by the speaker of the house of

representatives:

(6) One individual representing county departments of job and family services, appointed by the president of the senate;

(7) Three individuals representing the business community, one appointed by the president of the senate, one appointed by the speaker of the house of representatives, and one appointed by the governor;

(8) The director of job and family services or the director's designee;

(9) The director of health or the director's designee;

(10) The director of aging or the director's designee.

(B) The members of the working group shall serve at the pleasure of their appointing authorities. Vacancies shall be filled in the manner provided for original appointments.

(C) The working group shall develop guidelines that the department of job and family services may consider when entering into contracts under section 5111.17 of the Revised Code with managed care organizations for purposes of the care management system established under section 5111.16 of the Revised Code. The working group shall consult regularly with the departments of insurance, alcohol and drug addiction services, mental health, and mental retardation and developmental disabilities and the rehabilitation services commission.

In developing the guidelines, the working group shall do all of the following:

(1) Examine the best practice standards used in managed care programs and other health care and related systems to maximize patient and provider satisfaction, maintain quality of care, and obtain cost-effectiveness;

(2) Consider the most effective means of facilitating the expansion of the care management system and increasing consistency within the system;

(3) Make recommendations for coordinating the regulatory relationships involved in the medicaid care management system;

(4) Make recommendations for improving the resolution of contracting issues among the providers involved in the care management system;

(5) Make recommendations that the department may consider when developing and implementing the financial incentive program under division (B) of section 5111.17 of the Revised Code to improve and reward positive health outcomes through managed care contracts. In making these recommendations, the working group shall include all of the following:

(a) Standards and procedures by which care management contractors may receive financial incentives for positive health outcomes measured on an individual basis;

(b) Specific measures of positive health outcomes, particularly among

individuals with high-risk health conditions;

(c) Criteria for determining what constitutes a completed health outcome;

(d) Methods of funding the program without requiring an increase in appropriations.

(D) The working group shall prepare an annual report on its activities and shall submit the report to the president of the senate, speaker of the house of representatives, and governor. The report shall include any findings and recommendations the working group considers relevant to its duties. The working group shall complete an initial report not later than December 31, 2005. Each year thereafter, the working group shall complete its annual report by the last day of December.

Sec. 5111.162. (A) As used in this section, "medicaid managed care organization" means a managed care organization that has entered into a contract with the department of job and family services pursuant to section 5111.17 of the Revised Code.

(B) Except as provided in division (C) of this section, when a participant in the care management system established under section 5111.16 of the Revised Code is enrolled in a medicaid managed care organization and the organization refers the participant to a hospital that participates in the medicaid program but is not under contract with the organization, the hospital shall provide the service for which the referral was made and shall accept from the organization, as payment in full, the amount derived from the reimbursement rate used by the department to reimburse other hospitals of the same type for providing the same service to a medicaid recipient who is not enrolled in a medicaid managed care organization.

(C) A hospital is not subject to division (B) of this section if all of the following are the case:

(1) The hospital is located in a county in which participants in the care management system are required before January 1, 2006, to be enrolled in a medicaid managed care organization that is a health insuring corporation;

(2) The hospital has entered into a contract before January 1, 2006, with at least one health insuring corporation serving the participants specified in division (C)(1) of this section;

(3) The hospital remains under contract with at least one health insuring corporation serving participants in the care management system who are required to be enrolled in a health insuring corporation.

(D) The director of job and family services shall adopt rules specifying the circumstances under which a medicaid managed care organization is permitted to refer a participant in the care management system to a hospital

that is not under contract with the organization. The director may adopt any other rules necessary to implement this section. All rules adopted under this section shall be adopted in accordance with Chapter 119. of the Revised Code.

Sec. 5111.163. (A) As used in this section, "chronically ill child" means an individual who is not more than twenty-one years of age and meets the conditions specified in division (A)(2) of section 5111.01 of the Revised Code to be eligible for medicaid on the basis of being blind or disabled.

(B) Notwithstanding any conflicting provision of section 5111.16 of the Revised Code, the department of job and family services shall develop a pilot program for the care management of chronically ill children in accordance with this section. The pilot program shall be implemented not later than October 1, 2006, or, if by that date the department has not received any necessary federal approval to implement the program, as soon as practicable after receiving the approval. The department shall operate the program until October 1, 2008, except that the department shall cease operation of the program before that date if either of the following is the case:

(1) The department determines that requiring chronically ill children to participate in the care management system is not a cost-effective means of providing medicaid services.

(2) The combined state and federal cost of the children's care coordination described in division (D) of this section reaches three million dollars.

(C) The department shall ensure that the pilot program is operated in at least three counties selected by the department. In its consideration of the counties to be selected, the department may give priority to Hamilton county and Muskingum county. The department may extend its operation of the program into the areas surrounding the counties in which the program is operated.

(D) The purpose of the pilot program shall be to determine whether occurrences of acute illnesses and hospitalizations among chronically ill children can be prevented or reduced by establishing a medical home for the children where care is administered proactively and in a manner that is accessible, continuous, family-centered, coordinated, and compassionate. In establishing a medical home for a chronically ill child, all of the following apply:

(1) A physician shall serve as the care coordinator for the child. The care coordinator may be engaged in practice as a pediatrician certified in pediatrics by a medical specialty board of the American medical association

or American osteopathic association, a pediatric subspecialist, or a provider for the program for medically handicapped children in the department of health. If the physician is in a group practice, any member of the group practice may serve as the child's care coordinator. The duties of the care coordinator may be performed by a person acting under the supervision of the care coordinator.

(2) The child may receive care from any health care practitioner appropriate to the child's needs, but the care coordinator shall direct and oversee the child's overall care.

(3) The care coordinator shall establish a relationship of mutual responsibility with the child's parents or other persons who are responsible for the child. Under this relationship, the care coordinator shall commit to developing a long-term disease prevention strategy and providing disease management and education services, while the child's parents or other persons who are responsible for the child shall commit to participating fully in implementing the child's care management plan.

(4) The medicaid program shall provide reimbursement for the reasonable and necessary costs of the services associated with care coordination, including, but not limited to, case management, care plan oversight, preventive care, health and behavioral care assessment and intervention, and any service modifier that reflects the provision of prolonged services or additional care.

(E) The department shall conduct an evaluation of the pilot program's effectiveness. As part of the evaluation, the department shall maintain statistics on physician expenditures, hospital expenditures, preventable hospitalizations, and other matters the department considers necessary to conduct the evaluation.

(F) The department shall adopt rules in accordance with Chapter 119. of the Revised Code as necessary to implement this section. The rules shall specify standards and procedures to be used in designating the chronically ill children who are required to participate in the pilot program.

Sec. 5111.17. (A) The department of job and family services may enter into contracts with managed care organizations, including health insuring corporations, under which the organizations are authorized to provide, or arrange for the provision of, health care services to medical assistance recipients who are required or permitted to obtain health care services through managed care organizations as part of the care management system established under section 5111.16 of the Revised Code.

(B) The department shall develop and implement a financial incentive program to improve and reward positive health outcomes through the

managed care organization contracts entered into under this section. In developing and implementing the program, the department may take into consideration the recommendations regarding the program made by the medicaid care management working group created under section 5111.161 of the Revised Code.

(C) The director of job and family services may adopt rules in accordance with Chapter 119. of the Revised Code to implement this section.

Sec. 5111.176. (A) As used in this section:

(1) "Medicaid health insuring corporation" means a health insuring corporation that holds a certificate of authority under Chapter 1751. of the Revised Code and has entered into a contract with the department of job and family services pursuant to section 5111.17 of the Revised Code.

(2) "Managed care premium" means any premium payment, capitation payment, or other payment a medicaid health insuring corporation receives for providing, or arranging for the provision of, health care services to its members or enrollees residing in this state.

(B) Except as provided in division (C) of this section, all of the following apply:

(1) Each medicaid health insuring corporation shall pay to the department of job and family services a franchise permit fee for each calendar quarter occurring between January 1, 2006, and June 30, 2007.

(2) The fee to be paid is an amount that is equal to a percentage of the managed care premiums the medicaid health insuring corporation received in the quarter to which the fee applies, excluding the amount of any managed care premiums the corporation returned or refunded to enrollees, members, or premium payers during that quarter.

(3) The percentage to be used in calculating the fee shall be four and one-half per cent, unless the department adopts rules under division (L) of this section decreasing the percentage below four and one-half per cent or increasing the percentage to not more than six per cent.

(C) The department shall reduce the franchise permit fee imposed under this section or terminate its collection of the fee if the department determines either of the following:

(1) That the reduction or termination is required to comply with federal statutes or regulations;

(2) That the fee does not qualify as a state share of medicaid expenditures eligible for federal financial participation.

(D) The franchise permit fee shall be paid on or before the thirtieth day following the end of the calendar quarter to which the fee applies. At the

time the fee is submitted, the medicaid health insuring corporation shall file with the department a report on a form prescribed by the department. The corporation shall provide on the form all information required by the department and shall include with the form any necessary supporting documentation.

(E) The department may audit the records of any medicaid health insuring corporation to determine whether the corporation is in compliance with this section. The department may audit the records that pertain to a particular calendar quarter at any time during the five years following the date the franchise permit fee payment for that quarter was due.

(F)(1) A medicaid health insuring corporation that does not pay the franchise permit fee in full by the date the payment is due is subject to any or all of the following:

(a) A monetary penalty in the amount of five hundred dollars for each day any part of the fee remains unpaid, except that the penalty shall not exceed an amount equal to five per cent of the total fee that was due for the calendar quarter for which the penalty is being imposed;

(b) Withholdings from future managed care premiums pursuant to division (G) of this section;

(c) Termination of the corporation's medicaid provider agreement pursuant to division (H) of this section.

(2) Penalties imposed under division (F)(1)(a) of this section are in addition to and not in lieu of the franchise permit fee.

(G) If a medicaid health insuring corporation fails to pay the full amount of its franchise permit fee when due, or the full amount of a penalty imposed under division (F)(1)(a) of this section, the department may withhold an amount equal to the remaining amount due from any future managed care premiums to be paid to the corporation under the medicaid program. The department may withhold amounts under this division without providing notice to the corporation. The amounts may be withheld until the amount due has been paid.

(H) The department may commence actions to terminate a medicaid health insuring corporation's medicaid provider agreement, and may terminate the agreement subject to division (I) of this section, if the corporation does any of the following:

(1) Fails to pay its franchise permit fee or fails to pay the fee promptly;

(2) Fails to pay a penalty imposed under division (F)(1)(a) of this section or fails to pay the penalty promptly;

(3) Fails to cooperate with an audit conducted under division (E) of this section.

(I) At the request of a medicaid health insuring corporation, the department shall grant the corporation a hearing in accordance with Chapter 119. of the Revised Code, if either of the following is the case:

(1) The department has determined that the corporation owes an additional franchise permit fee or penalty as the result of an audit conducted under division (E) of this section.

(2) The department is proposing to terminate the corporation's medicaid provider agreement and the provisions of section 5111.06 of the Revised Code requiring an adjudication in accordance with Chapter 119. of the Revised Code are applicable.

(J)(1) At the request of a medicaid corporation, the department shall grant the corporation a reconsideration of any issue that arises out of the provisions of this section and is not subject to division (I) of this section. The department's decision at the conclusion of the reconsideration is not subject to appeal under Chapter 119. of the Revised Code or any other provision of the Revised Code.

(2) In conducting a reconsideration, the department shall do at least the following:

(a) Specify the time frames within which a corporation must act in order to exercise its opportunity for a reconsideration:

(b) Permit the corporation to present written arguments or other materials that support the corporation's position.

(K) There is hereby created in the state treasury the managed care assessment fund. Money collected from the franchise permit fees and penalties imposed under this section shall be credited to the fund. The department shall use the money in the fund to pay for medicaid services, the department's administrative costs, and contracts with medicaid health insuring corporations.

(L) The director of job and family services may adopt rules to implement and administer this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

Sec. 5111.177. When contracting under section 5111.17 of the Revised Code with a health insuring corporation that holds a certificate of authority under Chapter 1751. of the Revised Code, the department of job and family services shall require the health insuring corporation to provide a grievance process for medicaid recipients in accordance with 42 C.F.R. 438, subpart F.

Sec. 5111.19. The director of job and family services shall adopt rules governing the calculation and payment of graduate medical education costs associated with services rendered to medicaid recipients of the medical assistance program after June 30, 1994. The Subject to section 5111.191 of



the Revised Code, the rules shall provide for reimbursement of graduate medical education costs associated with services rendered to ~~medical assistance~~ medicaid recipients, including recipients enrolled in ~~health insuring corporations~~ a managed care organization under contract with the department under section 5111.17 of the Revised Code, that the department determines are allowable and reasonable.

If the department requires a ~~health-insuring corporation~~ managed care organization to pay a provider for graduate medical education costs associated with the delivery of services to ~~medical-assistance~~ medicaid recipients enrolled in the ~~corporation~~ organization, the department shall include in its payment to the ~~corporation~~ organization an amount sufficient for the ~~corporation~~ organization to pay such costs. If the department does not include in its payments to the ~~health-insuring corporation~~ managed care organization amounts for graduate medical education costs of providers, all of the following apply:

(A) The Except as provided in section 5111.191 of the Revised Code, the department shall pay the provider for graduate medical education costs associated with the delivery of services to ~~medical-assistance~~ medicaid recipients enrolled in the ~~corporation~~ organization;

(B) No provider shall seek reimbursement from the ~~corporation~~ organization for such costs;

(C) The ~~corporation~~ organization is not required to pay providers for such costs.

Sec. 5111.191. (A) Except as provided in division (B) of this section, the department of job and family services may deny payment to a hospital for direct graduate medical education costs associated with the delivery of services to any medicaid recipient if the hospital refuses without good cause to contract with a managed care organization that serves participants in the care management system established under section 5111.16 of the Revised Code who are required to be enrolled in a managed care organization and the managed care organization serves the area in which the hospital is located.

(B) A hospital is not subject to division (A) of this section if all of the following are the case:

(1) The hospital is located in a county in which participants in the care management system are required before January 1, 2006, to be enrolled in a medicaid managed care organization that is a health insuring corporation.

(2) The hospital has entered into a contract before January 1, 2006, with at least one health insuring corporation serving the participants specified in division (B)(1) of this section.

(3) The hospital remains under contract with at least one health insuring corporation serving participants in the care management system who are required to be enrolled in a health insuring corporation.

(C) The director of job and family services shall specify in the rules adopted under section 5111.19 of the Revised Code what constitutes good cause for a hospital to refuse to contract with a managed care organization.

Sec. 5111.20. As used in sections 5111.20 to 5111.34 of the Revised Code:

(A) "Allowable costs" are those costs determined by the department of job and family services to be reasonable and do not include fines paid under sections 5111.35 to 5111.61 and section 5111.99 of the Revised Code.

(B) "Ancillary and support costs" means all reasonable costs incurred by a nursing facility other than direct care costs or capital costs. "Ancillary and support costs" includes, but is not limited to, costs of activities, social services, pharmacy consultants, medical and habilitation records, program supplies, incontinence supplies, food, enterals, dietary supplies and personnel, laundry, housekeeping, security, administration, medical equipment, utilities, liability insurance, bookkeeping, purchasing department, human resources, communications, travel, dues, license fees, subscriptions, home office costs not otherwise allocated, legal services, accounting services, minor equipment, maintenance and repairs, help-wanted advertising, informational advertising, start-up costs, organizational expenses, other interest, property insurance, employee training and staff development, employee benefits, payroll taxes, and workers' compensation premiums or costs for self-insurance claims and related costs as specified in rules adopted by the director of job and family services under section 5111.02 of the Revised Code, for personnel listed in this division. "Ancillary and support costs" also means the cost of equipment, including vehicles, acquired by operating lease executed before December 1, 1992, if the costs are reported as administrative and general costs on the facility's cost report for the cost reporting period ending December 31, 1992.

(C) "Capital costs" means costs of ownership and, in the case of an intermediate care facility for the mentally retarded, costs of nonextensive renovation.

(1) "Cost of ownership" means the actual expense incurred for all of the following:

(a) Depreciation and interest on any capital assets that cost five hundred dollars or more per item, including the following:

(i) Buildings;

(ii) Building improvements that are not approved as nonextensive renovations under section ~~5111.25~~ or 5111.251 of the Revised Code;

(iii) ~~Equipment~~ Except as provided in division (B) of this section, equipment;

(iv) ~~Extensive~~ In the case of an intermediate care facility for the mentally retarded, extensive renovations;

(v) Transportation equipment.

(b) Amortization and interest on land improvements and leasehold improvements;

(c) Amortization of financing costs;

(d) Except as provided in division ~~(D)~~(K) of this section, lease and rent of land, building, and equipment.

The costs of capital assets of less than five hundred dollars per item may be considered capital costs of ownership in accordance with a provider's practice.

(2) "Costs of nonextensive renovation" means the actual expense incurred by an intermediate care facility for the mentally retarded for depreciation or amortization and interest on renovations that are not extensive renovations.

~~(C)~~(D) "Capital lease" and "operating lease" shall be construed in accordance with generally accepted accounting principles.

~~(D)~~(E) "Case-mix score" means the measure determined under section ~~5111.231~~ 5111.232 of the Revised Code of the relative direct-care resources needed to provide care and habilitation to a resident of a nursing facility or intermediate care facility for the mentally retarded.

~~(E)~~(F) "Date of licensure," for a facility originally licensed as a nursing home under Chapter 3721. of the Revised Code, means the date specific beds were originally licensed as nursing home beds under that chapter, regardless of whether they were subsequently licensed as residential facility beds under section 5123.19 of the Revised Code. For a facility originally licensed as a residential facility under section 5123.19 of the Revised Code, "date of licensure" means the date specific beds were originally licensed as residential facility beds under that section.

(1) If nursing home beds licensed under Chapter 3721. of the Revised Code or residential facility beds licensed under section 5123.19 of the Revised Code were not required by law to be licensed when they were originally used to provide nursing home or residential facility services, "date of licensure" means the date the beds first were used to provide nursing home or residential facility services, regardless of the date the present provider obtained licensure.

(2) If a facility adds nursing home beds or residential facility beds or extensively renovates all or part of the facility after its original date of licensure, it will have a different date of licensure for the additional beds or extensively renovated portion of the facility, unless the beds are added in a space that was constructed at the same time as the previously licensed beds but was not licensed under Chapter 3721. or section 5123.19 of the Revised Code at that time.

~~(F)~~(G) "Desk-reviewed" means that costs as reported on a cost report submitted under section 5111.26 of the Revised Code have been subjected to a desk review under division (A) of section 5111.27 of the Revised Code and preliminarily determined to be allowable costs.

~~(G)~~(H) "Direct care costs" means all of the following:

(1)(a) Costs for registered nurses, licensed practical nurses, and nurse aides employed by the facility;

(b) Costs for direct care staff, administrative nursing staff, medical directors, ~~social services staff, activities staff, psychologists and psychology assistants, social workers and counselors,~~ habilitation staff, qualified mental retardation professionals, program directors, respiratory therapists, habilitation supervisors, and except as provided in division (G)(2) of this section, other persons holding degrees qualifying them to provide therapy;

(c) Costs of purchased nursing services;

(d) Costs of quality assurance;

(e) Costs of training and staff development, employee benefits, payroll taxes, and workers' compensation premiums or costs for self-insurance claims and related costs as specified in rules adopted by the director of job and family services in accordance with Chapter 119. of the Revised Code, for personnel listed in divisions ~~(G)~~(H)(1)(a), (b), and (d) of this section;

(f) Costs of consulting and management fees related to direct care;

(g) Allocated direct care home office costs.

(2) In addition to the costs specified in division (H)(1) of this section, for nursing facilities only, direct care costs include medical supplies, emergency oxygen, habilitation supplies, and universal precautions supplies.

(3) In addition to the costs specified in division ~~(G)~~(H)(1) of this section, for intermediate care facilities for the mentally retarded only, direct care costs include both of the following:

(a) Costs for physical therapists and physical therapy assistants, occupational therapists and occupational therapy assistants, speech therapists, and audiologists, social services staff, activities staff, psychologists and psychology assistants, and social workers and counselors;

(b) Costs of training and staff development, employee benefits, payroll

taxes, and workers' compensation premiums or costs for self-insurance claims and related costs as specified in rules adopted ~~by the director of job and family services in accordance with Chapter 119.~~ under section 5111.02 of the Revised Code, for personnel listed in division ~~(G)(2)(H)(3)(a)~~ of this section.

~~(3)(4)~~ (4) Costs of other direct-care resources that are specified as direct care costs in rules adopted ~~by the director of job and family services in accordance with Chapter 119.~~ under section 5111.02 of the Revised Code.

~~(H)(I)~~ (I) "Fiscal year" means the fiscal year of this state, as specified in section 9.34 of the Revised Code.

~~(H)(J)~~ (J) "Franchise permit fee" means the fee imposed by sections 3721.50 to 3721.58 of the Revised Code.

(K) "Indirect care costs" means all reasonable costs incurred by an intermediate care facility for the mentally retarded other than direct care costs, other protected costs, or capital costs. "Indirect care costs" includes but is not limited to costs of habilitation supplies, pharmacy consultants, medical and habilitation records, program supplies, incontinence supplies, food, enterals, dietary supplies and personnel, laundry, housekeeping, security, administration, liability insurance, bookkeeping, purchasing department, human resources, communications, travel, dues, license fees, subscriptions, home office costs not otherwise allocated, legal services, accounting services, minor equipment, maintenance and repairs, help-wanted advertising, informational advertising, start-up costs, organizational expenses, other interest, property insurance, employee training and staff development, employee benefits, payroll taxes, and workers' compensation premiums or costs for self-insurance claims and related costs as specified in rules adopted ~~by the director of job and family services in accordance with Chapter 119.~~ under section 5111.02 of the Revised Code, for personnel listed in this division. Notwithstanding division ~~(B)(C)(1)~~ of this section, "indirect care costs" also means the cost of equipment, including vehicles, acquired by operating lease executed before December 1, 1992, if the costs are reported as administrative and general costs on the facility's cost report for the cost reporting period ending December 31, 1992.

~~(H)(L)~~ (L) "Inpatient days" means all days during which a resident, regardless of payment source, occupies a bed in a nursing facility or intermediate care facility for the mentally retarded that is included in the facility's certified capacity under Title XIX of the "Social Security Act," ~~49 Stat. 610 (1935), 42 U.S.C.A. 301, as amended.~~ Therapeutic or hospital leave days for which payment is made under section 5111.33 of the Revised

Code are considered inpatient days proportionate to the percentage of the facility's per resident per day rate paid for those days.

~~(K)~~(M) "Intermediate care facility for the mentally retarded" means an intermediate care facility for the mentally retarded certified as in compliance with applicable standards for the ~~medical assistance~~ medicaid program by the director of health in accordance with Title XIX ~~of the "Social Security Act."~~

~~(L)~~(N) "Maintenance and repair expenses" means, except as provided in division ~~(X)~~(BB)(2) of this section, expenditures that are necessary and proper to maintain an asset in a normally efficient working condition and that do not extend the useful life of the asset two years or more. "Maintenance and repair expenses" includes but is not limited to the cost of ordinary repairs such as painting and wallpapering.

~~(M)~~(O) "Medicaid days" means all days during which a resident who is a Medicaid recipient eligible for nursing facility services occupies a bed in a nursing facility that is included in the nursing facility's certified capacity under Title XIX. Therapeutic or hospital leave days for which payment is made under section 5111.33 of the Revised Code are considered Medicaid days proportionate to the percentage of the nursing facility's per resident per day rate paid for those days.

(P) "Nursing facility" means a facility, or a distinct part of a facility, that is certified as a nursing facility by the director of health in accordance with Title XIX ~~of the "Social Security Act,"~~ and is not an intermediate care facility for the mentally retarded. "Nursing facility" includes a facility, or a distinct part of a facility, that is certified as a nursing facility by the director of health in accordance with Title XIX ~~of the "Social Security Act,"~~ and is certified as a skilled nursing facility by the director in accordance with Title XVIII ~~of the "Social Security Act."~~

~~(N)~~(Q) "Operator" means the person or government entity responsible for the daily operating and management decisions for a nursing facility or intermediate care facility for the mentally retarded.

(R) "Other protected costs" means costs incurred by an intermediate care facility for the mentally retarded for medical supplies; real estate, franchise, and property taxes; natural gas, fuel oil, water, electricity, sewage, and refuse and hazardous medical waste collection; allocated other protected home office costs; and any additional costs defined as other protected costs in rules adopted ~~by the director of job and family services in accordance with Chapter 119.~~ under section 5111.02 of the Revised Code.

~~(O)~~(S)(1) "Owner" means any person or government entity that has at least five per cent ownership or interest, either directly, indirectly, or in any

combination, in any of the following regarding a nursing facility or intermediate care facility for the mentally retarded:

(a) The land on which the facility is located;

(b) The structure in which the facility is located;

(c) Any mortgage, contract for deed, or other obligation secured in whole or in part by the land or structure on or in which the facility is located;

(d) Any lease or sublease of the land or structure on or in which the facility is located.

(2) "Owner" does not mean a holder of a debenture or bond related to the nursing facility or intermediate care facility for the mentally retarded and purchased at public issue or a regulated lender that has made a loan related to the facility unless the holder or lender operates the facility directly or through a subsidiary.

~~(P)~~(T) "Patient" includes "resident."

~~(Q)~~(U) Except as provided in divisions ~~(Q)~~(U)(1) and (2) of this section, "per diem" means a nursing facility's or intermediate care facility for the mentally retarded's actual, allowable costs in a given cost center in a cost reporting period, divided by the facility's inpatient days for that cost reporting period.

(1) When calculating indirect care costs for the purpose of establishing rates under section ~~5111.24~~ or 5111.241 of the Revised Code, "per diem" means ~~a facility's~~ an intermediate care facility for the mentally retarded's actual, allowable indirect care costs in a cost reporting period divided by the greater of the facility's inpatient days for that period or the number of inpatient days the facility would have had during that period if its occupancy rate had been eighty-five per cent.

(2) When calculating capital costs for the purpose of establishing rates under section ~~5111.25~~ or 5111.251 of the Revised Code, "per diem" means a facility's actual, allowable capital costs in a cost reporting period divided by the greater of the facility's inpatient days for that period or the number of inpatient days the facility would have had during that period if its occupancy rate had been ninety-five per cent.

~~(R)~~(V) "Provider" means ~~a person or government entity that operates a nursing facility or intermediate care facility for the mentally retarded under an operator with~~ a provider agreement.

~~(S)~~(W) "Provider agreement" means a contract between the department of job and family services and the operator of a nursing facility or intermediate care facility for the mentally retarded for the provision of nursing facility services or intermediate care facility services for the

mentally retarded under the ~~medical assistance~~ medicaid program.

~~(T)~~(X) "Purchased nursing services" means services that are provided in a nursing facility by registered nurses, licensed practical nurses, or nurse aides who are not employees of the facility.

~~(U)~~(Y) "Reasonable" means that a cost is an actual cost that is appropriate and helpful to develop and maintain the operation of patient care facilities and activities, including normal standby costs, and that does not exceed what a prudent buyer pays for a given item or services. Reasonable costs may vary from provider to provider and from time to time for the same provider.

~~(V)~~(Z) "Related party" means an individual or organization that, to a significant extent, has common ownership with, is associated or affiliated with, has control of, or is controlled by, the provider.

(1) An individual who is a relative of an owner is a related party.

(2) Common ownership exists when an individual or individuals possess significant ownership or equity in both the provider and the other organization. Significant ownership or equity exists when an individual or individuals possess five per cent ownership or equity in both the provider and a supplier. Significant ownership or equity is presumed to exist when an individual or individuals possess ten per cent ownership or equity in both the provider and another organization from which the provider purchases or leases real property.

(3) Control exists when an individual or organization has the power, directly or indirectly, to significantly influence or direct the actions or policies of an organization.

(4) An individual or organization that supplies goods or services to a provider shall not be considered a related party if all of the following conditions are met:

(a) The supplier is a separate bona fide organization.

(b) A substantial part of the supplier's business activity of the type carried on with the provider is transacted with others than the provider and there is an open, competitive market for the types of goods or services the supplier furnishes.

(c) The types of goods or services are commonly obtained by other nursing facilities or intermediate care facilities for the mentally retarded from outside organizations and are not a basic element of patient care ordinarily furnished directly to patients by the facilities.

(d) The charge to the provider is in line with the charge for the goods or services in the open market and no more than the charge made under comparable circumstances to others by the supplier.



~~(W)~~(AA) "Relative of owner" means an individual who is related to an owner of a nursing facility or intermediate care facility for the mentally retarded by one of the following relationships:

- (1) Spouse;
- (2) Natural parent, child, or sibling;
- (3) Adopted parent, child, or sibling;
- (4) ~~Step-parent~~ Stepparent, ~~step-child~~ stepchild, ~~step-brother~~ stepbrother, or ~~step-sister~~ stepsister;
- (5) Father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law;
- (6) Grandparent or grandchild;
- (7) Foster caregiver, foster child, foster brother, or foster sister.

~~(X)~~(BB) "Renovation" and "extensive renovation" mean:

(1) Any betterment, improvement, or restoration of ~~a nursing facility or an~~ intermediate care facility for the mentally retarded started before July 1, 1993, that meets the definition of a renovation or extensive renovation established in rules adopted by the director of job and family services in effect on December 22, 1992.

(2) In the case of betterments, improvements, and restorations of ~~nursing facilities and~~ intermediate care facilities for the mentally retarded started on or after July 1, 1993:

(a) "Renovation" means the betterment, improvement, or restoration of ~~a nursing facility or an~~ intermediate care facility for the mentally retarded beyond its current functional capacity through a structural change that costs at least five hundred dollars per bed. A renovation may include betterment, improvement, restoration, or replacement of assets that are affixed to the building and have a useful life of at least five years. A renovation may include costs that otherwise would be considered maintenance and repair expenses if they are an integral part of the structural change that makes up the renovation project. "Renovation" does not mean construction of additional space for beds that will be added to a facility's licensed or certified capacity.

(b) "Extensive renovation" means a renovation that costs more than sixty-five per cent and no more than eighty-five per cent of the cost of constructing a new bed and that extends the useful life of the assets for at least ten years.

For the purposes of division ~~(X)~~(BB)(2) of this section, the cost of constructing a new bed shall be considered to be forty thousand dollars, adjusted for the estimated rate of inflation from January 1, 1993, to the end of the calendar year during which the renovation is completed, using the

consumer price index for shelter costs for all urban consumers for the north central region, as published by the United States bureau of labor statistics.

The department of job and family services may treat a renovation that costs more than eighty-five per cent of the cost of constructing new beds as an extensive renovation if the department determines that the renovation is more prudent than construction of new beds.

(CC) "Title XIX" means Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as amended.

(DD) "Title XVIII" means Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended.

Sec. 5111.204. (A) As used in this section ~~and in section 5111.205 of the Revised Code~~, "representative" means a person acting on behalf of an applicant for or recipient of ~~medical assistance~~ medicaid. A representative may be a family member, attorney, hospital social worker, or any other person chosen to act on behalf of an applicant or recipient.

(B) The department of job and family services may require ~~an~~ each applicant for or recipient of ~~medical assistance~~ medicaid who applies or intends to apply for admission to a nursing facility or resides in a nursing facility to undergo an assessment to determine whether the applicant or recipient needs the level of care provided by a nursing facility. ~~To~~ The assessment may be performed concurrently with a long-term care consultation provided under section 173.42 of the Revised Code.

To the maximum extent possible, the assessment shall be based on information from the resident assessment instrument specified in rules adopted by the director of job and family services under division ~~(A)~~(E) of section ~~5111.231~~ 5111.232 of the Revised Code. The assessment shall also be based on criteria and procedures established in rules adopted under division ~~(H)~~(F) of this section and information provided by the person being assessed or the person's representative. ~~The~~

The department of job and family services, or if the assessment is performed by ~~another~~ an agency ~~designated~~ under contract with the department pursuant to division (G) of this section ~~5101.754 of the Revised Code~~, the agency, shall, not later than the time the ~~assessment~~ level of care determination based on the assessment is required to be ~~performed~~ provided under division (C) of this section, give written notice of its conclusions and the basis for them to the person assessed and, if the department of job and family services or ~~designated entity~~ agency under contract with the department has been informed that the person has a representative, to the representative.

(C) The department of job and family services or ~~designated~~ agency

under contract with the department, whichever performs the assessment, shall perform a complete assessment, or, if circumstances provided by rules adopted under division (H) of this section exist, a partial assessment, provide a level of care determination based on the assessment as follows:

(1) In the case of a person applying or intending to apply for admission to a nursing facility while hospitalized, not later than one of the following:

(a) One working day after the person or the person's representative submits ~~an~~ the application for admission to the nursing facility or notifies the department of the person's intention to apply and submits all information required for providing the level of care determination, as specified in rules adopted under division (F)(2) of this section;

(b) A later date requested by the person or the person's representative.

(2) In the case of ~~an emergency as determined in accordance with rules adopted under division (H) of this section, not later than one calendar day after the person or the person's representative submits the application or notifies the department of the person's intention to apply.~~

(3) In all other cases a person applying or intending to apply for admission to a nursing facility who is not hospitalized, not later than one of the following:

(a) Five calendar days after the person or the person's representative submits the application or notifies the department of the person's intention to apply and submits all information required for providing the level of care determination, as specified in rules adopted under division (F)(2) of this section;

(b) A later date requested by the person or the person's representative.

(3) In the case of a person who resides in a nursing facility, not later than one of the following:

(a) Five calendar days after the person or the person's representative submits an application for medical assistance and submits all information required for providing the level of care determination, as specified in rules adopted under division (F)(2) of this section;

(b) A later date requested by the person or the person's representative.

(4) In the case of an emergency, as specified in rules adopted under division (F)(4) of this section, within the number of days specified in the rules.

~~(D) If the department of job and family services or designated agency conducts a partial assessment under division (C) of this section, it shall complete the rest of the assessment not later than one hundred eighty days after the date the person is admitted to the nursing facility unless the department or designated agency determines the person should be exempt~~

~~from the assessment.~~

~~(E) A person is not required to be assessed under this section if the circumstances specified by rule adopted under division (H) of this section exist or the department of job and family services or designated agency determines after a partial assessment that the person should be exempt from the assessment.~~

~~(F)~~ A person assessed under this section or the person's representative may appeal request a state hearing to dispute the conclusions reached by the department of job and family services or ~~designated~~ agency under contract with the department on the basis of the assessment. The appeal request for a state hearing shall be made in accordance with section 5101.35 of the Revised Code. The department of job and family services or ~~designated~~ agency, ~~whichever performs the assessment,~~ under contract with the department shall provide to the person or the person's representative and the nursing facility written notice of the person's right to appeal request a state hearing. The notice shall include an explanation of the procedure for filing an appeal requesting a state hearing. If a state hearing is requested, the state shall be represented in the hearing by the department of job and family services or the agency under contract with the department, whichever performed the assessment.

~~(G)~~~~(E)~~ A nursing facility that admits or retains a person determined pursuant to an assessment required under ~~division (B) or (C)~~ of this section not to need the level of care provided by the nursing facility shall not be reimbursed under the ~~medical assistance~~ medicaid program for the person's care.

~~(H)~~~~(F)~~ The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code to implement and administer this section. The rules shall include all of the following:

(1) Criteria and procedures to be used in determining whether admission to a nursing facility or continued stay in a nursing facility is appropriate for the person being assessed. ~~The criteria shall include consideration of whether the person is in need of any of the following:~~

- ~~(a) Nursing or rehabilitation services;~~
- ~~(b) Assistance with two or more of the activities of daily living;~~
- ~~(c) Continuous supervision to prevent harm to the person as a result of cognitive impairment;~~

(2) Information the person being assessed or the person's representative must provide to the department or ~~designated~~ agency under contract with the department for purposes of the assessment and providing a level of care determination based on the assessment;

~~(3) Circumstances under which the department of job and family services or designated agency may perform a partial assessment under division (C) of this section;~~

~~(4) Circumstances under which a person is not required to be assessed;~~

(4) Circumstances that constitute an emergency for purposes of division (C)(4) of this section and the number of days within which a level of care determination must be provided in the case of an emergency.

(G) Pursuant to section 5111.91 of the Revised Code, the department of job and family services may enter into contracts in the form of interagency agreements with one or more other state agencies to perform the assessments required under this section. The interagency agreements shall specify the responsibilities of each agency in the performance of the assessments.

~~Sec. 5111.21. (A) Subject to sections 5111.01, 5111.011, 5111.012, 5111.02, and 5111.211 of the Revised Code, the department of job and family services shall pay, as provided in sections 5111.20 to 5111.32 of the Revised Code, the reasonable costs of services provided to an eligible medicaid recipient by an eligible nursing facility or intermediate care facility for the mentally retarded.~~

In order to be eligible for ~~medical assistance~~ medicaid payments, the operator of a nursing facility or intermediate care facility for the mentally retarded shall do all of the following:

(1) Enter into a provider agreement with the department as provided in section 5111.22, ~~5111.671, or 5111.672~~ of the Revised Code;

(2) Apply for and maintain a valid license to operate if so required by law;

(3) Comply with all applicable state and federal laws and rules.

~~(B) A (1) Except as provided in division (B)(2) of this section, the operator of a nursing facility that elects to obtain and maintain eligibility for payments under the medicaid program shall qualify all of the facility's medicaid-certified beds in the medicare program established by Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395. The director of job and family services may adopt rules in accordance with Chapter 119: under section 5111.02 of the Revised Code to establish the time frame in which a nursing facility must comply with this requirement.~~

(2) The Ohio veteran's home agency is not required to qualify all of the medicaid-certified beds in a nursing facility the agency maintains and operates under section 5907.01 of the Revised Code in the medicare program.

Sec. 5111.22. A provider agreement between the department of job and

family services and the provider of a nursing facility or intermediate care facility for the mentally retarded shall contain the following provisions:

(A) The department agrees to make payments to the ~~nursing facility or intermediate care facility for the mentally retarded for patients eligible for services under the medical assistance program~~ provider, as provided in sections 5111.20 to ~~5111.32~~ 5111.33 of the Revised Code, for medicaid-covered services the facility provides to a resident of the facility who is a medicaid recipient. No payment shall be made for the day a medicaid recipient is discharged from the facility.

(B) The provider agrees to:

(1) Maintain eligibility as provided in section 5111.21 of the Revised Code;

(2) Keep records relating to a cost reporting period for the greater of seven years after the cost report is filed or, if the department issues an audit report in accordance with division (B) of section 5111.27 of the Revised Code, six years after all appeal rights relating to the audit report are exhausted;

(3) File reports as required by the department;

(4) Open all records relating to the costs of its services for inspection and audit by the department;

(5) Open its premises for inspection by the department, the department of health, and any other state or local authority having authority to inspect;

(6) Supply to the department such information as it requires concerning the facility's services to ~~patients~~ residents who are or are eligible to be medicaid recipients;

(7) Comply with section 5111.31 of the Revised Code.

The provider agreement may contain other provisions that are consistent with law and considered necessary by the department.

A provider agreement shall be effective for no longer than twelve months, except that if federal statute or regulations authorize a longer term, it may be effective for a longer term so authorized. A provider agreement may be renewed only if the facility is certified by the department of health for participation in the medicaid program.

The department of job and family services, in accordance with rules adopted ~~by the director pursuant to Chapter 119~~, under section 5111.02 of the Revised Code, may elect not to enter into, not to renew, or to terminate a provider agreement when the department determines that such an agreement would not be in the best interests of ~~the~~ medicaid recipients or of the state.

Sec. 5111.221. The department of job and family services shall make its best efforts each year to calculate rates under sections ~~5111.23~~ 5111.20 to

~~5111.29~~ 5111.33 of the Revised Code in time to use them to make the payments due to ~~nursing facilities and intermediate care facilities for the mentally retarded~~ providers by the fifteenth day of August. If the department is unable to calculate the rates so that they can be paid by that date, the department shall pay each ~~facility~~ provider the rate calculated for ~~it~~ the provider's nursing facilities and intermediate care facilities for the mentally retarded under those sections at the end of the previous fiscal year. If the department also is unable to calculate the rates to make the payments due by the fifteenth day of September and the fifteenth day of October, the department shall pay the previous fiscal year's rate to make those payments. The department may increase by five per cent the previous fiscal year's rate paid ~~to~~ for any facility pursuant to this section at the request of the ~~facility~~ provider. The department shall use rates calculated for the current fiscal year to make the payments due by the fifteenth day of November.

If the rate paid to a provider for a facility pursuant to this section is lower than the rate calculated for ~~it~~ the facility for the current fiscal year, the department shall pay the ~~facility~~ provider the difference between the two rates for the number of days for which the ~~facility~~ provider was paid for the facility pursuant to this section. If the rate paid ~~to~~ for a facility pursuant to this section is higher than the rate calculated for it for the current fiscal year, the ~~facility~~ provider shall refund to the department the difference between the two rates for the number of days for which the ~~facility~~ provider was paid for the facility pursuant to this section.

Sec. 5111.222. (A) Except as otherwise provided by sections 5111.20 to 5111.33 of the Revised Code and by division (B) of this section, the payments that the department of job and family services shall agree to make to the provider of a nursing facility pursuant to a provider agreement shall equal the sum of all of the following:

(1) The rate for direct care costs determined for the nursing facility under section 5111.231 of the Revised Code;

(2) The rate for ancillary and support costs determined for the nursing facility's ancillary and support cost peer group under section 5111.24 of the Revised Code;

(3) The rate for tax costs determined for the nursing facility under section 5111.242 of the Revised Code;

(4) The rate for franchise permit fees determined for the nursing facility under section 5111.243 of the Revised Code;

(5) The quality incentive payment paid to the nursing facility's quality tier group under section 5111.244 of the Revised Code;

(6) The median rate for capital costs for the nursing facilities in the

nursing facility's capital costs peer group as determined under section 5111.25 of the Revised Code.

(B) The department shall adjust the payment otherwise determined under division (A) of this section as directed by the general assembly through the enactment of law governing medicaid payments to providers of nursing facilities, including any law that does either of the following:

(1) Establishes factors by which the payments are to be adjusted;

(2) Establishes a methodology for phasing in the rates determined for fiscal year 2006 under uncodified law the general assembly enacts to rates determined for subsequent fiscal years under sections 5111.20 to 5111.33 of the Revised Code.

Sec. 5111.223. The operator of a nursing facility or intermediate care facility for the mentally retarded may enter into provider agreements for more than one nursing facility or intermediate care facility for the mentally retarded.

Sec. 5111.23. (A) The department of job and family services shall pay a provider for each of the provider's eligible nursing facility and intermediate care facility facilities for the mentally retarded a per resident per day rate for direct care costs established prospectively for each facility. The department shall establish each facility's rate for direct care costs quarterly.

(B) Each facility's rate for direct care costs shall be based on the facility's cost per case-mix unit, subject to the maximum costs per case-mix unit established under division (B)(2) of this section, from the calendar year preceding the fiscal year in which the rate is paid. To determine the rate, the department shall do all of the following:

(1) Determine each facility's cost per case-mix unit for the calendar year preceding the fiscal year in which the rate will be paid by dividing the facility's desk-reviewed, actual, allowable, per diem direct care costs for that year by its average case-mix score determined under section ~~5111.231~~ 5111.232 of the Revised Code for the same calendar year.

~~(2)(a) Set the maximum cost per case-mix unit for each peer group of nursing facilities specified in rules adopted under division (E) of this section at a percentage above the cost per case-mix unit of the facility in the group that has the group's median medicaid inpatient day for the calendar year preceding the fiscal year in which the rate will be paid, as calculated under division (B)(1) of this section, that is no less than the percentage calculated under division (D)(1) of this section.~~

~~(b) Set the maximum cost per case-mix unit for each peer group of intermediate care facilities for the mentally retarded with more than eight beds specified in rules adopted under division (E) of this section at a~~



percentage above the cost per case-mix unit of the facility in the group that has the group's median medicaid inpatient day for the calendar year preceding the fiscal year in which the rate will be paid, as calculated under division (B)(1) of this section, that is no less than the percentage calculated under division (D)(2) of this section.

~~(e)~~(b) Set the maximum cost per case-mix unit for each peer group of intermediate care facilities for the mentally retarded with eight or fewer beds specified in rules adopted under division (E) of this section at a percentage above the cost per case-mix unit of the facility in the group that has the group's median medicaid inpatient day for the calendar year preceding the fiscal year in which the rate will be paid, as calculated under division (B)(1) of this section, that is no less than the percentage calculated under division (D)(3) of this section.

~~(d)~~(c) In calculating the maximum cost per case-mix unit under divisions (B)(2)(a) to ~~(e)~~(b) of this section for each peer group, the department shall exclude from its calculations the cost per case-mix unit of any facility in the group that participated in the ~~medical-assistance~~ medicaid program under the same operator for less than twelve months during the calendar year preceding the fiscal year in which the rate will be paid.

(3) Estimate the rate of inflation for the eighteen-month period beginning on the first day of July of the calendar year preceding the fiscal year in which the rate will be paid and ending on the thirty-first day of December of the fiscal year in which the rate will be paid, using the employment cost index for total compensation, health services component, published by the United States bureau of labor statistics. If the estimated inflation rate for the eighteen-month period is different from the actual inflation rate for that period, as measured using the same index, the difference shall be added to or subtracted from the inflation rate estimated under division (B)(3) of this section for the following fiscal year.

(4) The department shall not recalculate a maximum cost per case-mix unit under division (B)(2) of this section or a percentage under division (D) of this section based on additional information that it receives after the maximum costs per case-mix unit or percentages are set. The department shall recalculate a maximum cost per case-mix units or percentage only if it made an error in computing the maximum cost per case-mix unit or percentage based on information available at the time of the original calculation.

(C) Each facility's rate for direct care costs shall be determined as follows for each calendar quarter within a fiscal year:

(1) Multiply the lesser of the following by the facility's average

case-mix score determined under section ~~5111.231~~ 5111.232 of the Revised Code for the calendar quarter that preceded the immediately preceding calendar quarter:

(a) The facility's cost per case-mix unit for the calendar year preceding the fiscal year in which the rate will be paid, as determined under division (B)(1) of this section;

(b) The maximum cost per case-mix unit established for the fiscal year in which the rate will be paid for the facility's peer group under division (B)(2) of this section;

(2) Adjust the product determined under division (C)(1) of this section by the inflation rate estimated under division (B)(3) of this section.

~~(D)(1) The department shall calculate the percentage above the median cost per case-mix unit determined under division (B)(1) of this section for the facility that has the median medicaid inpatient day for calendar year 1992 for all nursing facilities that would result in payment of all desk-reviewed, actual, allowable direct care costs for eighty five per cent of the medicaid inpatient days for nursing facilities for calendar year 1992.~~

~~(2)~~ The department shall calculate the percentage above the median cost per case-mix unit determined under division (B)(1) of this section for the facility that has the median medicaid inpatient day for calendar year 1992 for all intermediate care facilities for the mentally retarded with more than eight beds that would result in payment of all desk-reviewed, actual, allowable direct care costs for eighty and one-half per cent of the medicaid inpatient days for such facilities for calendar year 1992.

~~(3)~~(2) The department shall calculate the percentage above the median cost per case-mix unit determined under division (B)(1) of this section for the facility that has the median medicaid inpatient day for calendar year 1992 for all intermediate care facilities for the mentally retarded with eight or fewer beds that would result in payment of all desk-reviewed, actual, allowable direct care costs for eighty and one-half per cent of the medicaid inpatient days for such facilities for calendar year 1992.

(E) The director of job and family services shall adopt rules ~~in accordance with Chapter 119.~~ under section 5111.02 of the Revised Code that specify peer groups of ~~nursing facilities;~~ intermediate care facilities for the mentally retarded with more than eight beds; and intermediate care facilities for the mentally retarded with eight or fewer beds, based on findings of significant per diem direct care cost differences due to geography and facility bed-size. The rules also may specify peer groups based on findings of significant per diem direct care cost differences due to other factors which may include, ~~in the case of intermediate care facilities~~

~~for the mentally retarded,~~ case-mix.

(F) The department, in accordance with division ~~(C)~~(D) of section ~~5111.231~~ 5111.232 of the Revised Code and rules adopted under division ~~(D)~~(E) of that section, may assign case-mix scores or costs per case-mix unit if a facility provider fails to submit assessment ~~information~~ data necessary to calculate ~~its~~ an intermediate care facility for the mentally retarded's case-mix score in accordance with that section.

Sec. 5111.231. (A) As used in this section, "applicable calendar year" means the following:

(1) For the purpose of the department of job and family services' initial determination under division (D) of this section of each peer group's cost per case-mix unit, calendar year 2003;

(2) For the purpose of the department's subsequent determinations under division (D) of this section of each peer group's cost per case-mix unit, the calendar year the department selects.

(B) The department of job and family services shall pay a provider for each of the provider's eligible nursing facilities a per resident per day rate for direct care costs determined semi-annually by multiplying the cost per case-mix unit determined under division (D) of this section for the facility's peer group by the facility's semiannual case-mix score determined under section 5111.232 of the Revised Code.

(C) For the purpose of determining nursing facilities' rate for direct care costs, the department shall establish three peer groups.

Each nursing facility located in any of the following counties shall be placed in peer group one: Brown, Butler, Clermont, Clinton, Hamilton, and Warren.

Each nursing facility located in any of the following counties shall be placed in peer group two: Ashtabula, Champaign, Clark, Cuyahoga, Darke, Delaware, Fairfield, Fayette, Franklin, Fulton, Geauga, Greene, Hancock, Knox, Lake, Licking, Lorain, Lucas, Madison, Marion, Medina, Miami, Montgomery, Morrow, Ottawa, Pickaway, Portage, Preble, Ross, Sandusky, Seneca, Summit, Union, and Wood.

Each nursing facility located in any of the following counties shall be placed in peer group three: Adams, Allen, Ashland, Athens, Auglaize, Belmont, Carroll, Columbiana, Coshocton, Crawford, Defiance, Erie, Gallia, Guernsey, Hardin, Harrison, Henry, Highland, Hocking, Holmes, Huron, Jackson, Jefferson, Lawrence, Logan, Mahoning, Meigs, Mercer, Monroe, Morgan, Muskingum, Noble, Paulding, Perry, Pike, Putnam, Richland, Scioto, Shelby, Stark, Trumbull, Tuscarawas, Van Wert, Vinton, Washington, Wayne, Williams, and Wyandot.

(D)(1) At least once every ten years, the department shall determine a cost per case-mix unit for each peer group established under division (C) of this section. A cost per case-mix unit determined under this division for a peer group shall be used for subsequent years until the department redetermines it. To determine a peer group's cost per case-mix unit, the department shall do all of the following:

(a) Determine the cost per case-mix unit for each nursing facility in the peer group for the applicable calendar year by dividing each facility's desk-reviewed, actual, allowable, per diem direct care costs for the applicable calendar year by the facility's annual average case-mix score determined under section 5111.232 of the Revised Code for the applicable calendar year.

(b) Subject to division (D)(2) of this section, identify which nursing facility in the peer group is at the twenty-fifth percentile of the cost per case-mix units determined under division (D)(1)(a) of this section.

(c) Calculate the amount that is seven per cent above the cost per case-mix unit determined under division (D)(1)(a) of this section for the nursing facility identified under division (D)(1)(b) of this section.

(d) Multiply the amount calculated under division (D)(1)(c) of this section by the rate of inflation for the eighteen-month period beginning on the first day of July of the applicable calendar year and ending the last day of December of the calendar year immediately following the applicable calendar year using the employment cost index for total compensation, health services component, published by the United States bureau of labor statistics.

(2) In making the identification under division (D)(1)(b) of this section, the department shall exclude both of the following:

(a) Nursing facilities that participated in the medicaid program under the same provider for less than twelve months in the applicable calendar year;

(b) Nursing facilities whose direct care costs are more than one standard deviation from the mean desk-reviewed, actual, allowable, per diem direct care cost for all nursing facilities in the nursing facility's peer group for the applicable calendar year.

(3) The department shall not redetermine a peer group's cost per case-mix unit under this division based on additional information that it receives after the peer group's per case-mix unit is determined. The department shall redetermine a peer group's cost per case-mix unit only if it made an error in determining the peer group's cost per case-mix unit based on information available to the department at the time of the original determination.

Sec. ~~5111.231~~ 5111.232. (A)(1) The department of job and family services shall determine semiannual and annual average case-mix scores for nursing facilities by using data for each resident, regardless of payment source, all of the following:

(a) Data from a resident assessment instrument specified in rules adopted in accordance with Chapter 119, under section 5111.02 of the Revised Code pursuant to section 1919(e)(5) of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 1396r(e)(5), as amended, and for the following residents:

(i) When determining semi-annual case-mix scores, each resident who is a medicaid recipient;

(ii) When determining annual average case-mix scores, each resident regardless of payment source.

(b) Except as provided in rules authorized by division (A)(2)(a) and (b) of this section, the case-mix values established by the United States department of health and human services. Except:

(c) Except as modified in rules adopted under authorized by division (A)(1)(2)(c) of this section, the department also shall use the grouper methodology used on June 30, 1999, by the United States department of health and human services for prospective payment of skilled nursing facilities under the medicare program established by Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended. The

(2) The director of job and family services may adopt rules in accordance with Chapter 119, under section 5111.02 of the Revised Code that do any of the following:

(a) Adjust the case-mix values specified in division (A)(1)(b) of this section to reflect changes in relative wage differentials that are specific to this state;

(b) Express all of the those case-mix values in numeric terms that are different from the terms specified by the United States department of health and human services but that do not alter the relationship of the case-mix values to one another;

(c) Modify the grouper methodology specified in division (A)(1)(c) of this section as follows:

(i) Establish a different hierarchy for assigning residents to case-mix categories under the methodology;

(ii) Prohibit the use of the index maximizer element of the methodology;

(iii) Incorporate changes to the methodology the United States department of health and human services makes after June 30, 1999;

(iv) Make other changes the ~~nursing facility reimbursement study council established by section 5111.34 of the Revised Code~~ approves department determines are necessary.

(2)(B) The department shall determine case-mix scores for intermediate care facilities for the mentally retarded using data for each resident, regardless of payment source, from a resident assessment instrument and grouper methodology prescribed in rules adopted ~~in accordance with Chapter 119.~~ under section 5111.02 of the Revised Code and expressed in case-mix values established by the department in those rules.

~~(B) Not later than fifteen days after the end of each~~ (C) Each calendar quarter, each ~~nursing facility and intermediate care facility for the mentally retarded provider~~ shall ~~submit to the department the~~ compile complete assessment data, from the resident assessment instrument specified in rules adopted under authorized by division (A) or (B) of this section, for each resident of each of the provider's facilities, regardless of payment source, who was in the facility or on hospital or therapeutic leave from the facility on the last day of the quarter. Providers of a nursing facility shall submit the data to the department of health and, if required by rules, the department of job and family services. Providers of an intermediate care facility for the mentally retarded shall submit the data to the department of job and family services. The data shall be submitted not later than fifteen days after the end of the calendar quarter for which the data is compiled.

Except as provided in division ~~(C)~~(D) of this section, the department, every six months and after the end of each calendar year ~~and pursuant to procedures specified in rules adopted in accordance with Chapter 119. of the Revised Code,~~ shall calculate ~~an a semiannual and~~ annual average case-mix score for each nursing facility ~~and intermediate care facility for the mentally retarded~~ using the facility's quarterly case-mix scores for that six-month period or calendar year. Also except as provided in division (D) of this section, the department, after the end of each calendar year, shall calculate an annual average case-mix score for each intermediate care facility for the mentally retarded using the facility's quarterly case-mix scores for that calendar year. The department shall make the calculations pursuant to procedures specified in rules adopted under section 5111.02 of the Revised Code.

~~(C)~~(D)(1) If a ~~facility~~ provider does not timely submit information for a calendar quarter necessary to calculate ~~its a facility's~~ case-mix score, or submits incomplete or inaccurate information for a calendar quarter, the department may assign the facility a quarterly average case-mix score that is five per cent less than the facility's quarterly average case-mix score for the

preceding calendar quarter. If the facility was subject to an exception review under division (C) of section 5111.27 of the Revised Code for the preceding calendar quarter, the department may assign a quarterly average case-mix score that is five per cent less than the score determined by the exception review. If the facility was assigned a quarterly average case-mix score for the preceding quarter, the department may assign a quarterly average case-mix score that is five per cent less than that score assigned for the preceding quarter.

The department may use a quarterly average case-mix score assigned under division ~~(C)~~(D)(1) of this section, instead of a quarterly average case-mix score calculated based on the ~~facility's~~ provider's submitted information, to calculate the facility's rate for direct care costs being established under section 5111.23 or 5111.231 of the Revised Code for one or more months, as specified in rules ~~adopted under~~ authorized by division ~~(D)~~(E) of this section, of the quarter for which the rate established under section 5111.23 or 5111.231 of the Revised Code will be paid.

Before taking action under division ~~(C)~~(D)(1) of this section, the department shall permit the ~~facility~~ provider a reasonable period of time, specified in rules ~~adopted under~~ authorized by division ~~(D)~~(E) of this section, to correct the information. In the case of an intermediate care facility for the mentally retarded, the department shall not assign a quarterly average case-mix score due to late submission of corrections to assessment information unless the ~~facility~~ provider fails to submit corrected information prior to the eighty-first day after the end of the calendar quarter to which the information pertains. In the case of a nursing facility, the department shall not assign a quarterly average case-mix score due to late submission of corrections to assessment information unless the ~~facility~~ provider fails to submit corrected information prior to the earlier of the eighty-first day after the end of the calendar quarter to which the information pertains or the deadline for submission of such corrections established by regulations adopted by the United States department of health and human services under Titles XVIII and XIX ~~of the Social Security Act~~.

(2) If a ~~facility~~ provider is paid a rate for a facility calculated using a quarterly average case-mix score assigned under division ~~(C)~~(D)(1) of this section for more than six months in a calendar year, the department may assign the facility a cost per case-mix unit that is five per cent less than the facility's actual or assigned cost per case-mix unit for the preceding calendar year. The department may use the assigned cost per case-mix unit, instead of calculating the facility's actual cost per case-mix unit in accordance with section 5111.23 or 5111.231 of the Revised Code, to establish the facility's

rate for direct care costs for the following fiscal year.

(3) The department shall take action under division ~~(C)~~(D)(1) or (2) of this section only in accordance with rules ~~adopted under~~ authorized by division ~~(D)~~(E) of this section. The department shall not take an action that affects rates for prior payment periods except in accordance with sections 5111.27 and 5111.28 of the Revised Code.

~~(D)~~(E) The director ~~may~~ shall adopt rules ~~in accordance with Chapter 119.~~ under section 5111.02 of the Revised Code that do ~~any~~ all of the following:

(1) Specify whether providers of a nursing facility must submit the assessment data to the department of job and family services;

(2) Specify the medium or media through which the completed assessment ~~information~~ data shall be submitted;

~~(2)~~(3) Establish procedures under which the department will review assessment ~~information~~ data shall be reviewed for accuracy and ~~notify the facility providers shall be notified~~ of any ~~information~~ data that requires correction;

~~(3)~~(4) Establish procedures for facilities providers to correct assessment information. The procedures may prohibit an intermediate care facility for the mentally retarded from submitting corrected assessment information, for the purpose of calculating its annual average case mix score, more than two calendar quarters after the end of the quarter to which the information pertains or, if the information pertains to the quarter ending the thirty first day of December, after the thirty first day of the following March data and specify a reasonable period of time by which providers shall submit the corrections. The procedures may limit the content of corrections by providers of nursing facilities in the manner required by regulations adopted by the United States department of health and human services under Titles XVIII and XIX of the Social Security Act and ~~prohibit a nursing facility from submitting corrected assessment information, for the purpose of calculating its annual average case mix score, more than the earlier of the following:~~

~~(a) Two calendar quarters after the end of the quarter to which the information pertains or, if the information pertains to the quarter ending the thirty first day of December, after the thirty first day of the following March;~~

~~(b) The deadline for submission of such corrections established by regulations adopted by the United States department of health and human services under Titles XVIII and XIX of the Social Security Act.~~

(4)(5) Specify when and how the department will assign case-mix



scores or costs per case-mix unit under division ~~(C)~~(D) of this section if information necessary to calculate the facility's ~~average annual or quarterly~~ case-mix score is not provided or corrected in accordance with the procedures established by the rules. Notwithstanding any other provision of sections 5111.20 to ~~5111.32~~ 5111.33 of the Revised Code, the rules also may provide for ~~exclusion~~ the following:

(a) Exclusion of case-mix scores assigned under division ~~(C)~~(D) of this section from calculation of the facility's an intermediate care facility for the mentally retarded's annual average case-mix score and the maximum cost per case-mix unit for the facility's peer group;

(b) Exclusion of case-mix scores assigned under division (D) of this section from calculation of a nursing facility's semiannual or annual average case-mix score and the cost per case-mix unit for the facility's peer group.

Sec. 5111.235. The department of job and family services shall pay a provider for each of the provider's eligible nursing facility and intermediate care facility facilities for the mentally retarded a per resident per day rate for other protected costs established prospectively each fiscal year for each facility. The rate for each facility shall be the facility's desk-reviewed, actual, allowable, per diem other protected costs from the calendar year preceding the fiscal year in which the rate will be paid, all adjusted, ~~except for franchise permit fees paid under section 3721.53 of the Revised Code,~~ for the estimated inflation rate for the eighteen-month period beginning on the first day of July of the calendar year preceding the fiscal year in which the rate will be paid and ending on the thirty-first day of December of that fiscal year. The department shall estimate inflation using the consumer price index for all urban consumers for nonprescription drugs and medical supplies, as published by the United States bureau of labor statistics. If the estimated inflation rate for the eighteen-month period is different from the actual inflation rate for that period, the difference shall be added to or subtracted from the inflation rate estimated for the following year.

Sec. 5111.24. (A) As used in this section, "applicable calendar year" means the following:

(1) For the purpose of the department of job and family services' initial determination under division (D) of this section of each peer group's rate for ancillary and support costs, calendar year 2003;

(2) For the purpose of the department's subsequent determinations under division (D) of this section of each peer group's rate for ancillary and support costs, the calendar year the department selects.

(B) The department of job and family services shall pay a provider for each of the provider's eligible nursing facilities a per resident per day rate

for ancillary and support costs determined for the nursing facility's peer group under division (D) of this section.

(C) For the purpose of determining nursing facilities' rate for ancillary and support costs, the department shall establish six peer groups.

Each nursing facility located in any of the following counties shall be placed in peer group one or two: Brown, Butler, Clermont, Clinton, Hamilton, and Warren. Each nursing facility located in any of those counties that has fewer than one hundred beds shall be placed in peer group one. Each nursing facility located in any of those counties that has one hundred or more beds shall be placed in peer group two.

Each nursing facility located in any of the following counties shall be placed in peer group three or four: Ashtabula, Champaign, Clark, Cuyahoga, Darke, Delaware, Fairfield, Fayette, Franklin, Fulton, Geauga, Greene, Hancock, Knox, Lake, Licking, Lorain, Lucas, Madison, Marion, Medina, Miami, Montgomery, Morrow, Ottawa, Pickaway, Portage, Preble, Ross, Sandusky, Seneca, Summit, Union, and Wood. Each nursing facility located in any of those counties that has fewer than one hundred beds shall be placed in peer group three. Each nursing facility located in any of those counties that has one hundred or more beds shall be placed in peer group four.

Each nursing facility located in any of the following counties shall be placed in peer group five or six: Adams, Allen, Ashland, Athens, Auglaize, Belmont, Carroll, Columbiana, Coshocton, Crawford, Defiance, Erie, Gallia, Guernsey, Hardin, Harrison, Henry, Highland, Hocking, Holmes, Huron, Jackson, Jefferson, Lawrence, Logan, Mahoning, Meigs, Mercer, Monroe, Morgan, Muskingum, Noble, Paulding, Perry, Pike, Putnam, Richland, Scioto, Shelby, Stark, Trumbull, Tuscarawas, Van Wert, Vinton, Washington, Wayne, Williams, and Wyandot. Each nursing facility located in any of those counties that has fewer than one hundred beds shall be placed in peer group five. Each nursing facility located in any of those counties that has one hundred or more beds shall be placed in peer group six.

(D)(1) At least once every ten years, the department shall determine the rate for ancillary and support costs for each peer group established under division (C) of this section. The rate for ancillary and support costs determined under this division for a peer group shall be used for subsequent years until the department redetermines it. To determine a peer group's rate for ancillary and support costs, the department shall do all of the following:

(a) Determine the rate for ancillary and support costs for each nursing facility in the peer group for the applicable calendar year by using the

greater of the nursing facility's actual inpatient days for the applicable calendar year or the inpatient days the nursing facility would have had for the applicable calendar year if its occupancy rate had been ninety per cent. For the purpose of determining a nursing facility's occupancy rate under division (D)(1)(a) of this section, the department shall include any beds that the nursing facility removes from its medicaid-certified capacity unless the nursing facility also removes the beds from its licensed bed capacity.

(b) Subject to division (D)(2) of this section, identify which nursing facility in the peer group is at the twenty-fifth percentile of the rate for ancillary and support costs for the applicable calendar year determined under division (D)(1)(a) of this section.

(c) Calculate the amount that is three per cent above the rate for ancillary and support costs determined under division (D)(1)(a) of this section for the nursing facility identified under division (D)(1)(b) of this section.

(d) Multiply the amount calculated under division (D)(1)(c) of this section by the rate of inflation for the eighteen-month period beginning on the first day of July of the applicable calendar year and ending the last day of December of the calendar year immediately following the applicable calendar year using the consumer price index for all items for all urban consumers for the north central region, published by the United States bureau of labor statistics.

(2) In making the identification under division (D)(1)(b) of this section, the department shall exclude both of the following:

(a) Nursing facilities that participated in the medicaid program under the same provider for less than twelve months in the applicable calendar year;

(b) Nursing facilities whose ancillary and support costs are more than one standard deviation from the mean desk-reviewed, actual, allowable, per diem ancillary and support cost for all nursing facilities in the nursing facility's peer group for the applicable calendar year.

(3) The department shall not redetermine a peer group's rate for ancillary and support costs under this division based on additional information that it receives after the rate is determined. The department shall redetermine a peer group's rate for ancillary and support costs only if it made an error in determining the rate based on information available to the department at the time of the original determination.

Sec. 5111.241. (A) The department of job and family services shall pay a provider for each of the provider's eligible intermediate care ~~facility~~ facilities for the mentally retarded a per resident per day rate for indirect care costs established prospectively each fiscal year for each facility. The

rate for each intermediate care facility for the mentally retarded shall be the sum of the following, but shall not exceed the maximum rate established for the facility's peer group under division (B) of this section:

(1) The facility's desk-reviewed, actual, allowable, per diem indirect care costs from the calendar year preceding the fiscal year in which the rate will be paid, adjusted for the inflation rate estimated under division (C)(1) of this section;

(2) An efficiency incentive in the following amount:

(a) For fiscal years ending in even-numbered calendar years:

(i) In the case of intermediate care facilities for the mentally retarded with more than eight beds, seven and one-tenth per cent of the maximum rate established for the facility's peer group under division (B) of this section;

(ii) In the case of intermediate care facilities for the mentally retarded with eight or fewer beds, seven per cent of the maximum rate established for the facility's peer group under division (B) of this section;

(b) For fiscal years ending in odd-numbered calendar years, the amount calculated for the preceding fiscal year under division (A)(2)(a) of this section.

(B)(1) The maximum rate for indirect care costs for each peer group of intermediate care facilities for the mentally retarded with more than eight beds specified in rules adopted under division (D) of this section shall be determined as follows:

(a) For fiscal years ending in even-numbered calendar years, the maximum rate for each peer group shall be the rate that is no less than twelve and four-tenths per cent above the median desk-reviewed, actual, allowable, per diem indirect care cost for all intermediate care facilities for the mentally retarded with more than eight beds in the group, excluding facilities in the group whose indirect care costs for that period are more than three standard deviations from the mean desk-reviewed, actual, allowable, per diem indirect care cost for all intermediate care facilities for the mentally retarded with more than eight beds, for the calendar year preceding the fiscal year in which the rate will be paid, adjusted by the inflation rate estimated under division (C)(1) of this section.

(b) For fiscal years ending in odd-numbered calendar years, the maximum rate for each peer group is the group's maximum rate for the previous fiscal year, adjusted for the inflation rate estimated under division (C)(2) of this section.

(2) The maximum rate for indirect care costs for each peer group of intermediate care facilities for the mentally retarded with eight or fewer beds

specified in rules adopted under division (D) of this section shall be determined as follows:

(a) For fiscal years ending in even-numbered calendar years, the maximum rate for each peer group shall be the rate that is no less than ten and three-tenths per cent above the median desk-reviewed, actual, allowable, per diem indirect care cost for all intermediate care facilities for the mentally retarded with eight or fewer beds in the group, excluding facilities in the group whose indirect care costs are more than three standard deviations from the mean desk-reviewed, actual, allowable, per diem indirect care cost for all intermediate care facilities for the mentally retarded with eight or fewer beds, for the calendar year preceding the fiscal year in which the rate will be paid, adjusted by the inflation rate estimated under division (C)(1) of this section.

(b) For fiscal years that end in odd-numbered calendar years, the maximum rate for each peer group is the group's maximum rate for the previous fiscal year, adjusted for the inflation rate estimated under division (C)(2) of this section.

(3) The department shall not recalculate a maximum rate for indirect care costs under division (B)(1) or (2) of this section based on additional information that it receives after the maximum rate is set. The department shall recalculate the maximum rate for indirect care costs only if it made an error in computing the maximum rate based on the information available at the time of the original calculation.

(C)(1) When adjusting rates for inflation under divisions (A)(1), (B)(1)(a), and (B)(2)(a) of this section, the department shall estimate the rate of inflation for the eighteen-month period beginning on the first day of July of the calendar year preceding the fiscal year in which the rate will be paid and ending on the thirty-first day of December of the fiscal year in which the rate will be paid, using the consumer price index for all items for all urban consumers for the north central region, published by the United States bureau of labor statistics.

(2) When adjusting rates for inflation under divisions (B)(1)(b) and (B)(2)(b) of this section, the department shall estimate the rate of inflation for the twelve-month period beginning on the first day of January of the fiscal year preceding the fiscal year in which the rate will be paid and ending on the thirty-first day of December of the fiscal year in which the rate will be paid, using the consumer price index for all items for all urban consumers for the north central region, published by the United States bureau of labor statistics.

(3) If an inflation rate estimated under division (C)(1) or (2) of this

section is different from the actual inflation rate for the relevant time period, as measured using the same index, the difference shall be added to or subtracted from the inflation rate estimated pursuant to this division for the following fiscal year.

(D) The director of job and family services shall adopt rules ~~in accordance with Chapter 119.~~ under section 5111.02 of the Revised Code that specify peer groups of intermediate care facilities for the mentally retarded with more than eight beds, and peer groups of intermediate care facilities for the mentally retarded with eight or fewer beds, based on findings of significant per diem indirect care cost differences due to geography and facility bed-size. The rules also may specify peer groups based on findings of significant per diem indirect care cost differences due to other factors, including case-mix.

Sec. 5111.242. (A) As used in this section:

(1) "Applicable calendar year" means the following:

(a) For the purpose of the department of job and family services' initial determination under this section of nursing facilities' rate for tax costs, calendar year 2003;

(b) For the purpose of the department's subsequent determinations under division (D) of this section of nursing facilities' rate for tax costs, the calendar year the department selects.

(2) "Tax costs" means the costs of taxes imposed under Chapter 5751. of the Revised Code, real estate taxes, personal property taxes, and corporate franchise taxes.

(B) The department of job and family services shall pay a provider for each of the provider's eligible nursing facilities a per resident per day rate for tax costs determined under division (C) of this section.

(C) At least once every ten years, the department shall determine the rate for tax costs for each nursing facility. The rate for tax costs determined under this division for a nursing facility shall be used for subsequent years until the department redetermines it. To determine a nursing facility's rate for tax costs, the department shall divide the nursing facility's desk-reviewed, actual, allowable tax costs paid for the applicable calendar year by the number of inpatient days the nursing facility would have had if its occupancy rate had been one hundred per cent during the applicable calendar year.

Sec. 5111.243. The department of job and family services shall pay a provider for each of the provider's eligible nursing facilities a per resident per day rate for the franchise permit fees paid for the nursing facility. The rate shall be equal to the franchise permit fee for the fiscal year for which

the rate is paid.

Sec. 5111.244. (A) As used in this section, "deficiency" and "standard survey" have the same meanings as in section 5111.35 of the Revised Code.

(B) Each year, the department of job and family services shall pay each nursing facility placed in the first, second, and third quality tier groups established under division (C) of this section a quality incentive payment. Nursing facilities placed in the first group shall receive the highest payment. Nursing facilities placed in the second group shall receive the second highest payment. Nursing facilities placed in the third group shall receive the third highest payment. Nursing facilities placed in the fourth group shall receive no payment. The mean payment, weighted by medicaid days, shall be two per cent of the average rate for all nursing facilities calculated under sections 5111.20 to 5111.33 of the Revised Code, excluding this section. Nursing facilities placed in the fourth group shall be included for the purpose of determining the mean payment.

(C) Each year, the department shall establish four quality tier groups. Each group shall consist of one quarter of all nursing facilities participating in the medicaid program. The first group shall consist of the quarter of nursing facilities individually awarded the most number of points under division (D) of this section. The second group shall consist of the quarter of nursing facilities individually awarded the second most number of points under division (D) of this section. The third group shall consist of the quarter of nursing facilities individually awarded the third most number of points under division (D) of this section. The fourth group shall consist of the quarter of nursing facilities individually awarded the least number of points under division (D) of this section.

(D) Each year, the department shall award each nursing facility participating in the medicaid program one point for each of the following accountability measures the facility meets:

(1) The facility had no health deficiencies on the facility's most recent standard survey.

(2) The facility had no health deficiencies with a scope and severity level greater than E, as determined under nursing facility certification standards established under Title XIX, on the facility's most recent standard survey.

(3) The facility's resident satisfaction is above the statewide average.

(4) The facility's family satisfaction is above the statewide average.

(5) The number of hours the facility employs nurses is above the statewide average.

(6) The facility's employee retention rate is above the average for the

facility's peer group established in division (C) of section 5111.231 of the Revised Code.

(7) The facility's occupancy rate is above the statewide average.

(8) The facility's medicaid utilization rate is above the statewide average.

(9) The facility's case-mix score is above the statewide average.

(E) The director of job and family services shall adopt rules under section 5111.02 of the Revised Code as necessary to implement this section. The rules shall include rules establishing the system for awarding points under division (D) of this section.

Sec. 5111.25. (A) As used in this section, "applicable calendar year" means the following:

(1) For the purpose of the department of job and family services' initial determination under division (D) of this section of each peer group's median rate for capital costs, calendar year 2003;

(2) For the purpose of the department's subsequent determinations under division (D) of this section of each peer group's median rate for capital costs, the calendar year the department selects.

(B) The department of job and family services shall pay a provider for each of the provider's eligible nursing facility facilities a per resident per day rate for its reasonable capital costs established prospectively each fiscal year for each facility. Except as otherwise provided in sections 5111.20 to 5111.32 of the Revised Code, the A nursing facility's rate for capital costs shall be based on the facility's median rate for capital costs for the calendar year preceding the fiscal year in which the rate will be paid nursing facilities in the nursing facility's peer group as determined under division (D) of this section. The rate shall equal the sum of divisions (A)(1) to (3) of this section:

(1) The lesser of the following:

(a) Eighty-eight and sixty-five one-hundredths per cent of the facility's desk-reviewed, actual, allowable, per diem cost of ownership and eighty-five per cent of the facility's actual, allowable, per diem cost of nonextensive renovation determined under division (F) of this section;

(b) Eighty-eight and sixty-five one-hundredths per cent of the following limitation:

(i) For the fiscal year beginning July 1, 1993, sixteen dollars per resident day;

(ii) For the fiscal year beginning July 1, 1994, sixteen dollars per resident day, adjusted to reflect the rate of inflation for the twelve-month period beginning July 1, 1992, and ending June 30, 1993, using the



~~consumer price index for shelter costs for all urban consumers for the north central region, published by the United States bureau of labor statistics;~~

~~(iii) For subsequent fiscal years, the limitation in effect during the previous fiscal year, adjusted to reflect the rate of inflation for the twelve month period beginning on the first day of July for the calendar year preceding the calendar year that precedes the fiscal year and ending on the following thirtieth day of June, using the consumer price index for shelter costs for all urban consumers for the north central region, published by the United States bureau of labor statistics.~~

~~(2) Any efficiency incentive determined under division (D) of this section;~~

~~(3) Any amounts for return on equity determined under division (H) of this section~~ (C) For the purpose of determining nursing facilities' rate for capital costs, the department shall establish six peer groups.

Each nursing facility located in any of the following counties shall be placed in peer group one or two: Brown, Butler, Clermont, Clinton, Hamilton, and Warren. Each nursing facility located in any of those counties that has fewer than one hundred beds shall be placed in peer group one. Each nursing facility located in any of those counties that has one hundred or more beds shall be placed in peer group two.

Each nursing facility located in any of the following counties shall be placed in peer group three or four: Ashtabula, Champaign, Clark, Cuyahoga, Darke, Delaware, Fairfield, Fayette, Franklin, Fulton, Geauga, Greene, Hancock, Knox, Lake, Licking, Lorain, Lucas, Madison, Marion, Medina, Miami, Montgomery, Morrow, Ottawa, Pickaway, Portage, Preble, Ross, Sandusky, Seneca, Summit, Union, and Wood. Each nursing facility located in any of those counties that has fewer than one hundred beds shall be placed in peer group three. Each nursing facility located in any of those counties that has one hundred or more beds shall be placed in peer group four.

Each nursing facility located in any of the following counties shall be placed in peer group five or six: Adams, Allen, Ashland, Athens, Auglaize, Belmont, Carroll, Columbiana, Coshocton, Crawford, Defiance, Erie, Gallia, Guernsey, Hardin, Harrison, Henry, Highland, Hocking, Holmes, Huron, Jackson, Jefferson, Lawrence, Logan, Mahoning, Meigs, Mercer, Monroe, Morgan, Muskingum, Noble, Paulding, Perry, Pike, Putnam, Richland, Scioto, Shelby, Stark, Trumbull, Tuscarawas, Van Wert, Vinton, Washington, Wayne, Williams, and Wyandot. Each nursing facility located in any of those counties that has fewer than one hundred beds shall be placed in peer group five. Each nursing facility located in any of those

counties that has one hundred or more beds shall be placed in peer group six.

(D)(1) At least once every ten years, the department shall determine the median rate for capital costs for each peer group established under division (C) of this section. The median rate for capital costs determined under this division for a peer group shall be used for subsequent years until the department redetermines it. To determine a peer group's median rate for capital costs, the department shall do both of the following:

(a) Subject to division (D)(2) of this section, use the greater of each nursing facility's actual inpatient days for the applicable calendar year or the inpatient days the nursing facility would have had for the applicable calendar year if its occupancy rate had been one hundred per cent.

(b) Exclude both of the following:

(i) Nursing facilities that participated in the medicaid program under the same provider for less than twelve months in the applicable calendar year;

(ii) Nursing facilities whose capital costs are more than one standard deviation from the mean desk-reviewed, actual, allowable, per diem capital cost for all nursing facilities in the nursing facility's peer group for the applicable calendar year.

(2) For the purpose of determining a nursing facility's occupancy rate under division (D)(1)(a) of this section, the department shall include any beds that the nursing facility removes from its medicaid-certified capacity after June 30, 2005, unless the nursing facility also removes the beds from its licensed bed capacity.

(E) Buildings shall be depreciated using the straight line method over forty years or over a different period approved by the department. Components and equipment shall be depreciated using the straight-line method over a period designated in rules adopted by the director of job and family services in accordance with Chapter 119. under section 5111.02 of the Revised Code, consistent with the guidelines of the American hospital association, or over a different period approved by the department. Any rules adopted under authorized by this division that specify useful lives of buildings, components, or equipment apply only to assets acquired on or after July 1, 1993. Depreciation for costs paid or reimbursed by any government agency shall not be included in cost of ownership or renovation capital costs unless that part of the payment under sections 5111.20 to 5111.32 5111.33 of the Revised Code is used to reimburse the government agency.

(B)(F) The capital cost basis of nursing facility assets shall be determined in the following manner:

~~(1) For purposes of calculating the rate to be paid for the fiscal year beginning July 1, 1993, for facilities with dates of licensure on or before June 30, 1993, the capital cost basis shall be equal to the following:~~

~~(a) For facilities that have not had a change of ownership during the period beginning January 1, 1993, and ending June 30, 1993, the desk-reviewed, actual, allowable capital cost basis that is listed on the facility's cost report for the cost reporting period ending December 31, 1992, plus the actual, allowable capital cost basis of any assets constructed or acquired after December 31, 1992, but before July 1, 1993, if the aggregate capital costs of those assets would increase the facility's rate for capital costs by twenty or more cents per resident per day.~~

~~(b) For facilities that have a date of licensure or had a change of ownership during the period beginning January 1, 1993, and ending June 30, 1993, the actual, allowable capital cost basis of the person or government entity that owns the facility on June 30, 1993.~~

~~Capital cost basis shall be calculated as provided in division (B)(1) of this section subject to approval by the United States health care financing administration of any necessary amendment to the state plan for providing medical assistance.~~

~~The department shall include the actual, allowable capital cost basis of assets constructed or acquired during the period beginning January 1, 1993, and ending June 30, 1993, in the calculation for the facility's rate effective July 1, 1993, if the aggregate capital costs of the assets would increase the facility's rate by twenty or more cents per resident per day and the facility provides the department with sufficient documentation of the costs before June 1, 1993. If the facility provides the documentation after that date, the department shall adjust the facility's rate to reflect the costs of the assets one month after the first day of the month after the department receives the documentation.~~

~~(2) Except as provided in division (B)(4)(F)(3) of this section, for purposes of calculating the rates to be paid for fiscal years beginning after June 30, 1994, for facilities with dates of licensure on or before June 30, 1993, the capital cost basis of each asset shall be equal to the desk-reviewed, actual, allowable, capital cost basis that is listed on the facility's cost report for the calendar year preceding the fiscal year during which the rate will be paid.~~

~~(3)(2) For facilities with dates of licensure after June 30, 1993, the capital cost basis shall be determined in accordance with the principles of the medicare program established under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, except as~~

otherwise provided in sections 5111.20 to ~~5111.32~~ 5111.33 of the Revised Code.

~~(4)(3)~~ Except as provided in division ~~(B)(5)(F)(4)~~ of this section, if a provider transfers an interest in a facility to another provider after June 30, 1993, there shall be no increase in the capital cost basis of the asset if the providers are related parties or the provider to which the interest is transferred authorizes the provider that transferred the interest to continue to operate the facility under a lease, management agreement, or other arrangement. If the ~~providers are not related parties or if they are related parties and division (B)(5) of this section requires~~ previous sentence does not prohibit the adjustment of the capital cost basis under this division, the basis of the asset shall be adjusted by the lesser of the following:

(a) One-half of the change in construction costs during the time that the transferor held the asset, as calculated by the department of job and family services using the "Dodge building cost indexes, northeastern and north central states," published by Marshall and Swift;

(b) One-half of the change in the consumer price index for all items for all urban consumers, as published by the United States bureau of labor statistics, during the time that the transferor held the asset.

~~(5)(4)~~ If a provider transfers an interest in a facility to another provider who is a related party, the capital cost basis of the asset shall be adjusted as specified in division ~~(B)(4)(F)(3)~~ of this section ~~for a transfer to a provider that is not a related party~~ if all of the following conditions are met:

(a) The related party is a relative of owner;

(b) Except as provided in division ~~(B)(5)(F)(4)(c)(ii)~~ of this section, the provider making the transfer retains no ownership interest in the facility;

(c) The department of job and family services determines that the transfer is an arm's length transaction pursuant to rules ~~the department shall adopt in accordance with Chapter 119.~~ adopted under section 5111.02 of the Revised Code ~~no later than December 31, 2000.~~ The rules shall provide that a transfer is an arm's length transaction if all of the following apply:

(i) Once the transfer goes into effect, the provider that made the transfer has no direct or indirect interest in the provider that acquires the facility or the facility itself, including interest as an owner, officer, director, employee, independent contractor, or consultant, but excluding interest as a creditor.

(ii) The provider that made the transfer does not reacquire an interest in the facility except through the exercise of a creditor's rights in the event of a default. If the provider reacquires an interest in the facility in this manner, the department shall treat the facility as if the transfer never occurred when the department calculates its reimbursement rates for capital costs.

(iii) The transfer satisfies any other criteria specified in the rules.

(d) Except in the case of hardship caused by a catastrophic event, as determined by the department, or in the case of a provider making the transfer who is at least sixty-five years of age, not less than twenty years have elapsed since, for the same facility, the capital cost basis was adjusted most recently under division ~~(B)(5)(F)(4)~~ of this section or actual, allowable cost of ownership was determined most recently under division ~~(C)(G)(9)~~ of this section.

~~(C)(G)~~ As used in this division, "lease:

"Imputed interest" means the lesser of the prime rate plus two per cent or ten per cent.

"Lease expense" means lease payments in the case of an operating lease and depreciation expense and interest expense in the case of a capital lease.

~~As used in this division, "new~~

"New lease" means a lease, to a different lessee, of a nursing facility that previously was operated under a lease.

(1) Subject to ~~the limitation specified in~~ division ~~(A)(1)(B)~~ of this section, for a lease of a facility that was effective on May 27, 1992, the entire lease expense is an actual, allowable capital cost ~~of ownership~~ during the term of the existing lease. The entire lease expense also is an actual, allowable capital cost ~~of ownership~~ if a lease in existence on May 27, 1992, is renewed under either of the following circumstances:

(a) The renewal is pursuant to a renewal option that was in existence on May 27, 1992;

(b) The renewal is for the same lease payment amount and between the same parties as the lease in existence on May 27, 1992.

(2) Subject to ~~the limitation specified in~~ division ~~(A)(1)(B)~~ of this section, for a lease of a facility that was in existence but not operated under a lease on May 27, 1992, actual, allowable ~~cost of ownership~~ capital costs shall include the lesser of the annual lease expense or the annual depreciation expense and imputed interest expense that would be calculated at the inception of the lease using the lessor's entire historical capital asset cost basis, adjusted by the lesser of the following amounts:

(a) One-half of the change in construction costs during the time the lessor held each asset until the beginning of the lease, as calculated by the department using the "Dodge building cost indexes, northeastern and north central states," published by Marshall and Swift;

(b) One-half of the change in the consumer price index for all items for all urban consumers, as published by the United States bureau of labor statistics, during the time the lessor held each asset until the beginning of the

lease.

(3) Subject to ~~the limitation specified in~~ division ~~(A)(1)(B)~~ of this section, for a lease of a facility with a date of licensure on or after May 27, 1992, that is initially operated under a lease, actual, allowable ~~cost of ownership~~ capital costs shall include the annual lease expense if there was a substantial commitment of money for construction of the facility after December 22, 1992, and before July 1, 1993. If there was not a substantial commitment of money after December 22, 1992, and before July 1, 1993, actual, allowable ~~cost of ownership~~ capital costs shall include the lesser of the annual lease expense or the sum of the following:

(a) The annual depreciation expense that would be calculated at the inception of the lease using the lessor's entire historical capital asset cost basis;

(b) The greater of the lessor's actual annual amortization of financing costs and interest expense at the inception of the lease or the imputed interest expense calculated at the inception of the lease using seventy per cent of the lessor's historical capital asset cost basis.

(4) Subject to ~~the limitation specified in~~ division ~~(A)(1)(B)~~ of this section, for a lease of a facility with a date of licensure on or after May 27, 1992, that was not initially operated under a lease and has been in existence for ten years, actual, allowable ~~cost of ownership~~ capital costs shall include the lesser of the annual lease expense or the annual depreciation expense and imputed interest expense that would be calculated at the inception of the lease using the entire historical capital asset cost basis of the lessor, adjusted by the lesser of the following:

(a) One-half of the change in construction costs during the time the lessor held each asset until the beginning of the lease, as calculated by the department using the "Dodge building cost indexes, northeastern and north central states," published by Marshall and Swift;

(b) One-half of the change in the consumer price index for all items for all urban consumers, as published by the United States bureau of labor statistics, during the time the lessor held each asset until the beginning of the lease.

(5) Subject to ~~the limitation specified in~~ division ~~(A)(1)(B)~~ of this section, for a new lease of a facility that was operated under a lease on May 27, 1992, actual, allowable ~~cost of ownership~~ capital costs shall include the lesser of the annual new lease expense or the annual old lease payment. If the old lease was in effect for ten years or longer, the old lease payment from the beginning of the old lease shall be adjusted by the lesser of the following:

(a) One-half of the change in construction costs from the beginning of the old lease to the beginning of the new lease, as calculated by the department using the "Dodge building cost indexes, northeastern and north central states," published by Marshall and Swift;

(b) One-half of the change in the consumer price index for all items for all urban consumers, as published by the United States bureau of labor statistics, from the beginning of the old lease to the beginning of the new lease.

(6) Subject to ~~the limitation specified in division (A)(1)(B)~~ of this section, for a new lease of a facility that was not in existence or that was in existence but not operated under a lease on May 27, 1992, actual, allowable ~~cost of ownership~~ capital costs shall include the lesser of annual new lease expense or the annual amount calculated for the old lease under division ~~(C)(G)(2), (3), (4), or (6)~~ of this section, as applicable. If the old lease was in effect for ten years or longer, the lessor's historical capital asset cost basis shall be adjusted by the lesser of the following for purposes of calculating the annual amount under division ~~(C)(G)(2), (3), (4), or (6)~~ of this section:

(a) One-half of the change in construction costs from the beginning of the old lease to the beginning of the new lease, as calculated by the department using the "Dodge building cost indexes, northeastern and north central states," published by Marshall and Swift;

(b) One-half of the change in the consumer price index for all items for all urban consumers, as published by the United States bureau of labor statistics, from the beginning of the old lease to the beginning of the new lease.

In the case of a lease under division ~~(C)(G)(3)~~ of this section of a facility for which a substantial commitment of money was made after December 22, 1992, and before July 1, 1993, the old lease payment shall be adjusted for the purpose of determining the annual amount.

(7) For any revision of a lease described in division ~~(C)(G)(1), (2), (3), (4), (5), or (6)~~ of this section, or for any subsequent lease of a facility operated under such a lease, other than execution of a new lease, the portion of actual, allowable ~~cost of ownership~~ capital costs attributable to the lease shall be the same as before the revision or subsequent lease.

(8) Except as provided in division ~~(C)(G)(9)~~ of this section, if a provider leases an interest in a facility to another provider who is a related party or previously operated the facility, the related party's or previous operator's actual, allowable ~~cost of ownership~~ capital costs shall include the lesser of the annual lease expense or the reasonable cost to the lessor.

(9) If a provider leases an interest in a facility to another provider who is

a related party, regardless of the date of the lease, the related party's actual, allowable ~~cost of ownership~~ capital costs shall include the annual lease expense, subject to the limitations specified in divisions ~~(C)(G)~~(1) to (7) of this section, if all of the following conditions are met:

(a) The related party is a relative of owner;

(b) If the lessor retains an ownership interest, it is, except as provided in division ~~(C)(G)~~(9)(c)(ii) of this section, in only the real property and any improvements on the real property;

(c) The department of job and family services determines that the lease is an arm's length transaction pursuant to rules ~~the department shall adopt in accordance with Chapter 119, adopted under section 5111.02 of the Revised Code no later than December 31, 2000.~~ The rules shall provide that a lease is an arm's length transaction if all of the following apply:

(i) Once the lease goes into effect, the lessor has no direct or indirect interest in the lessee or, except as provided in division ~~(C)(G)~~(9)(b) of this section, the facility itself, including interest as an owner, officer, director, employee, independent contractor, or consultant, but excluding interest as a lessor.

(ii) The lessor does not reacquire an interest in the facility except through the exercise of a lessor's rights in the event of a default. If the lessor reacquires an interest in the facility in this manner, the department shall treat the facility as if the lease never occurred when the department calculates its reimbursement rates for capital costs.

(iii) The lease satisfies any other criteria specified in the rules.

(d) Except in the case of hardship caused by a catastrophic event, as determined by the department, or in the case of a lessor who is at least sixty-five years of age, not less than twenty years have elapsed since, for the same facility, the capital cost basis was adjusted most recently under division ~~(B)(5)(F)~~(4) of this section or actual, allowable ~~cost of ownership~~ was capital costs were determined most recently under division ~~(C)(G)~~(9) of this section.

(10) This division does not apply to leases of specific items of equipment.

~~(D)(1) Subject to division (D)(2) of this section, the department shall pay each nursing facility an efficiency incentive that is equal to fifty per cent of the difference between the following:~~

~~(a) Eighty-eight and sixty-five one hundredths per cent of the facility's desk-reviewed, actual, allowable, per diem cost of ownership;~~

~~(b) The applicable amount specified in division (E) of this section.~~

~~(2) The efficiency incentive paid to a nursing facility shall not exceed~~



the greater of the following:

~~(a) The efficiency incentive the facility was paid during the fiscal year ending June 30, 1994;~~

~~(b) Three dollars per resident per day, adjusted annually for rates paid beginning July 1, 1994, for the inflation rate for the twelve-month period beginning on the first day of July of the calendar year preceding the calendar year that precedes the fiscal year for which the efficiency incentive is determined and ending on the thirtieth day of the following June, using the consumer price index for shelter costs for all urban consumers for the north central region, as published by the United States bureau of labor statistics.~~

~~(3) For purposes of calculating the efficiency incentive, depreciation for costs that are paid or reimbursed by any government agency shall be considered as costs of ownership, and renovation costs that are paid under division (F) of this section shall not be considered costs of ownership.~~

~~(E) The following amounts shall be used to calculate efficiency incentives for nursing facilities under this section:~~

~~(1) For facilities with dates of licensure prior to January 1, 1958, four dollars and twenty four cents per patient day;~~

~~(2) For facilities with dates of licensure after December 31, 1957, but prior to January 1, 1968:~~

~~(a) Five dollars and twenty four cents per patient day if the cost of construction was three thousand five hundred dollars or more per bed;~~

~~(b) Four dollars and twenty four cents per patient day if the cost of construction was less than three thousand five hundred dollars per bed.~~

~~(3) For facilities with dates of licensure after December 31, 1967, but prior to January 1, 1976:~~

~~(a) Six dollars and twenty four cents per patient day if the cost of construction was five thousand one hundred fifty dollars or more per bed;~~

~~(b) Five dollars and twenty four cents per patient day if the cost of construction was less than five thousand one hundred fifty dollars per bed, but exceeded three thousand five hundred dollars per bed;~~

~~(c) Four dollars and twenty four cents per patient day if the cost of construction was three thousand five hundred dollars or less per bed.~~

~~(4) For facilities with dates of licensure after December 31, 1975, but prior to January 1, 1979:~~

~~(a) Seven dollars and twenty four cents per patient day if the cost of construction was six thousand eight hundred dollars or more per bed;~~

~~(b) Six dollars and twenty four cents per patient day if the cost of construction was less than six thousand eight hundred dollars per bed but exceeded five thousand one hundred fifty dollars per bed;~~

~~(c) Five dollars and twenty four cents per patient day if the cost of construction was five thousand one hundred fifty dollars or less per bed, but exceeded three thousand five hundred dollars per bed;~~

~~(d) Four dollars and twenty four cents per patient day if the cost of construction was three thousand five hundred dollars or less per bed.~~

~~(5) For facilities with dates of licensure after December 31, 1978, but prior to January 1, 1981:~~

~~(a) Seven dollars and seventy four cents per patient day if the cost of construction was seven thousand six hundred twenty five dollars or more per bed;~~

~~(b) Seven dollars and twenty four cents per patient day if the cost of construction was less than seven thousand six hundred twenty five dollars per bed but exceeded six thousand eight hundred dollars per bed;~~

~~(c) Six dollars and twenty four cents per patient day if the cost of construction was six thousand eight hundred dollars or less per bed but exceeded five thousand one hundred fifty dollars per bed;~~

~~(d) Five dollars and twenty four cents per patient day if the cost of construction was five thousand one hundred fifty dollars or less but exceeded three thousand five hundred dollars per bed;~~

~~(e) Four dollars and twenty four cents per patient day if the cost of construction was three thousand five hundred dollars or less per bed.~~

~~(6) For facilities with dates of licensure in 1981 or any year thereafter prior to December 22, 1992, the following amount:~~

~~(a) For facilities with construction costs less than seven thousand six hundred twenty five dollars per bed, the applicable amounts for the construction costs specified in divisions (E)(5)(b) to (e) of this section;~~

~~(b) For facilities with construction costs of seven thousand six hundred twenty five dollars or more per bed, six dollars per patient day, provided that for 1981 and annually thereafter prior to December 22, 1992, department shall do both of the following to the six dollar amount:~~

~~(i) Adjust the amount for fluctuations in construction costs calculated by the department using the "Dodge building cost indexes, northeastern and north central states," published by Marshall and Swift, using 1980 as the base year;~~

~~(ii) Increase the amount, as adjusted for inflation under division (E)(6)(b)(i) of this section, by one dollar and seventy four cents.~~

~~(7) For facilities with dates of licensure on or after January 1, 1992, seven dollars and ninety seven cents, adjusted for fluctuations in construction costs between 1991 and 1993 as calculated by the department using the "Dodge building cost indexes, northeastern and north central~~

states," published by Marshall and Swift, and then increased by one dollar and seventy four cents.

For the fiscal year that begins July 1, 1994, each of the amounts listed in divisions (E)(1) to (7) of this section shall be increased by twenty five cents. For the fiscal year that begins July 1, 1995, each of those amounts shall be increased by an additional twenty five cents. For subsequent fiscal years, each of those amounts, as increased for the prior fiscal year, shall be adjusted to reflect the rate of inflation for the twelve month period beginning on the first day of July of the calendar year preceeding the calendar year that precedes the fiscal year and ending on the following thirtieth day of June, using the consumer price index for shelter costs for all urban consumers for the north central region, as published by the United States bureau of labor statistics.

If the amount established for a nursing facility under this division is less than the amount that applied to the facility under division (B) of former section 5111.25 of the Revised Code, as the former section existed immediately prior to December 22, 1992, the amount used to calculate the efficiency incentive for the facility under division (D)(2) of this section shall be the amount that was calculated under division (B) of the former section.

(F) Beginning July 1, 1993, regardless of the facility's date of licensure or the date of the nonextensive renovations, the rate for the costs of nonextensive renovations for nursing facilities shall be eighty five per cent of the desk reviewed, actual, allowable, per diem, nonextensive renovation costs. This division applies to nonextensive renovations regardless of whether they are made by an owner or a lessee. If the tenancy of a lessee that has made nonextensive renovations ends before the depreciation expense for the renovation costs has been fully reported, the former lessee shall not report the undepreciated balance as an expense.

(1) For a nonextensive renovation made after July 1, 1993, to qualify for payment under this division, both of the following conditions must be met:

(a) At least five years have elapsed since the date of licensure of the portion of the facility that is proposed to be renovated, except that this condition does not apply if the renovation is necessary to meet the requirements of federal, state, or local statutes, ordinances, rules, or policies.

(b) The provider has obtained prior approval from the department of job and family services, and if required the director of health has granted a certificate of need for the renovation under section 3702.52 of the Revised Code. The provider shall submit a plan that describes in detail the changes in capital assets to be accomplished by means of the renovation and the timetable for completing the project. The time for completion of the project

~~shall be no more than eighteen months after the renovation begins. The department of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code that specify criteria and procedures for prior approval of renovation projects. No provider shall separate a project with the intent to evade the characterization of the project as a renovation or as an extensive renovation. No provider shall increase the scope of a project after it is approved by the department of job and family services unless the increase in scope is approved by the department.~~

~~(2) The payment provided for in this division is the only payment that shall be made for the costs of a nonextensive renovation. Nonextensive renovation costs shall not be included in costs of ownership, and a nonextensive renovation shall not affect the date of licensure for purposes of calculating the efficiency incentive under divisions (D) and (E) of this section.~~

~~(G) The owner of a nursing facility operating under a provider agreement shall provide written notice to the department of job and family services at least forty five days prior to entering into any contract of sale for the facility or voluntarily terminating participation in the medical assistance program. (H) After the date on which a transaction of sale is closed, the owner provider shall refund to the department the amount of excess depreciation paid to the provider for the facility by the department for each year the owner provider has operated the facility under a provider agreement and prorated according to the number of medicaid patient days for which the facility provider has received payment for the facility. If a nursing facility is sold after five or fewer years of operation under a provider agreement, the refund to the department shall be equal to the excess depreciation paid to the facility. If a nursing facility is sold after more than five years but less than ten years of operation under a provider agreement, the refund to the department shall equal the excess depreciation paid to the facility multiplied by twenty per cent, multiplied by the difference between ten and the number of years that the facility was operated under a provider agreement. If a nursing facility is sold after ten or more years of operation under a provider agreement, the owner shall not refund any excess depreciation to the department. The owner provider of a facility that is sold or that voluntarily terminates participation in the medical assistance medicaid program also shall refund any other amount that the department properly finds to be due after the audit conducted under this division. For the purposes of this division, "depreciation paid to the provider for the facility" means the amount paid to the provider for the nursing facility for cost of ownership capital costs pursuant to this section less any amount paid for interest costs,~~

amortization of financing costs, and lease expenses. For the purposes of this division, "excess depreciation" is the nursing facility's depreciated basis, which is the ~~owner's~~ provider's cost less accumulated depreciation, subtracted from the purchase price net of selling costs but not exceeding the amount of depreciation paid to the provider for the facility.

~~A cost report shall be filed with the department within ninety days after the date on which the transaction of sale is closed or participation is voluntarily terminated. The report shall show the accumulated depreciation, the sales price, and other information required by the department. The department shall provide for a bank, trust company, or savings and loan association to hold in escrow the amount of the last two monthly payments to a nursing facility made pursuant to division (A)(1) of section 5111.22 of the Revised Code before a sale or termination of participation or, if the owner fails, within the time required by this division, to notify the department before entering into a contract of sale for the facility, the amount of the first two monthly payments made to the facility after the department learns of the contract, regardless of whether a new owner is in possession of the facility. If the amount the owner will be required to refund under this section is likely to be less than the amount of the two monthly payments otherwise put into escrow under this division, the department shall take one of the following actions instead of withholding the amount of the two monthly payments:~~

~~(1) In the case of an owner that owns other facilities that participate in the medical assistance program, obtain a promissory note in an amount sufficient to cover the amount likely to be refunded;~~

~~(2) In the case of all other owners, withhold the amount of the last monthly payment to the nursing facility or, if the owner fails, within the time required by this division, to notify the department before entering into a contract of sale for the facility, the amount of the first monthly payment made to the facility after the department learns of the contract, regardless of whether a new owner is in possession of the facility.~~

~~The department shall, within ninety days following the filing of the cost report, audit the cost report and issue an audit report to the owner. The department also may audit any other cost report that the facility has filed during the previous three years. In the audit report, the department shall state its findings and the amount of any money owed to the department by the nursing facility. The findings shall be subject to adjudication conducted in accordance with Chapter 119. of the Revised Code. No later than fifteen days after the owner agrees to a settlement, any funds held in escrow less any amounts due to the department shall be released to the owner and~~

~~amounts due to the department shall be paid to the department. If the amounts in escrow are less than the amounts due to the department, the balance shall be paid to the department within fifteen days after the owner agrees to a settlement. If the department does not issue its audit report within the ninety-day period, the department shall release any money held in escrow to the owner. For the purposes of this section, a transfer of corporate stock, the merger of one corporation into another, or a consolidation does not constitute a sale.~~

~~If a nursing facility is not sold or its participation is not terminated after notice is provided to the department under this division, the department shall order any payments held in escrow released to the facility upon receiving written notice from the owner that there will be no sale or termination. After written notice is received from a nursing facility that a sale or termination will not take place, the facility shall provide notice to the department at least forty-five days prior to entering into any contract of sale or terminating participation at any future time.~~

~~(H) The department shall pay each eligible proprietary nursing facility a return on the facility's net equity computed at the rate of one and one-half times the average interest rate on special issues of public debt obligations issued to the federal hospital insurance trust fund for the cost reporting period, except that no facility's return on net equity shall exceed fifty cents per patient day.~~

~~When calculating the rate for return on net equity, the department shall use the greater of the facility's inpatient days during the applicable cost reporting period or the number of inpatient days the facility would have had during that period if its occupancy rate had been ninety-five per cent.~~

~~(I) If a nursing facility would receive a lower rate for capital costs for assets in the facility's possession on July 1, 1993, under this section than it would receive under former section 5111.25 of the Revised Code, as the former section existed immediately prior to December 22, 1992, the facility shall receive for those assets the rate it would have received under the former section for each fiscal year beginning on or after July 1, 1993, until the rate it would receive under this section exceeds the rate it would have received under the former section. Any facility that receives a rate calculated under the former section 5111.25 of the Revised Code for assets in the facility's possession on July 1, 1993, also shall receive a rate calculated under this section for costs of any assets it constructs or acquires after July 1, 1993.~~

Sec. 5111.251. (A) The department of job and family services shall pay a provider for each of the provider's eligible intermediate care facility

facilities for the mentally retarded for its reasonable capital costs, a per resident per day rate established prospectively each fiscal year for each intermediate care facility for the mentally retarded. Except as otherwise provided in sections 5111.20 to ~~5111.32~~ 5111.33 of the Revised Code, the rate shall be based on the facility's capital costs for the calendar year preceding the fiscal year in which the rate will be paid. The rate shall equal the sum of the following:

(1) The facility's desk-reviewed, actual, allowable, per diem cost of ownership for the preceding cost reporting period, limited as provided in divisions (C) and (F) of this section;

(2) Any efficiency incentive determined under division (B) of this section;

(3) Any amounts for renovations determined under division (D) of this section;

(4) Any amounts for return on equity determined under division (I) of this section.

Buildings shall be depreciated using the straight line method over forty years or over a different period approved by the department. Components and equipment shall be depreciated using the straight line method over a period designated by the director of job and family services in rules adopted ~~in accordance with Chapter 119.~~ under section 5111.02 of the Revised Code, consistent with the guidelines of the American hospital association, or over a different period approved by the department of job and family services. Any rules ~~adopted under~~ authorized by this division that specify useful lives of buildings, components, or equipment apply only to assets acquired on or after July 1, 1993. Depreciation for costs paid or reimbursed by any government agency shall not be included in costs of ownership or renovation unless that part of the payment under sections 5111.20 to ~~5111.32~~ 5111.33 of the Revised Code is used to reimburse the government agency.

(B) The department of job and family services shall pay to a provider for each of the provider's eligible intermediate care ~~facility~~ facilities for the mentally retarded an efficiency incentive equal to fifty per cent of the difference between any desk-reviewed, actual, allowable cost of ownership and the applicable limit on cost of ownership payments under division (C) of this section. For purposes of computing the efficiency incentive, depreciation for costs paid or reimbursed by any government agency shall be considered as a cost of ownership, and the applicable limit under division (C) of this section shall apply both to facilities with more than eight beds and facilities with eight or fewer beds. The efficiency incentive paid to a

provider for a facility with eight or fewer beds shall not exceed three dollars per patient day, adjusted annually for the inflation rate for the twelve-month period beginning on the first day of July of the calendar year preceding the calendar year that precedes the fiscal year for which the efficiency incentive is determined and ending on the thirtieth day of the following June, using the consumer price index for shelter costs for all urban consumers for the north central region, as published by the United States bureau of labor statistics.

(C) Cost of ownership payments ~~to~~ for intermediate care facilities for the mentally retarded with more than eight beds shall not exceed the following limits:

(1) For facilities with dates of licensure prior to January 1, 1958, not exceeding two dollars and fifty cents per patient day;

(2) For facilities with dates of licensure after December 31, 1957, but prior to January 1, 1968, not exceeding:

(a) Three dollars and fifty cents per patient day if the cost of construction was three thousand five hundred dollars or more per bed;

(b) Two dollars and fifty cents per patient day if the cost of construction was less than three thousand five hundred dollars per bed.

(3) For facilities with dates of licensure after December 31, 1967, but prior to January 1, 1976, not exceeding:

(a) Four dollars and fifty cents per patient day if the cost of construction was five thousand one hundred fifty dollars or more per bed;

(b) Three dollars and fifty cents per patient day if the cost of construction was less than five thousand one hundred fifty dollars per bed, but exceeds three thousand five hundred dollars per bed;

(c) Two dollars and fifty cents per patient day if the cost of construction was three thousand five hundred dollars or less per bed.

(4) For facilities with dates of licensure after December 31, 1975, but prior to January 1, 1979, not exceeding:

(a) Five dollars and fifty cents per patient day if the cost of construction was six thousand eight hundred dollars or more per bed;

(b) Four dollars and fifty cents per patient day if the cost of construction was less than six thousand eight hundred dollars per bed but exceeds five thousand one hundred fifty dollars per bed;

(c) Three dollars and fifty cents per patient day if the cost of construction was five thousand one hundred fifty dollars or less per bed, but exceeds three thousand five hundred dollars per bed;

(d) Two dollars and fifty cents per patient day if the cost of construction was three thousand five hundred dollars or less per bed.



(5) For facilities with dates of licensure after December 31, 1978, but prior to January 1, 1980, not exceeding:

(a) Six dollars per patient day if the cost of construction was seven thousand six hundred twenty-five dollars or more per bed;

(b) Five dollars and fifty cents per patient day if the cost of construction was less than seven thousand six hundred twenty-five dollars per bed but exceeds six thousand eight hundred dollars per bed;

(c) Four dollars and fifty cents per patient day if the cost of construction was six thousand eight hundred dollars or less per bed but exceeds five thousand one hundred fifty dollars per bed;

(d) Three dollars and fifty cents per patient day if the cost of construction was five thousand one hundred fifty dollars or less but exceeds three thousand five hundred dollars per bed;

(e) Two dollars and fifty cents per patient day if the cost of construction was three thousand five hundred dollars or less per bed.

(6) For facilities with dates of licensure after December 31, 1979, but prior to January 1, 1981, not exceeding:

(a) Twelve dollars per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and developmental disabilities;

(b) Six dollars per patient day if the beds were originally licensed as nursing home beds by the department of health.

(7) For facilities with dates of licensure after December 31, 1980, but prior to January 1, 1982, not exceeding:

(a) Twelve dollars per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and developmental disabilities;

(b) Six dollars and forty-five cents per patient day if the beds were originally licensed as nursing home beds by the department of health.

(8) For facilities with dates of licensure after December 31, 1981, but prior to January 1, 1983, not exceeding:

(a) Twelve dollars per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and developmental disabilities;

(b) Six dollars and seventy-nine cents per patient day if the beds were originally licensed as nursing home beds by the department of health.

(9) For facilities with dates of licensure after December 31, 1982, but prior to January 1, 1984, not exceeding:

(a) Twelve dollars per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and

developmental disabilities;

(b) Seven dollars and nine cents per patient day if the beds were originally licensed as nursing home beds by the department of health.

(10) For facilities with dates of licensure after December 31, 1983, but prior to January 1, 1985, not exceeding:

(a) Twelve dollars and twenty-four cents per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and developmental disabilities;

(b) Seven dollars and twenty-three cents per patient day if the beds were originally licensed as nursing home beds by the department of health.

(11) For facilities with dates of licensure after December 31, 1984, but prior to January 1, 1986, not exceeding:

(a) Twelve dollars and fifty-three cents per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and developmental disabilities;

(b) Seven dollars and forty cents per patient day if the beds were originally licensed as nursing home beds by the department of health.

(12) For facilities with dates of licensure after December 31, 1985, but prior to January 1, 1987, not exceeding:

(a) Twelve dollars and seventy cents per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and developmental disabilities;

(b) Seven dollars and fifty cents per patient day if the beds were originally licensed as nursing home beds by the department of health.

(13) For facilities with dates of licensure after December 31, 1986, but prior to January 1, 1988, not exceeding:

(a) Twelve dollars and ninety-nine cents per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and developmental disabilities;

(b) Seven dollars and sixty-seven cents per patient day if the beds were originally licensed as nursing home beds by the department of health.

(14) For facilities with dates of licensure after December 31, 1987, but prior to January 1, 1989, not exceeding thirteen dollars and twenty-six cents per patient day;

(15) For facilities with dates of licensure after December 31, 1988, but prior to January 1, 1990, not exceeding thirteen dollars and forty-six cents per patient day;

(16) For facilities with dates of licensure after December 31, 1989, but prior to January 1, 1991, not exceeding thirteen dollars and sixty cents per patient day;

(17) For facilities with dates of licensure after December 31, 1990, but prior to January 1, 1992, not exceeding thirteen dollars and forty-nine cents per patient day;

(18) For facilities with dates of licensure after December 31, 1991, but prior to January 1, 1993, not exceeding thirteen dollars and sixty-seven cents per patient day;

(19) For facilities with dates of licensure after December 31, 1992, not exceeding fourteen dollars and twenty-eight cents per patient day.

(D) Beginning January 1, 1981, regardless of the original date of licensure, the department of job and family services shall pay a rate for the per diem capitalized costs of renovations to intermediate care facilities for the mentally retarded made after January 1, 1981, not exceeding six dollars per patient day using 1980 as the base year and adjusting the amount annually until June 30, 1993, for fluctuations in construction costs calculated by the department using the "Dodge building cost indexes, northeastern and north central states," published by Marshall and Swift. The payment provided for in this division is the only payment that shall be made for the capitalized costs of a nonextensive renovation of an intermediate care facility for the mentally retarded. Nonextensive renovation costs shall not be included in cost of ownership, and a nonextensive renovation shall not affect the date of licensure for purposes of division (C) of this section. This division applies to nonextensive renovations regardless of whether they are made by an owner or a lessee. If the tenancy of a lessee that has made renovations ends before the depreciation expense for the renovation costs has been fully reported, the former lessee shall not report the undepreciated balance as an expense.

For a nonextensive renovation to qualify for payment under this division, both of the following conditions must be met:

(1) At least five years have elapsed since the date of licensure or date of an extensive renovation of the portion of the facility that is proposed to be renovated, except that this condition does not apply if the renovation is necessary to meet the requirements of federal, state, or local statutes, ordinances, rules, or policies.

(2) The provider has obtained prior approval from the department of job and family services. The provider shall submit a plan that describes in detail the changes in capital assets to be accomplished by means of the renovation and the timetable for completing the project. The time for completion of the project shall be no more than eighteen months after the renovation begins. The director of job and family services shall adopt rules ~~in accordance with Chapter 119~~ under section 5111.02 of the Revised Code that specify criteria

and procedures for prior approval of renovation projects. No provider shall separate a project with the intent to evade the characterization of the project as a renovation or as an extensive renovation. No provider shall increase the scope of a project after it is approved by the department of job and family services unless the increase in scope is approved by the department.

(E) The amounts specified in divisions (C) and (D) of this section shall be adjusted beginning July 1, 1993, for the estimated inflation for the twelve-month period beginning on the first day of July of the calendar year preceding the calendar year that precedes the fiscal year for which rate will be paid and ending on the thirtieth day of the following June, using the consumer price index for shelter costs for all urban consumers for the north central region, as published by the United States bureau of labor statistics.

(F)(1) For facilities of eight or fewer beds that have dates of licensure or have been granted project authorization by the department of mental retardation and developmental disabilities before July 1, 1993, and for facilities of eight or fewer beds that have dates of licensure or have been granted project authorization after that date if the providers of the facilities demonstrate that they made substantial commitments of funds on or before that date, cost of ownership shall not exceed eighteen dollars and thirty cents per resident per day. The eighteen-dollar and thirty-cent amount shall be increased by the change in the "Dodge building cost indexes, northeastern and north central states," published by Marshall and Swift, during the period beginning June 30, 1990, and ending July 1, 1993, and by the change in the consumer price index for shelter costs for all urban consumers for the north central region, as published by the United States bureau of labor statistics, annually thereafter.

(2) For facilities with eight or fewer beds that have dates of licensure or have been granted project authorization by the department of mental retardation and developmental disabilities on or after July 1, 1993, for which substantial commitments of funds were not made before that date, cost of ownership payments shall not exceed the applicable amount calculated under division (F)(1) of this section, if the department of job and family services gives prior approval for construction of the facility. If the department does not give prior approval, cost of ownership payments shall not exceed the amount specified in division (C) of this section.

(3) Notwithstanding divisions (D) and (F)(1) and (2) of this section, the total payment for cost of ownership, cost of ownership efficiency incentive, and capitalized costs of renovations for an intermediate care facility for the mentally retarded with eight or fewer beds shall not exceed the sum of the limitations specified in divisions (C) and (D) of this section.

(G) Notwithstanding any provision of this section or section ~~5111.24~~ 5111.241 of the Revised Code, the director of job and family services may adopt rules ~~in accordance with Chapter 119.~~ under section 5111.02 of the Revised Code that provide for a calculation of a combined maximum payment limit for indirect care costs and cost of ownership for intermediate care facilities for the mentally retarded with eight or fewer beds.

(H) ~~After June 30, 1980, the owner of an intermediate care facility for the mentally retarded operating under a provider agreement shall provide written notice to the department of job and family services at least forty-five days prior to entering into any contract of sale for the facility or voluntarily terminating participation in the medical assistance program.~~ After the date on which a transaction of sale is closed, the ~~owner~~ provider shall refund to the department the amount of excess depreciation paid to the provider for the facility by the department for each year the ~~owner~~ provider has operated the facility under a provider agreement and prorated according to the number of medicaid patient days for which the facility provider has received payment for the facility. ~~If an intermediate care facility for the mentally retarded is sold after five or fewer years of operation under a provider agreement, the refund to the department shall be equal to the excess depreciation paid to the facility. If an intermediate care facility for the mentally retarded is sold after more than five years but less than ten years of operation under a provider agreement, the refund to the department shall equal the excess depreciation paid to the facility multiplied by twenty per cent, multiplied by the number of years less than ten that a facility was operated under a provider agreement. If an intermediate care facility for the mentally retarded is sold after ten or more years of operation under a provider agreement, the owner shall not refund any excess depreciation to the department.~~ For the purposes of this division, "depreciation paid to the provider for the facility" means the amount paid to the provider for the intermediate care facility for the mentally retarded for cost of ownership pursuant to this section less any amount paid for interest costs. For the purposes of this division, "excess depreciation" is the intermediate care facility for the mentally retarded's depreciated basis, which is the ~~owner's~~ provider's cost less accumulated depreciation, subtracted from the purchase price but not exceeding the amount of depreciation paid to the provider for the facility.

~~A cost report shall be filed with the department within ninety days after the date on which the transaction of sale is closed or participation is voluntarily terminated for an intermediate care facility for the mentally retarded subject to this division. The report shall show the accumulated~~

~~depreciation, the sales price, and other information required by the department. The department shall provide for a bank, trust company, or savings and loan association to hold in escrow the amount of the last two monthly payments to an intermediate care facility for the mentally retarded made pursuant to division (A)(1) of section 5111.22 of the Revised Code before a sale or voluntary termination of participation or, if the owner fails, within the time required by this division, to notify the department before entering into a contract of sale for the facility, the amount of the first two monthly payments made to the facility after the department learns of the contract, regardless of whether a new owner is in possession of the facility. If the amount the owner will be required to refund under this section is likely to be less than the amount of the two monthly payments otherwise put into escrow under this division, the department shall take one of the following actions instead of withholding the amount of the two monthly payments:~~

~~(1) In the case of an owner that owns other facilities that participate in the medical assistance program, obtain a promissory note in an amount sufficient to cover the amount likely to be refunded;~~

~~(2) In the case of all other owners, withhold the amount of the last monthly payment to the intermediate care facility for the mentally retarded or, if the owner fails, within the time required by this division, to notify the department before entering into a contract of sale for the facility, the amount of the first monthly payment made to the facility after the department learns of the contract, regardless of whether a new owner is in possession of the facility.~~

~~The department shall, within ninety days following the filing of the cost report, audit the report and issue an audit report to the owner. The department also may audit any other cost reports for the facility that have been filed during the previous three years. In the audit report, the department shall state its findings and the amount of any money owed to the department by the intermediate care facility for the mentally retarded. The findings shall be subject to an adjudication conducted in accordance with Chapter 119. of the Revised Code. No later than fifteen days after the owner agrees to a settlement, any funds held in escrow less any amounts due to the department shall be released to the owner and amounts due to the department shall be paid to the department. If the amounts in escrow are less than the amounts due to the department, the balance shall be paid to the department within fifteen days after the owner agrees to a settlement. If the department does not issue its audit report within the ninety-day period, the department shall release any money held in escrow to the owner. For the~~

~~purposes of this section, a transfer of corporate stock, the merger of one corporation into another, or a consolidation does not constitute a sale.~~

~~If an intermediate care facility for the mentally retarded is not sold or its participation is not terminated after notice is provided to the department under this division, the department shall order any payments held in escrow released to the facility upon receiving written notice from the owner that there will be no sale or termination of participation. After written notice is received from an intermediate care facility for the mentally retarded that a sale or termination of participation will not take place, the facility shall provide notice to the department at least forty-five days prior to entering into any contract of sale or terminating participation at any future time.~~

(I) The department of job and family services shall pay a provider for each of the provider's eligible proprietary intermediate care facility facilities for the mentally retarded a return on the facility's net equity computed at the rate of one and one-half times the average of interest rates on special issues of public debt obligations issued to the federal hospital insurance trust fund for the cost reporting period. No facility's return on net equity paid under this division shall exceed one dollar per patient day.

In calculating the rate for return on net equity, the department shall use the greater of the facility's inpatient days during the applicable cost reporting period or the number of inpatient days the facility would have had during that period if its occupancy rate had been ninety-five per cent.

(J)(1) Except as provided in division (J)(2) of this section, if a provider leases or transfers an interest in a facility to another provider who is a related party, the related party's allowable cost of ownership shall include the lesser of the following:

(a) The annual lease expense or actual cost of ownership, whichever is applicable;

(b) The reasonable cost to the lessor or provider making the transfer.

(2) If a provider leases or transfers an interest in a facility to another provider who is a related party, regardless of the date of the lease or transfer, the related party's allowable cost of ownership shall include the annual lease expense or actual cost of ownership, whichever is applicable, subject to the limitations specified in divisions (B) to (I) of this section, if all of the following conditions are met:

(a) The related party is a relative of owner;

(b) In the case of a lease, if the lessor retains any ownership interest, it is, except as provided in division (J)(2)(d)(ii) of this section, in only the real property and any improvements on the real property;

(c) In the case of a transfer, the provider making the transfer retains,

except as provided in division (J)(2)(d)(iv) of this section, no ownership interest in the facility;

(d) The department of job and family services determines that the lease or transfer is an arm's length transaction pursuant to rules ~~the department shall adopt in accordance with Chapter 119, adopted under section 5111.02 of the Revised Code no later than December 31, 2000.~~ The rules shall provide that a lease or transfer is an arm's length transaction if all of the following, as applicable, apply:

(i) In the case of a lease, once the lease goes into effect, the lessor has no direct or indirect interest in the lessee or, except as provided in division (J)(2)(b) of this section, the facility itself, including interest as an owner, officer, director, employee, independent contractor, or consultant, but excluding interest as a lessor.

(ii) In the case of a lease, the lessor does not reacquire an interest in the facility except through the exercise of a lessor's rights in the event of a default. If the lessor reacquires an interest in the facility in this manner, the department shall treat the facility as if the lease never occurred when the department calculates its reimbursement rates for capital costs.

(iii) In the case of a transfer, once the transfer goes into effect, the provider that made the transfer has no direct or indirect interest in the provider that acquires the facility or the facility itself, including interest as an owner, officer, director, employee, independent contractor, or consultant, but excluding interest as a creditor.

(iv) In the case of a transfer, the provider that made the transfer does not reacquire an interest in the facility except through the exercise of a creditor's rights in the event of a default. If the provider reacquires an interest in the facility in this manner, the department shall treat the facility as if the transfer never occurred when the department calculates its reimbursement rates for capital costs.

(v) The lease or transfer satisfies any other criteria specified in the rules.

(e) Except in the case of hardship caused by a catastrophic event, as determined by the department, or in the case of a lessor or provider making the transfer who is at least sixty-five years of age, not less than twenty years have elapsed since, for the same facility, allowable cost of ownership was determined most recently under this division.

Sec. 5111.254. (A) The department of job and family services shall establish initial rates for a nursing facility with a first date of licensure that is on or after July 1, 2006, including a facility that replaces one or more existing facilities, or for a nursing facility with a first date of licensure before that date that was initially certified for the medicaid program on or



after that date, in the following manner:

(1) The rate for direct care costs shall be the product of the cost per case-mix unit determined under division (D) of section 5111.231 of the Revised Code for the facility's peer group and the nursing facility's case-mix score. For the purpose of division (A)(1) of this section, the nursing facility's case-mix score shall be the following:

(a) Unless the nursing facility replaces an existing nursing facility that participated in the medicaid program immediately before the replacement nursing facility begins participating in the medicaid program, the median annual average case-mix score for the nursing facility's peer group:

(b) If the nursing facility replaces an existing nursing facility that participated in the medicaid program immediately before the replacement nursing facility begins participating in the medicaid program, the semiannual case-mix score most recently determined under section 5111.232 of the Revised Code for the replaced nursing facility as adjusted, if necessary, to reflect any difference in the number of beds in the replaced and replacement nursing facilities.

(2) The rate for ancillary and support costs shall be the rate for the facility's peer group determined under division (D) of section 5111.24 of the Revised Code.

(3) The rate for capital costs shall be the median rate for the facility's peer group determined under division (D) of section 5111.25 of the Revised Code.

(4) The rate for tax costs as defined in section 5111.242 of the Revised Code shall be the median rate for tax costs for the facility's peer group in which the facility is placed under division (C) of section 5111.24 of the Revised Code.

(5) The quality incentive payment shall be the mean payment specified in division (B) of section 5111.244 of the Revised Code.

(B) Subject to division (C) of this section, the department shall adjust the rates established under division (A) of this section effective the first day of July, to reflect new rate calculations for all nursing facilities under sections 5111.20 to 5111.33 of the Revised Code.

(C) If a rate for direct care costs is determined under this section for a nursing facility using the median annual average case-mix score for the nursing facility's peer group, the rate shall be redetermined to reflect the replacement nursing facility's actual semiannual case-mix score determined under section 5111.232 of the Revised Code after the nursing facility submits its first two quarterly assessment data that qualify for use in calculating a case-mix score in accordance with rules authorized by division

(E) of section 5111.232 of the Revised Code. If the nursing facility's quarterly submissions do not qualify for use in calculating a case-mix score, the department shall continue to use the median annual average case-mix score for the nursing facility's peer group in lieu of the nursing facility's semiannual case-mix score until the nursing facility submits two consecutive quarterly assessment data that qualify for use in calculating a case-mix score.

Sec. 5111.255. (A) The department of job and family services shall establish initial rates for ~~a nursing facility or an~~ intermediate care facility for the mentally retarded with a first date of licensure that is on or after January 1, 1993, including a facility that replaces one or more existing facilities, or for ~~a nursing facility or an~~ intermediate care facility for the mentally retarded with a first date of licensure before that date that was initially certified for the ~~medical assistance~~ medicaid program on or after that date, in the following manner:

(1) The rate for direct care costs shall be determined as follows:

(a) If there are no cost or resident assessment data as necessary to calculate a rate under section 5111.23 of the Revised Code, the rate shall be the median cost per case-mix unit calculated under division (B)(1) of that section for the relevant peer group for the calendar year preceding the fiscal year in which the rate will be paid, multiplied by the median annual average case-mix score for the peer group for that period and by the rate of inflation estimated under division (B)(~~5~~)(3) of that section. This rate shall be recalculated to reflect the facility's actual quarterly average case-mix score, in accordance with that section, after it submits its first quarterly assessment ~~information data~~ information data that qualifies for use in calculating a case-mix score in accordance with rules ~~adopted under~~ authorized by division ~~(D)~~(E) of section ~~5111.231~~ 5111.232 of the Revised Code. If the facility's first two quarterly submissions do not contain assessment ~~information data~~ information data that qualifies for use in calculating a case-mix score, the department shall continue to calculate the rate using the median annual case-mix score for the peer group in lieu of an assigned quarterly case-mix score. The department shall assign a case-mix score or, if necessary, a cost per case-mix unit under division ~~(C)~~(D) of section ~~5111.231~~ 5111.232 of the Revised Code for any subsequent submissions that do not contain assessment ~~information data~~ information data that qualifies for use in calculating a case-mix score.

(b) If the facility is a replacement facility and the facility or facilities that are being replaced are in operation immediately before the replacement facility opens, the rate shall be the same as the rate for the replaced facility or facilities, proportionate to the number of beds in each replaced facility. If

one or more of the replaced facilities is not in operation immediately before the replacement facility opens, its proportion shall be determined under division (A)(1)(a) of this section.

(2) The rate for other protected costs shall be one hundred fifteen per cent of the median rate for ~~the applicable type of facility~~ intermediate care facilities for the mentally retarded calculated for the fiscal year under section 5111.235 of the Revised Code.

(3) The rate for indirect care costs shall be the applicable maximum rate for the facility's peer group as specified in division (B) of section ~~5111.24 or division (B) of section~~ 5111.241 of the Revised Code.

(4) The rate for capital costs shall be determined under section ~~5111.25 or 5111.251~~ of the Revised Code using the greater of actual inpatient days or an imputed occupancy rate of eighty per cent.

(B) The department shall adjust the rates established under division (A) of this section at both of the following times:

(1) Effective the first day of July, to reflect new rate calculations for all facilities under sections ~~5111.23 5111.20 to 5111.25 and 5111.251~~ 5111.33 of the Revised Code;

(2) Following the ~~facility's provider's~~ submission of ~~its~~ the facility's cost report under division (A)(1)(b) of section 5111.26 of the Revised Code.

The department shall pay the rate adjusted based on the cost report beginning the first day of the calendar quarter that begins more than ninety days after the department receives the cost report.

Sec. 5111.257. If a provider of a nursing facility adds or replaces one or more medicaid certified beds to or at the nursing facility, or renovates one or more of the nursing facility's beds, the rate for the added, replaced, or renovated beds shall be the same as the rate for the nursing facility's existing beds.

~~Sec. 5111.257 5111.258. (A) Notwithstanding sections 5111.23, 5111.231, 5111.235, 5111.24, 5111.241, 5111.25, 5111.251, and 5111.255 5111.20 to 5111.33 of the Revised Code, the director of job and family services shall adopt rules in accordance with Chapter 119. under section 5111.02 of the Revised Code that establish a methodology for calculating the prospective rates for direct care costs, other protected costs, indirect care costs, and capital costs that will be paid each fiscal year to a provider for each of the provider's eligible nursing facilities and intermediate care facilities for the mentally retarded, and discrete units of the provider's nursing facilities or intermediate care facilities for the mentally retarded, that serve residents who have diagnoses or special care needs that require direct care resources that are not measured adequately by the applicable~~

assessment instrument specified in rules ~~adopted under~~ authorized by section ~~5111.231~~ 5111.232 of the Revised Code, or who have diagnoses or special care needs specified in the rules as otherwise qualifying for consideration under this section. The facilities and units of facilities whose rates are established under this division may include, but shall not be limited to, any of the following:

(1) In the case of nursing facilities, facilities and units of facilities that serve medically fragile pediatric residents, residents who are dependent on ventilators, or residents who have severe traumatic brain injury, end-stage Alzheimer's disease, or end-stage acquired immunodeficiency syndrome;

(2) In the case of intermediate care facilities for the mentally retarded, facilities and units of facilities that serve residents who have complex medical conditions or severe behavioral problems.

The department shall use the methodology established under this division to pay for services rendered by such facilities and units after June 30, 1993.

The rules ~~adopted under~~ authorized by this division shall specify the criteria and procedures the department will apply when designating facilities and units that qualify for calculation of rates under this division. The criteria shall include consideration of whether all of the allowable costs of the facility or unit would be paid by rates established under sections ~~5111.23, 5111.231, 5111.235, 5111.24, 5111.241, 5111.25, 5111.251, and 5111.255~~ 5111.20 to 5111.33 of the Revised Code, and shall establish a minimum bed size for a facility or unit to qualify to have its rates established under this division. The criteria shall not be designed to require that residents be served only in facilities located in large cities. The methodology established by the rules shall consider the historical costs of providing care to the residents of the facilities or units.

The rules may require that a facility designated under this division or containing a unit designated under this division receive authorization from the department to admit or retain a resident to the facility or unit and shall specify the criteria and procedures the department will apply when granting that authorization.

Notwithstanding any other provision of sections ~~5111.20 to 5111.32~~ 5111.33 of the Revised Code, the costs incurred by facilities or units whose rates are established under this division shall not be considered in establishing payment rates for other facilities or units.

(B) The director may adopt rules ~~in accordance with Chapter 119, under~~ section 5111.02 of the Revised Code under which the department, notwithstanding any other provision of sections ~~5111.20 to 5111.32~~ 5111.33

of the Revised Code, may adjust the rates determined under sections ~~5111.23~~ 5111.20 to ~~5111.255~~ 5111.33 of the Revised Code for a facility that serves a resident who has a diagnosis or special care need that, in the rules ~~adopted under~~ authorized by division (A) of this section, would qualify a facility or unit of a facility to have its rate determined under that division, but who is not in such a unit. The rules may require that a facility that qualifies for a rate adjustment under this division receive authorization from the department to admit or retain a resident who qualifies the facility for the rate adjustment and shall specify the criteria and procedures the department will apply when granting that authorization.

Sec. 5111.26. (A)(1)(a) Except as provided in division (A)(1)(b) of this section, each ~~nursing facility and intermediate care facility for the mentally retarded~~ provider shall file with the department of job and family services an annual cost report ~~prepared for each of the provider's nursing facilities and intermediate care facilities for the mentally retarded that participate in the medicaid program.~~ A provider shall prepare the reports in accordance with guidelines established by the department. The A report shall cover a calendar year or the portion of a calendar year during which the facility participated in the medical assistance medicaid program. All facilities A provider shall file the reports within ninety days after the end of the calendar year. The department, for good cause, may grant a fourteen-day extension of the time for filing cost reports upon written request from a facility provider. The director of job and family services shall prescribe, in rules adopted in accordance with Chapter 119, under section 5111.02 of the Revised Code, the cost reporting form and a uniform chart of accounts for the purpose of cost reporting, and shall distribute cost reporting forms or computer software for electronic submission of the cost report to each nursing facility and intermediate care facility for the mentally retarded provider at least sixty days before the facility's reporting date.

(b) ~~A facility for which~~ If rates are for a provider's nursing facility or intermediate care facility for the mentally retarded were most recently established under section 5111.254 or 5111.255 of the Revised Code, the provider shall submit a cost report for that facility no later than ninety days after the end of the facility's first three full calendar months of operation. A If a nursing facility or intermediate care facility for the mentally retarded undergoes a change of provider that the department determines, in accordance with rules adopted under section 5111.02 of the Revised Code, is an arm's length transaction, the new provider shall submit a cost report for that facility not later than ninety days after the end of the facility's first three full calendar months of operation under the new provider. The provider of a

facility that opens or undergoes a change of provider that is an arm's length transaction after the first day of October in any calendar year is not required to file a cost report for that calendar year.

(c) If a nursing facility undergoes a change of provider that the department determines, in accordance with rules adopted under section 5111.02 of the Revised Code, is not an arms length transaction, the new provider shall file a cost report under division (A)(1)(a) of this section for the facility. The cost report shall cover the portion of the calendar year during which the new provider operated the nursing facility and the portion of the calendar year during which the previous provider operated the nursing facility.

~~(2) If a nursing facility or intermediate care facility for the mentally retarded provider required to submit a cost reports report for a nursing facility or intermediate care facility for the mentally retarded does not file the reports report within the required time periods period or within fourteen days thereafter if an extension is granted under division (A)(1)(a) of this section, or files an incomplete or inadequate report for the facility, the department shall provide immediate written notice to the facility provider that its the provider agreement for the facility will be terminated in thirty days unless the facility provider submits a complete and adequate cost report for the facility within thirty days. During the thirty-day termination period or any additional time allowed for an appeal of the proposed termination of a provider agreement, the facility provider shall be paid its the facility's then current per resident per day rate, minus two dollars. On July 1, 1994, the department shall adjust the two-dollar reduction to reflect the rate of inflation during the preceding twelve months, as shown in the consumer price index for all items for all urban consumers for the north central region, published by the United States bureau of labor statistics. On July 1, 1995, and the first day of July of each year thereafter, the department shall adjust the amount of the reduction in effect during the previous twelve months to reflect the rate of inflation during the preceding twelve months, as shown in the same index.~~

~~(B) No nursing facility or intermediate care facility for the mentally retarded provider shall report fines paid under sections 5111.35 to 5111.62 or section 5111.99 of the Revised Code in any cost report filed under this section.~~

~~(C) The department shall develop an addendum to the cost report form that a nursing facility or intermediate care facility for the mentally retarded provider may use to set forth costs that the facility provider believes may be disputed by the department. Any costs reported by the facility provider on~~

the addendum may be considered by the department in setting the facility's rate. If the department does not consider the costs listed on the addendum in setting the facility's rate, the facility provider may seek reconsideration of that determination under section 5111.29 of the Revised Code. If the department subsequently includes the costs listed in the addendum in the facility's rate, the department shall pay the facility provider interest at a reasonable rate established in rules adopted ~~in accordance with Chapter 119.~~ under section 5111.02 of the Revised Code for the time that the rate paid excluded the costs.

Sec. 5111.261. Except as otherwise provided in ~~sections 5111.262 to~~ section 5111.264 of the Revised Code, the department of job and family services, in determining whether an intermediate care facility for the mentally retarded's direct care costs and indirect care costs are allowable, shall place no limit on specific categories of reasonable costs other than compensation of owners, compensation of relatives of owners, compensation of administrators and costs for resident meals that are prepared and consumed outside the facility.

Compensation cost limits for owners and relatives of owners shall be based on compensation costs for individuals who hold comparable positions but who are not owners or relatives of owners, as reported on facility cost reports. As used in this section, "comparable position" means the position that is held by the owner or the owner's relative, if that position is listed separately on the cost report form, or if the position is not listed separately, the group of positions that is listed on the cost report form and that includes the position held by the owner or the owner's relative. In the case of an owner or owner's relative who serves the facility in a capacity such as corporate officer, proprietor, or partner for which no comparable position or group of positions is listed on the cost report form, the compensation cost limit shall be based on civil service equivalents and shall be specified in rules adopted ~~by the director of job and family services in accordance with Chapter 119.~~ under section 5111.02 of the Revised Code.

Compensation cost limits for administrators shall be based on compensation costs for administrators who are not owners or relatives of owners, as reported on facility cost reports. Compensation cost limits for administrators of four or more intermediate care facilities for the mentally retarded shall be the same as the limits for administrators of ~~nursing facilities or~~ intermediate care facilities for the mentally retarded with one hundred fifty or more beds.

~~For nursing facilities, cost limits for resident meals that are prepared and consumed outside the facility shall be based on the statewide average cost of~~

~~serving and preparing meals in all nursing facilities, as reported on the facility cost reports. For intermediate care facilities for the mentally retarded, cost limits for resident meals that are prepared and consumed outside the facility shall be based on the statewide average cost of serving and preparing meals in all intermediate care facilities for the mentally retarded, as reported on the facility cost reports.~~

Sec. 5111.263. (A) As used in this section, "covered therapy services" means physical therapy, occupational therapy, audiology, and speech therapy services that are provided by appropriately licensed therapists or therapy assistants and that are covered for nursing facility residents either by the medicare program established under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, or the medical assistance medicaid program as specified in rules adopted by the director of job and family services ~~in accordance with Chapter 119. under section 5111.02~~ of the Revised Code.

(B) Except as provided in division (G) of this section, the costs of therapy are not allowable costs for nursing facilities for the purpose of determining rates under sections ~~5111.23, 5111.231, 5111.235, 5111.24, 5111.241, 5111.25, 5111.251, 5111.255, and 5111.257~~ 5111.20 to 5111.33 of the Revised Code.

(C) The department of job and family services shall process no claims for payment under the ~~medical assistance~~ medicaid program for covered therapy services rendered to a resident of a nursing facility other than such claims submitted, in accordance with this section, by a nursing facility that has a valid provider agreement with the department.

(D) ~~Nursing Providers of nursing facilities that have entered into a provider agreement~~ may bill the department of job and family services for covered therapy services ~~it provides~~ the nursing facilities provide to residents of any nursing facility who are medicaid recipients ~~of the medical assistance program~~ and not eligible for the medicare program.

(E) The department shall not process any claim for a covered therapy service provided to a nursing facility resident who is eligible for the medicare program unless the claim is for a copayment or deductible or the conditions in division (E)(1) or (2) of this section apply:

(1) The covered therapy service provided is, under the federal statutes, regulations, or policies governing the medicare program, not covered by the medicare program and the service is, under the provisions of this chapter or the rules adopted under this chapter, covered by the ~~medical assistance~~ medicaid program.

(2) All of the following apply:



(a) The individual or entity who provided the covered therapy service was eligible to bill the medicare program for the service.

(b) A complete, accurate, and timely claim was submitted to the medicare program and the program denied payment for the service as not medically necessary for the resident. For the purposes of division (E)(2)(b) of this section, a claim is not considered to have been denied by the medicare program until either a denial has been issued following a medicare fair hearing or six months have elapsed since the request for a fair hearing was filed.

(c) The facility is required to provide or arrange for the provision of the service by a licensed therapist or therapy assistant to be in compliance with federal or state nursing facility certification requirements for the ~~medical assistance~~ medicaid program.

(d) The claim for payment for the services under the ~~medical assistance~~ medicaid program is accompanied by documentation that divisions (E)(2)(b) and (c) of this section apply to the service.

(F) The reimbursement allowed by the department for covered therapy services provided to nursing facility residents and billed under division (D) or (E) of this section shall be fifteen per cent less than the fees it pays for the same services rendered to hospital outpatients. The director may adopt rules ~~in accordance with Chapter 119. under section 5111.02~~ of the Revised Code establishing comparable fees for covered therapy services that are not included in its schedule of fees paid for services rendered to hospital outpatients.

(G) A nursing facility's reasonable costs for rehabilitative, restorative, or maintenance therapy services rendered to facility residents by nurses or nurse aides, and the facility's overhead costs to support provision of therapy services provided to nursing facility residents, are allowable costs for the purposes of establishing rates under sections ~~5111.23, 5111.231, 5111.235, 5111.24, 5111.241, 5111.25, 5111.251, 5111.255, and 5111.257~~ 5111.20 to 5111.33 of the Revised Code.

Sec. 5111.264. Except as provided in section 5111.25 or ~~5111.264~~ 5111.251 of the Revised Code, the costs of goods, services, and facilities, furnished to a provider by a related party are includable in the allowable costs of the provider at the reasonable cost to the related party.

Sec. 5111.265. If one or more medicaid-certified beds are relocated from one nursing facility to another nursing facility owned by a different person or government entity and the application for the certificate of need authorizing the relocation is filed with the director of health on or after the effective date of this section, amortization of the cost of acquiring operating

rights for the relocated beds is not an allowable cost for the purpose of determining the nursing facility's medicaid reimbursement rate.

Sec. 5111.266. A provider of a nursing facility filing the facility's cost report with the department of job and family services under section 5111.26 of the Revised Code shall report as a nonreimbursable expense the cost of the nursing facility's franchise permit fee.

Sec. 5111.27. (A) The department of job and family services shall conduct a desk review of each cost report it receives under section 5111.26 of the Revised Code. Based on the desk review, the department shall make a preliminary determination of whether the reported costs are allowable costs. The department shall notify each ~~nursing facility and intermediate care facility for the mentally retarded~~ provider of whether any of ~~its~~ the reported costs are preliminarily determined not to be allowable, the rate calculation under sections ~~5111.23~~ 5111.20 to ~~5111.257~~ 5111.33 of the Revised Code that results from that determination, and the reasons for the determination and resulting rate. The department shall allow the ~~facility~~ provider to verify the calculation and submit additional information.

(B) The department may conduct an audit, as defined by rule adopted ~~by the director of job and family services in accordance with Chapter 119.~~ under section 5111.02 of the Revised Code, of any cost report and shall notify the ~~nursing facility or intermediate care facility for the mentally retarded~~ provider of its findings.

Audits shall be conducted by auditors under contract with or employed by the department. The decision whether to conduct an audit and the scope of the audit, which may be a desk or field audit, shall be determined based on prior performance of the provider and may be based on a risk analysis or other evidence that gives the department reason to believe that the provider has reported costs improperly. A desk or field audit may be performed annually, but is required whenever a provider does not pass the risk analysis tolerance factors. The department shall issue the audit report no later than three years after the cost report is filed, or upon the completion of a desk or field audit on the report or a report for a subsequent cost reporting period, whichever is earlier. During the time within which the department may issue an audit report, the provider may amend the cost report upon discovery of a material error or material additional information. The department shall review the amended cost report for accuracy and notify the provider of its determination.

The department may establish a contract for the auditing of facilities by outside firms. Each contract entered into by bidding shall be effective for one to two years. The department shall establish an audit manual and

program which shall require that all field audits, conducted either pursuant to a contract or by department employees:

(1) Comply with the applicable rules prescribed pursuant to Titles XVIII and XIX of the "~~Social Security Act~~," 49 Stat. 620 (1935), 42 U.S.C.A. 301, ~~as amended~~;

(2) Consider generally accepted auditing standards prescribed by the American institute of certified public accountants;

(3) Include a written summary as to whether the costs included in the report examined during the audit are allowable and are presented fairly in accordance with generally accepted accounting principles and department rules, and whether, in all material respects, allowable costs are documented, reasonable, and related to patient care;

(4) Are conducted by accounting firms or auditors who, during the period of the auditors' professional engagement or employment and during the period covered by the cost reports, do not have nor are committed to acquire any direct or indirect financial interest in the ownership, financing, or operation of a nursing facility or intermediate care facility for the mentally retarded in this state;

(5) Are conducted by accounting firms or auditors who, as a condition of the contract or employment, shall not audit any facility that has been a client of the firm or auditor;

(6) Are conducted by auditors who are otherwise independent as determined by the standards of independence established by the American institute of certified public accountants;

(7) Are completed within the time period specified by the department;

(8) Provide to the ~~nursing facility or intermediate care facility for the mentally retarded~~ provider complete written interpretations that explain in detail the application of all relevant contract provisions, regulations, auditing standards, rate formulae, and departmental policies, with explanations and examples, that are sufficient to permit the ~~facility~~ provider to calculate with reasonable certainty those costs that are allowable and the rate to which the provider's facility is entitled.

For the purposes of division (B)(4) of this section, employment of a member of an auditor's family by a nursing facility or intermediate care facility for the mentally retarded that the auditor does not review does not constitute a direct or indirect financial interest in the ownership, financing, or operation of the facility.

(C) The department, pursuant to rules adopted ~~in accordance with Chapter 119~~, under section 5111.02 of the Revised Code, may conduct an exception review of assessment ~~information~~ data submitted under section

~~5111.231~~ 5111.232 of the Revised Code. The department may conduct an exception review based on the findings of a certification survey conducted by the department of health, a risk analysis, or prior performance of the provider.

Exception reviews shall be conducted at the facility by appropriate health professionals under contract with or employed by the department of job and family services. The professionals may review resident assessment forms and supporting documentation, conduct interviews, and observe residents to identify any patterns or trends of inaccurate assessments and resulting inaccurate case-mix scores.

The rules shall establish an exception review program that requires that exception reviews do all of the following:

- (1) Comply with Titles XVIII and XIX ~~of the "Social Security Act"~~;
- (2) Provide a written summary that states whether the resident assessment forms have been completed accurately;
- (3) Are conducted by health professionals who, during the period of their professional engagement or employment with the department, neither have nor are committed to acquire any direct or indirect financial interest in the ownership, financing, or operation of a nursing facility or intermediate care facility for the mentally retarded in this state;
- (4) Are conducted by health professionals who, as a condition of their engagement or employment with the department, shall not review any ~~facility~~ provider that has been a client of the professional.

For the purposes of division (C)(3) of this section, employment of a member of a health professional's family by a nursing facility or intermediate care facility for the mentally retarded that the professional does not review does not constitute a direct or indirect financial interest in the ownership, financing, or operation of the facility.

If an exception review is conducted before the effective date of the rate that is based on the case-mix ~~information~~ data subject to the review and the review results in findings that exceed tolerance levels specified in the rules adopted under this division, the department, in accordance with those rules, may use the findings to recalculate individual resident case-mix scores, quarterly average facility case-mix scores, and annual average facility case-mix scores. The department may use the recalculated quarterly and annual facility average case-mix scores to calculate the facility's rate for direct care costs for the appropriate calendar quarter or quarters.

(D) The department shall prepare a written summary of any audit disallowance or exception review finding that is made after the effective date of the rate that is based on the cost or case-mix ~~information~~ data. Where

the facility provider is pursuing judicial or administrative remedies in good faith regarding the disallowance or finding, the department shall not withhold from the facility's provider's current payments any amounts the department claims to be due from the facility provider pursuant to section 5111.28 of the Revised Code.

(E) The department shall not reduce rates calculated under sections ~~5111.23~~ 5111.20 to ~~5111.28~~ 5111.33 of the Revised Code on the basis that the facility provider charges a lower rate to any resident who is not eligible for the ~~medical assistance~~ medicaid program.

(F) The department shall adjust the rates calculated under sections ~~5111.23~~ 5111.20 to ~~5111.28~~ 5111.33 of the Revised Code to account for reasonable additional costs that must be incurred by nursing facilities and intermediate care facilities for the mentally retarded to comply with requirements of federal or state statutes, rules, or policies enacted or amended after January 1, 1992, or with orders issued by state or local fire authorities.

Sec. 5111.28. (A) If a provider properly amends its cost report under section 5111.27 of the Revised Code and the amended report shows that the provider received a lower rate under the original cost report than it was entitled to receive, the department of job and family services shall adjust the provider's rate prospectively to reflect the corrected information. The department shall pay the adjusted rate beginning two months after the first day of the month after the provider files the amended cost report. If the department finds, from an exception review of resident assessment information conducted after the effective date of the rate for direct care costs that is based on the assessment information, that inaccurate assessment information resulted in the provider receiving a lower rate than it was entitled to receive, the department prospectively shall adjust the provider's rate accordingly and shall make payments using the adjusted rate for the remainder of the calendar quarter for which the assessment information is used to determine the rate, beginning one month after the first day of the month after the exception review is completed.

(B) If the provider properly amends its cost report under section 5111.27 of the Revised Code, the department makes a finding based on an audit under that section, or the department makes a finding based on an exception review of resident assessment information conducted under that section after the effective date of the rate for direct care costs that is based on the assessment information, any of which results in a determination that the provider has received a higher rate than it was entitled to receive, the department shall recalculate the provider's rate using the revised

information. The department shall apply the recalculated rate to the periods when the provider received the incorrect rate to determine the amount of the overpayment. The provider shall refund the amount of the overpayment.

In addition to requiring a refund under this division, the department may charge the provider interest at the applicable rate specified in this division from the time the overpayment was made.

(1) If the overpayment resulted from costs reported for calendar year 1993, the interest shall be no greater than one and one-half times the average bank prime rate.

(2) If the overpayment resulted from costs reported for subsequent calendar years:

(a) The interest shall be no greater than two times the average bank prime rate if the overpayment was equal to or less than one per cent of the total medicaid payments to the provider for the fiscal year for which the incorrect information was used to establish a rate.

(b) The interest shall be no greater than two and one-half times the current average bank prime rate if the overpayment was greater than one per cent of the total medicaid payments to the provider for the fiscal year for which the incorrect information was used to establish a rate.

(C) The department also may impose the following penalties:

(1) If a provider does not furnish invoices or other documentation that the department requests during an audit within sixty days after the request, no more than the greater of one thousand dollars per audit or twenty-five per cent of the cumulative amount by which the costs for which documentation was not furnished increased the total medicaid payments to the provider during the fiscal year for which the costs were used to establish a rate;

(2) If an exiting operator or owner fails to provide notice of ~~sale of the a facility or closure, voluntary termination, or voluntary withdrawal~~ of participation in the ~~medical assistance~~ medicaid program; as required by section ~~5111.25 or 5111.251~~ 5111.66 of the Revised Code, or an exiting operator or owner and entering operator fail to provide notice of a change of operator as required by section 5111.67 of the Revised Code, no more than the current average bank prime rate plus four per cent of the last two monthly payments.

(D) If the provider continues to participate in the ~~medical assistance~~ medicaid program, the department shall deduct any amount that the provider is required to refund under this section, and the amount of any interest charged or penalty imposed under this section, from the next available payment from the department to the provider. The department and the provider may enter into an agreement under which the amount, together

with interest, is deducted in installments from payments from the department to the provider.

(E) The department shall transmit refunds and penalties to the treasurer of state for deposit in the general revenue fund.

(F) For the purpose of this section, the department shall determine the average bank prime rate using statistical release H.15, "selected interest rates," a weekly publication of the federal reserve board, or any successor publication. If statistical release H.15, or its successor, ceases to contain the bank prime rate information or ceases to be published, the department shall request a written statement of the average bank prime rate from the federal reserve bank of Cleveland or the federal reserve board.

Sec. 5111.29. (A) The director of job and family services shall adopt rules ~~in accordance with Chapter 119, under section 5111.02~~ of the Revised Code that establish a process under which a ~~nursing facility or intermediate care facility for the mentally retarded~~ provider, or a group or association of ~~facilities~~ providers, may seek reconsideration of rates established under sections ~~5111.23~~ 5111.20 to ~~5111.28~~ 5111.33 of the Revised Code, including a rate for direct care costs recalculated before the effective date of the rate as a result of an exception review of resident assessment information conducted under section 5111.27 of the Revised Code.

(1) Except as provided in divisions (A)(2) to (4) of this section, the only issue that a ~~facility~~ provider, group, or association may raise in the rate reconsideration shall be whether the rate was calculated in accordance with sections ~~5111.23~~ 5111.20 to ~~5111.28~~ 5111.33 of the Revised Code and the rules adopted under ~~those sections~~ section 5111.02 of the Revised Code. The rules shall permit a ~~facility~~ provider, group, or association to submit written arguments or other materials that support its position. The rules shall specify time frames within which the ~~facility~~ provider, group, or association and the department must act. If the department determines, as a result of the rate reconsideration, that the rate established for one or more facilities of a provider is less than the rate to which ~~it~~ the facility is entitled, the department shall increase the rate. If the department has paid the incorrect rate for a period of time, the department shall pay the ~~facility~~ provider the difference between the amount ~~it~~ the provider was paid for that period for the facility and the amount ~~it~~ the provider should have been paid for the facility.

(2) The rules shall provide that during a fiscal year, the department, by means of the rate reconsideration process, may increase ~~a facility's~~ the rate determined for an intermediate care facility for the mentally retarded as calculated under sections ~~5111.23~~ 5111.20 to ~~5111.28~~ 5111.33 of the

Revised Code if the provider of the facility demonstrates that ~~its~~ the facility's actual, allowable costs have increased because of extreme circumstances. A facility may qualify for a rate increase only if ~~its~~ the facility's per diem, actual, allowable costs have increased to a level that exceeds its total rate, ~~including any efficiency incentive and return on equity payment.~~ The rules shall specify the circumstances that would justify a rate increase under division (A)(2) of this section. ~~In the case of nursing facilities, the~~ The rules shall provide that the extreme circumstances include ~~increased security costs for an inner-city nursing facility and an increase in workers' compensation experience rating of greater than five per cent for a facility that has an appropriate claims management program but do not include a change of ownership that results from bankruptcy, foreclosure, or findings of violations of certification requirements by the department of health.~~ ~~In the case of intermediate care facilities for the mentally retarded, the rules shall provide that the extreme circumstances include, but are not limited to,~~ natural disasters, renovations approved under division (D) of section 5111.251 of the Revised Code, an increase in workers' compensation experience rating of greater than five per cent for a facility that has an appropriate claims management program, increased security costs for an inner-city facility, and a change of ownership that results from bankruptcy, foreclosure, or findings of violations of certification requirements by the department of health. An increase under division (A)(2) of this section is subject to any rate limitations or maximum rates established by sections ~~5111.23~~ 5111.20 to ~~5111.28~~ 5111.33 of the Revised Code for specific cost centers. Any rate increase granted under division (A)(2) of this section shall take effect on the first day of the first month after the department receives the request.

(3) The rules shall provide that the department, through the rate reconsideration process, may increase ~~a facility's~~ an intermediate care facility for the mentally retarded's rate as calculated under sections ~~5111.23~~ 5111.20 to ~~5111.28~~ 5111.33 of the Revised Code if the department, in ~~its~~ the department's sole discretion, determines that the rate as calculated under those sections works an extreme hardship on the facility.

(4) The rules shall provide that when beds certified for the ~~medical assistance~~ medicaid program are added to an existing intermediate care facility, ~~for the mentally retarded or~~ replaced at the same site, ~~or subject to a change of ownership or lease,~~ the department, through the rate reconsideration process, shall increase the facility's intermediate care facility for the mentally retarded's rate for capital costs proportionately, as limited by any applicable limitation under section ~~5111.25~~ 5111.251 of the



Revised Code, to account for the costs of the beds that are added, or replaced, or subject to a change of ownership or lease. The department shall make this increase one month after the first day of the month after the department receives sufficient documentation of the costs. Any rate increase granted under division (A)(4) of this section after June 30, 1993, shall remain in effect until the effective date of a rate calculated under section ~~5111.25~~ or 5111.251 of the Revised Code that includes costs incurred for a full calendar year for the bed addition, or bed replacement, or change of ownership or lease. The facility shall report double accumulated depreciation in an amount equal to the depreciation included in the rate adjustment on its cost report for the first year of operation. During the term of any loan used to finance a project for which a rate adjustment is granted under division (A)(4) of this section, if the facility is operated by the same provider, the facility provider shall subtract from the interest costs it reports on its cost report an amount equal to the difference between the following:

(a) The actual, allowable interest costs for the loan during the calendar year for which the costs are being reported;

(b) The actual, allowable interest costs attributable to the loan that were used to calculate the rates paid to the provider for the facility during the same calendar year.

(5) The department's decision at the conclusion of the reconsideration process shall not be subject to any administrative proceedings under Chapter 119. or any other provision of the Revised Code.

(B) ~~Any~~ All of the following are subject to an adjudication conducted in accordance with Chapter 119. of the Revised Code:

(1) ~~Any~~ audit disallowance that the department makes as the result of an audit under section 5111.27 of the Revised Code, any;

(2) ~~Any~~ adverse finding that results from an exception review of resident assessment information conducted under that section 5111.27 of the Revised Code after the effective date of the facility's rate that is based on the assessment information, and any;

(3) Any medicaid payment deemed an overpayment under section 5111.683 of the Revised Code;

(4) ~~Any~~ penalty the department imposes under division (C) of section 5111.28 of the Revised Code shall be subject to an adjudication conducted in accordance with Chapter 119. or section 5111.683 of the Revised Code.

Sec. 5111.291. Notwithstanding sections 5111.20 to ~~5111.29~~ 5111.33 of the Revised Code, the department of job and family services may compute the rate for intermediate care facilities for the mentally retarded operated by the department of mental retardation and developmental disabilities or the

department of mental health according to the reasonable cost principles of Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 1395, as amended.

Sec. 5111.30. The department of job and family services shall terminate the provider agreement with a ~~nursing facility or intermediate care facility for the mentally retarded~~ provider that does not comply with the requirements of section 3721.071 of the Revised Code for the installation of fire extinguishing and fire alarm systems.

Sec. 5111.31. (A) Every provider agreement with the provider of a nursing facility or intermediate care facility for the mentally retarded shall:

(1) Prohibit the ~~facility~~ provider from failing or refusing to retain as a patient any person because the person is, becomes, or may, as a patient in the facility, become a medicaid recipient ~~of assistance under the medical assistance program~~. For the purposes of this division, a medicaid recipient ~~of medical assistance~~ who is a patient in a facility shall be considered a patient in the facility during any hospital stays totaling less than twenty-five days during any twelve-month period. Recipients who have been identified by the department of job and family services or its designee as requiring the level of care of an intermediate care facility for the mentally retarded shall not be subject to a maximum period of absences during which they are considered patients if prior authorization of the department for visits with relatives and friends and participation in therapeutic programs is obtained under rules adopted under section 5111.02 of the Revised Code.

(2) ~~Include~~ Except as provided by division (B)(1) of this section, include any part of the facility that meets standards for certification of compliance with federal and state laws and rules for participation in the medical assistance medicaid program, ~~except that nursing facilities that, during the period beginning July 1, 1987, and ending July 1, 1993, added beds licensed as nursing home beds under Chapter 3721. of the Revised Code are not required to include those beds under a provider agreement unless otherwise required by federal law. Once added to the provider agreement, however, those nursing home beds may not be removed unless the facility withdraws from the medical assistance program in its entirety.~~

(3) Prohibit the ~~facility~~ provider from discriminating against any patient on the basis of race, color, sex, creed, or national origin.

(4) Except as otherwise prohibited under section 5111.55 of the Revised Code, prohibit the ~~facility~~ provider from failing or refusing to accept a patient because the patient is, becomes, or may, as a patient in the facility, become a medicaid recipient ~~of assistance under the medical assistance program~~ if less than eighty per cent of the patients in the facility are

medicaid recipients of medical assistance.

(B)(1) Except as provided by division (B)(2) of this section, the following are not required to be included in a provider agreement unless otherwise required by federal law:

(a) Beds added during the period beginning July 1, 1987, and ending July 1, 1993, to a nursing home licensed under Chapter 3721. of the Revised Code;

(b) Beds in an intermediate care facility for the mentally retarded that are designated for respite care under a medicaid waiver component operated pursuant to a waiver sought under section 5111.87 of the Revised Code.

(2) If a provider chooses to include a bed specified in division (B)(1) of this section in a provider agreement, the bed may not be removed from the provider agreement unless the provider withdraws the facility in which the bed is located from the medicaid program.

(C) Nothing in this section shall bar any a provider that is a religious organization operating a religious or denominational nursing facility or intermediate care facility for the mentally retarded that is operated, supervised, or controlled by a religious organization from giving preference to persons of the same religion or denomination. Nothing in this section shall bar any facility provider from giving preference to persons with whom it the provider has contracted to provide continuing care.

(D) Nothing in this section shall bar any the provider of a county home organized under Chapter 5155. of the Revised Code from admitting residents exclusively from the county in which the county home is located.

(E) No provider of a nursing facility or intermediate care facility for the mentally retarded with for which a provider agreement is in effect shall violate the provider contract obligations imposed under this section.

(F) Nothing in divisions (A) and (B)(C) of this section shall bar any nursing facility or intermediate care facility for the mentally retarded a provider from retaining patients who have resided in the provider's facility for not less than one year as private pay patients and who subsequently become medicaid recipients of assistance under the medicaid program, but refusing to accept as a patient any person who is or may, as a patient in the facility, become a medicaid recipient of assistance under the medicaid program, if all of the following apply:

(1) The facility provider does not refuse to retain any patient who has resided in the provider's facility for not less than one year as a private pay patient because the patient becomes a medicaid recipient of assistance under the medicaid program, except as necessary to comply with division (E)(F)(2) of this section;

(2) The number of medicaid recipients retained under this division does not at any time exceed ten per cent of all the patients in the facility;

(3) On July 1, 1980, all the patients in the facility were private pay patients.

Sec. 5111.32. Any patient has a cause of action against the provider of a nursing facility or intermediate care facility for the mentally retarded for breach of the provider agreement obligations or other duties imposed by section 5111.31 of the Revised Code. The action may be commenced by the patient, or on ~~his~~ the patient's behalf by ~~his~~ the patient's sponsor or a residents' rights advocate, as either is defined under section 3721.10 of the Revised Code, by the filing of a civil action in the court of common pleas of the county in which the facility is located, or in the court of common pleas of Franklin county.

If the court finds that a breach of the provider agreement obligations imposed by section 5111.31 of the Revised Code has occurred, the court may enjoin the ~~facility~~ provider from engaging in the practice, order such affirmative relief as may be necessary, and award to the patient and a person or public agency that brings an action on behalf of a patient actual damages, costs, and reasonable attorney's fees.

Sec. 5111.33. Reimbursement to ~~nursing facilities and intermediate care facilities for the mentally retarded~~ a provider under sections 5111.20 to 5111.32 of the Revised Code shall include payments to ~~facilities~~ the provider, at a rate equal to the percentage of the per resident per day rates that the department of job and family services has established for the provider's nursing facility or intermediate care facility for the mentally retarded under sections ~~5111.23~~ 5111.20 to ~~5111.29~~ 5111.33 of the Revised Code for the fiscal year for which the cost of services is reimbursed, to reserve a bed for a recipient during a temporary absence under conditions prescribed by the department, to include hospitalization for an acute condition, visits with relatives and friends, and participation in therapeutic programs outside the facility, when the resident's plan of care provides for such absence and federal participation in the payments is available. The maximum period during which payments may be made to reserve a bed shall not exceed the maximum period specified under federal regulations, and shall not be more than thirty days during any calendar year for hospital stays, visits with relatives and friends, and participation in therapeutic programs. Recipients who have been identified by the department as requiring the level of care of an intermediate care facility for the mentally retarded shall not be subject to a maximum period during which payments may be made to reserve a bed if prior authorization of the department is

obtained for hospital stays, visits with relatives and friends, and participation in therapeutic programs. The director of job and family services shall adopt rules under ~~division (B)~~ of section 5111.02 of the Revised Code establishing conditions under which prior authorization may be obtained.

Sec. 5111.34. The director of job and family services shall prepare an annual report containing recommendations on the methodology that should be used to transition paying providers of nursing facilities the rate determined for nursing facilities for one fiscal year to the immediately succeeding fiscal year. The director shall submit a copy of the annual report to the governor, the president and minority leader of the senate, and the speaker and minority leader of the house of representatives not later than the first day of each October.

Sec. 5111.62. The proceeds of all fines, including interest, collected under sections 5111.35 to 5111.62 of the Revised Code shall be deposited in the state treasury to the credit of the residents protection fund, which is hereby created. ~~Moneys~~ The proceeds of all fines, including interest, collected under section 173.42 of the Revised Code shall be deposited in the state treasury to the credit of the residents protection fund.

Moneys in the fund shall be used for the protection of the health or property of residents of nursing facilities in which the department of health finds deficiencies, including payment for the costs of relocation of residents to other facilities, maintenance of operation of a facility pending correction of deficiencies or closure, and reimbursement of residents for the loss of money managed by the facility under section 3721.15 of the Revised Code. ~~The~~

The fund shall be maintained and administered by the department of job and family services under rules developed in consultation with the departments of health and aging and adopted by the director of job and family services under Chapter 119. of the Revised Code.

Sec. 5111.65. As used in sections 5111.65 to 5111.688 of the Revised Code:

(A) "Change of operator" means an entering operator becoming the operator of a nursing facility or intermediate care facility for the mentally retarded in the place of the exiting operator.

(1) Actions that constitute a change of operator include the following:

(a) A change in an exiting operator's form of legal organization, including the formation of a partnership or corporation from a sole proprietorship;

(b) A transfer of all the exiting operator's ownership interest in the

operation of the facility to the entering operator, regardless of whether ownership of any or all of the real property or personal property associated with the facility is also transferred;

(c) A lease of the facility to the entering operator or the exiting operator's termination of the exiting operator's lease;

(d) If the exiting operator is a partnership, dissolution of the partnership;

(e) If the exiting operator is a partnership, a change in composition of the partnership unless both of the following apply:

(i) The change in composition does not cause the partnership's dissolution under state law.

(ii) The partners agree that the change in composition does not constitute a change in operator.

(f) If the operator is a corporation, dissolution of the corporation, a merger of the corporation into another corporation that is the survivor of the merger, or a consolidation of one or more other corporations to form a new corporation.

(2) The following, alone, do not constitute a change of operator:

(a) A contract for an entity to manage a nursing facility or intermediate care facility for the mentally retarded as the operator's agent, subject to the operator's approval of daily operating and management decisions;

(b) A change of ownership, lease, or termination of a lease of real property or personal property associated with a nursing facility or intermediate care facility for the mentally retarded if an entering operator does not become the operator in place of an exiting operator;

(c) If the operator is a corporation, a change of one or more members of the corporation's governing body or transfer of ownership of one or more shares of the corporation's stock, if the same corporation continues to be the operator.

(B) "Effective date of a change of operator" means the day the entering operator becomes the operator of the nursing facility or intermediate care facility for the mentally retarded.

(C) "Effective date of a facility closure" means the last day that the last of the residents of the nursing facility or intermediate care facility for the mentally retarded resides in the facility.

(D) "Effective date of a voluntary termination" means the day the intermediate care facility for the mentally retarded ceases to accept medicaid patients.

(E) "Effective date of a voluntary withdrawal of participation" means the day the nursing facility ceases to accept new medicaid patients other than the individuals who reside in the nursing facility on the day before the

effective date of the voluntary withdrawal of participation.

(F) "Entering operator" means the person or government entity that will become the operator of a nursing facility or intermediate care facility for the mentally retarded when a change of operator occurs.

(G) "Exiting operator" means any of the following:

(1) An operator that will cease to be the operator of a nursing facility or intermediate care facility for the mentally retarded on the effective date of a change of operator;

(2) An operator that will cease to be the operator of a nursing facility or intermediate care facility for the mentally retarded on the effective date of a facility closure;

(3) An operator of an intermediate care facility for the mentally retarded that is undergoing or has undergone a voluntary termination;

(4) An operator of a nursing facility that is undergoing or has undergone a voluntary withdrawal of participation.

(H)(1) "Facility closure" means discontinuance of the use of the building, or part of the building, that houses the facility as a nursing facility or intermediate care facility for the mentally retarded that results in the relocation of all of the facility's residents. A facility closure occurs regardless of any of the following:

(a) The operator completely or partially replacing the facility by constructing a new facility or transferring the facility's license to another facility;

(b) The facility's residents relocating to another of the operator's facilities;

(c) Any action the department of health takes regarding the facility's certification under Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as amended, that may result in the transfer of part of the facility's survey findings to another of the operator's facilities;

(d) Any action the department of health takes regarding the facility's license under Chapter 3721. of the Revised Code;

(e) Any action the department of mental retardation and developmental disabilities takes regarding the facility's license under section 5123.19 of the Revised Code.

(2) A facility closure does not occur if all of the facility's residents are relocated due to an emergency evacuation and one or more of the residents return to a medicaid-certified bed in the facility not later than thirty days after the evacuation occurs.

(I) "Fiscal year," "intermediate care facility for the mentally retarded," "nursing facility," "operator," "owner," and "provider agreement" have the

same meanings as in section 5111.20 of the Revised Code.

(J) "Voluntary termination" means an operator's voluntary election to terminate the participation of an intermediate care facility for the mentally retarded in the medicaid program but to continue to provide service of the type provided by a residential facility as defined in section 5123.19 of the Revised Code.

(K) "Voluntary withdrawal of participation" means an operator's voluntary election to terminate the participation of a nursing facility in the medicaid program but to continue to provide service of the type provided by a nursing facility.

Sec. 5111.651. Sections 5111.65 to 5111.688 of the Revised Code do not apply to a nursing facility or intermediate care facility for the mentally retarded that undergoes a facility closure, voluntary termination, voluntary withdrawal of participation, or change of operator on or before September 30, 2005, if the exiting operator provided written notice of the facility closure, voluntary termination, voluntary withdrawal of participation, or change of operator to the department of job and family services on or before June 30, 2005.

Sec. 5111.66. An exiting operator or owner of a nursing facility or intermediate care facility for the mentally retarded participating in the medicaid program shall provide the department of job and family services written notice of a facility closure, voluntary termination, or voluntary withdrawal of participation not less than ninety days before the effective date of the facility closure, voluntary termination, or voluntary withdrawal of participation. The written notice shall include all of the following:

(A) The name of the exiting operator and, if any, the exiting operator's authorized agent;

(B) The name of the nursing facility or intermediate care facility for the mentally retarded that is the subject of the written notice;

(C) The exiting operator's medicaid provider agreement number for the facility that is the subject of the written notice;

(D) The effective date of the facility closure, voluntary termination, or voluntary withdrawal of participation;

(E) The signature of the exiting operator's or owner's representative.

Sec. 5111.661. An operator shall comply with section 1919(c)(2)(F) of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396r(c)(2)(F) if the operator's nursing facility undergoes a voluntary withdrawal of participation.

Sec. 5111.67. (A) An exiting operator or owner and entering operator shall provide the department of job and family services written notice of a



change of operator if the nursing facility or intermediate care facility for the mentally retarded participates in the medicaid program and the entering operator seeks to continue the facility's participation. The written notice shall be provided to the department not later than forty-five days before the effective date of the change of operator if the change of operator does not entail the relocation of residents. The written notice shall be provided to the department not later than ninety days before the effective date of the change of operator if the change of operator entails the relocation of residents. The written notice shall include all of the following:

(1) The name of the exiting operator and, if any, the exiting operator's authorized agent;

(2) The name of the nursing facility or intermediate care facility for the mentally retarded that is the subject of the change of operator;

(3) The exiting operator's medicaid provider agreement number for the facility that is the subject of the change of operator;

(4) The name of the entering operator;

(5) The effective date of the change of operator;

(6) The manner in which the entering operator becomes the facility's operator, including through sale, lease, merger, or other action;

(7) If the manner in which the entering operator becomes the facility's operator involves more than one step, a description of each step;

(8) Written authorization from the exiting operator or owner and entering operator for the department to process a provider agreement for the entering operator;

(9) The signature of the exiting operator's or owner's representative.

(B) The entering operator shall include a completed application for a provider agreement with the written notice to the department. The entering operator shall attach to the application the following:

(1) If the written notice is provided to the department before the date the exiting operator or owner and entering operator complete the transaction for the change of operator, all the proposed leases, management agreements, merger agreements and supporting documents, and sales contracts and supporting documents relating to the facility's change of operator;

(2) If the written notice is provided to the department on or after the date the exiting operator or owner and entering operator complete the transaction for the change of operator, copies of all the executed leases, management agreements, merger agreements and supporting documents, and sales contracts and supporting documents relating to the facility's change of operator.

Sec. 5111.671. The department of job and family services may enter

into a provider agreement with an entering operator that goes into effect at 12:01 a.m. on the effective date of the change of operator if all of the following requirements are met:

(A) The department receives a properly completed written notice required by section 5111.67 of the Revised Code on or before the date required by that section.

(B) The entering operator furnishes to the department copies of all the fully executed leases, management agreements, merger agreements and supporting documents, and sales contracts and supporting documents relating to the change of operator not later than ten days after the effective date of the change of operator.

(C) The entering operator is eligible for medicaid payments as provided in section 5111.21 of the Revised Code.

Sec. 5111.672. (A) The department of job and family services may enter into a provider agreement with an entering operator that goes into effect at 12:01 a.m. on the date determined under division (B) of this section if all of the following are the case:

(1) The department receives a properly completed written notice required by section 5111.67 of the Revised Code.

(2) The entering operator furnishes to the department copies of all the fully executed leases, management agreements, merger agreements and supporting documents, and sales contracts and supporting documents relating to the change of operator.

(3) The requirement of division (A)(1) of this section is met after the time required by section 5111.67 of the Revised Code, the requirement of division (A)(2) of this section is met more than ten days after the effective date of the change of operator, or both.

(4) The entering operator is eligible for medicaid payments as provided in section 5111.21 of the Revised Code.

(B) The department shall determine the date a provider agreement entered into under this section is to go into effect as follows:

(1) The effective date shall give the department sufficient time to process the change of operator, assure no duplicate payments are made, make the withholding required by section 5111.681 of the Revised Code, and withhold the final payment to the exiting operator until one hundred eighty days after either of the following:

(a) The date that the exiting operator submits to the department a properly completed cost report under section 5111.682 of the Revised Code;

(b) The date that the department waives the cost report requirement of section 5111.682 of the Revised Code.

(2) The effective date shall be not earlier than the later of the effective date of the change of operator or the date that the exiting operator or owner and entering operator comply with section 5111.67 of the Revised Code.

(3) The effective date shall be not later than the following after the later of the dates specified in division (B)(2) of this section:

(a) Forty-five days if the change of operator does not entail the relocation of residents;

(b) Ninety days if the change of operator entails the relocation of residents.

Sec. 5111.673. A provider that enters into a provider agreement with the department of job and family services under section 5111.671 or 5111.672 of the Revised Code shall do all of the following:

(A) Comply with all applicable federal statutes and regulations;

(B) Comply with section 5111.22 of the Revised Code and all other applicable state statutes and rules;

(C) Comply with all the terms and conditions of the exiting operator's provider agreement, including, but not limited to, all of the following:

(1) Any plan of correction;

(2) Compliance with health and safety standards;

(3) Compliance with the ownership and financial interest disclosure requirements of 42 C.F.R. 455.104, 455.105, and 1002.3;

(4) Compliance with the civil rights requirements of 45 C.F.R. parts 80, 84, and 90;

(5) Compliance with additional requirements imposed by the department;

(6) Any sanctions relating to remedies for violation of the provider agreement, including deficiencies, compliance periods, accountability periods, monetary penalties, notification for correction of contract violations, and history of deficiencies.

Sec. 5111.674. In the case of a change of operator, the exiting operator shall be considered to be the operator of the nursing facility or intermediate care facility for the mentally retarded for purposes of the medicaid program, including medicaid payments, until the effective date of the entering operator's provider agreement if the provider agreement is entered into under section 5111.671 or 5111.672 of the Revised Code.

Sec. 5111.675. The department of job and family services may enter into a provider agreement as provided in section 5111.22 of the Revised Code, rather than section 5111.671 or 5111.672 of the Revised Code, with an entering operator if the entering operator does not agree to a provider agreement that satisfies the requirements of division (C) of section 5111.673

of the Revised Code. The department may not enter into the provider agreement unless the department of health certifies the nursing facility or intermediate care facility for the mentally retarded under Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as amended. The effective date of the provider agreement shall not precede any of the following:

(A) The date that the department of health certifies the facility;

(B) The effective date of the change of operator;

(C) The date the requirement of section 5111.67 of the Revised Code is satisfied.

Sec. 5111.676. The director of job and family services may adopt rules in accordance with Chapter 119. of the Revised Code governing adjustments to the medicaid reimbursement rate for a nursing facility or intermediate care facility for the mentally retarded that undergoes a change of operator. No rate adjustment resulting from a change of operator shall be effective before the effective date of the entering operator's provider agreement. This is the case regardless of whether the provider agreement is entered into under section 5111.671, section 5111.672, or, pursuant to section 5111.675, section 5111.22 of the Revised Code.

Sec. 5111.677. Neither of the following shall affect the department of job and family services' determination of whether or when a change of operator occurs or the effective date of an entering operator's provider agreement under section 5111.671, section 5111.672, or, pursuant to section 5111.675, section 5111.22 of the Revised Code:

(A) The department of health's determination that a change of operator has or has not occurred for purposes of licensure under Chapter 3721. of the Revised Code;

(B) The department of mental retardation and developmental disabilities' determination that a change of operator has or has not occurred for purposes of licensure under section 5123.19 of the Revised Code.

Sec. 5111.68. (A) On receipt of a written notice under section 5111.66 of the Revised Code of a facility closure, voluntary termination, or voluntary withdrawal of participation or a written notice under section 5111.67 of the Revised Code of a change of operator, the department of job and family services shall determine the amount of any overpayments made under the medicaid program to the exiting operator, including overpayments the exiting operator disputes, and other actual and potential debts the exiting operator owes or may owe to the department and United States centers for medicare and medicaid services under the medicaid program. In determining the exiting operator's other actual and potential debts to the department

under the medicaid program, the department shall include all of the following that the department determines is applicable:

(1) Refunds due the department under section 5111.27 of the Revised Code;

(2) Interest owed to the department and United States centers for medicare and medicaid services;

(3) Final civil monetary and other penalties for which all right of appeal has been exhausted;

(4) Money owed the department and United States centers for medicare and medicaid services from any outstanding final fiscal audit, including a final fiscal audit for the last fiscal year or portion thereof in which the exiting operator participated in the medicaid program.

(B) If the department is unable to determine the amount of the overpayments and other debts for any period before the effective date of the entering operator's provider agreement or the effective date of the facility closure, voluntary termination, or voluntary withdrawal of participation, the department shall make a reasonable estimate of the overpayments and other debts for the period. The department shall make the estimate using information available to the department, including prior determinations of overpayments and other debts.

Sec. 5111.681. (A) Except as provided in division (B) of this section, the department of job and family services shall withhold the greater of the following from payment due an exiting operator under the medicaid program:

(1) The total amount of any overpayments made under the medicaid program to the exiting operator, including overpayments the exiting operator disputes, and other actual and potential debts, including any unpaid penalties, the exiting operator owes or may owe to the department and United States centers for medicare and medicaid services under the medicaid program;

(2) An amount equal to the average amount of monthly payments to the exiting operator under the medicaid program for the twelve-month period immediately preceding the month that includes the last day the exiting operator's provider agreement is in effect or, in the case of a voluntary withdrawal of participation, the effective date of the voluntary withdrawal of participation.

(B) The department may choose not to make the withholding under division (A) of this section if an entering operator does both of the following:

(1) Enters into a nontransferable, unconditional, written agreement with

the department to pay the department any debt the exiting operator owes the department under the medicaid program;

(2) Provides the department a copy of the entering operator's balance sheet that assists the department in determining whether to make the withholding under division (A) of this section.

Sec. 5111.682. (A) Except as provided in division (B) of this section, an exiting operator shall file with the department of job and family services a cost report not later than ninety days after the last day the exiting operator's provider agreement is in effect or, in the case of a voluntary withdrawal of participation, the effective date of the voluntary withdrawal of participation. The cost report shall cover the period that begins with the day after the last day covered by the operator's most recent previous cost report required by section 5111.26 of the Revised Code and ends on the last day the exiting operator's provider agreement is in effect or, in the case of a voluntary withdrawal of participation, the effective date of the voluntary withdrawal of participation. The cost report shall include, as applicable, all of the following:

(1) The sale price of the nursing facility or intermediate care facility for the mentally retarded;

(2) A final depreciation schedule that shows which assets are transferred to the buyer and which assets are not transferred to the buyer;

(3) Any other information the department requires.

(B) The department, at its sole discretion, may waive the requirement that an exiting operator file a cost report in accordance with division (A) of this section.

Sec. 5111.683. If an exiting operator required by section 5111.682 of the Revised Code to file a cost report with the department of job and family services fails to file the cost report in accordance with that section, all payments under the medicaid program for the period the cost report is required to cover are deemed overpayments until the date the department receives the properly completed cost report. The department may impose on the exiting operator a penalty of one hundred dollars for each calendar day the properly completed cost report is late.

Sec. 5111.684. The department of job and family services may not provide an exiting operator final payment under the medicaid program until the department receives all properly completed cost reports the exiting operator is required to file under sections 5111.26 and 5111.682 of the Revised Code.

Sec. 5111.685. The department of job and family services shall determine the actual amount of debt an exiting operator owes the department

under the medicaid program by completing all final fiscal audits not already completed and performing all other appropriate actions the department determines to be necessary. The department shall issue a debt summary report on this matter not later than ninety days after the date the exiting operator files the properly completed cost report required by section 5111.682 of the Revised Code with the department or, if the department waives the cost report requirement for the exiting operator, ninety days after the date the department waives the cost report requirement. The report shall include the department's findings and the amount of debt the department determines the exiting operator owes the department and United States centers for medicare and medicaid services under the medicaid program. Only the parts of the report that are subject to an adjudication as specified in section 5111.30 of the Revised Code are subject to an adjudication conducted in accordance with Chapter 119. of the Revised Code.

Sec. 5111.686. The department of job and family services shall release the actual amount withheld under division (A) of section 5111.681 of the Revised Code, less any amount the exiting operator owes the department and United States centers for medicare and medicaid services under the medicaid program, as follows:

(A) Ninety-one days after the date the exiting operator files a properly completed cost report required by section 5111.682 of the Revised Code unless the department issues the report required by section 5111.685 of the Revised Code not later than ninety days after the date the exiting operator files the properly completed cost report;

(B) Not later than thirty days after the exiting operator agrees to a final fiscal audit resulting from the report required by section 5111.685 of the Revised Code if the department issues the report not later than ninety days after the date the exiting operator files a properly completed cost report required by section 5111.682 of the Revised Code;

(C) Ninety-one days after the date the department waives the cost report requirement of section 5111.682 of the Revised Code unless the department issues the report required by section 5111.685 of the Revised Code not later than ninety days after the date the department waives the cost report requirement;

(D) Not later than thirty days after the exiting operator agrees to a final fiscal audit resulting from the report required by section 5111.685 of the Revised Code if the department issues the report not later than ninety days after the date the department waives the cost report requirement of section 5111.682 of the Revised Code.

Sec. 5111.687. The department of job and family services, at its sole

discretion, may release the amount withheld under division (A) of section 5111.681 of the Revised Code if the exiting operator submits to the department written notice of a postponement of a change of operator, facility closure, voluntary termination, or voluntary withdrawal of participation and the transactions leading to the change of operator, facility closure, voluntary termination, or voluntary withdrawal of participation are postponed for at least thirty days but less than ninety days after the date originally proposed for the change of operator, facility closure, voluntary termination, or voluntary withdrawal of participation as reported in the written notice required by section 5111.66 or 5111.67 of the Revised Code. The department shall release the amount withheld if the exiting operator submits to the department written notice of a cancellation or postponement of a change of operator, facility closure, voluntary termination, or voluntary withdrawal of participation and the transactions leading to the change of operator, facility closure, voluntary termination, or voluntary withdrawal of participation are canceled or postponed for more than ninety days after the date originally proposed for the change of operator, facility closure, voluntary termination, or voluntary withdrawal of participation as reported in the written notice required by section 5111.66 or 5111.67 of the Revised Code.

After the department receives a written notice regarding a cancellation or postponement of a facility closure, voluntary termination, or voluntary withdrawal of participation, the exiting operator or owner shall provide new written notice to the department under section 5111.66 of the Revised Code regarding any transactions leading to a facility closure, voluntary termination, or voluntary withdrawal of participation at a future time. After the department receives a written notice regarding a cancellation or postponement of a change of operator, the exiting operator or owner and entering operator shall provide new written notice to the department under section 5111.67 of the Revised Code regarding any transactions leading to a change of operator at a future time.

Sec. 5111.688. The director of job and family services may adopt rules under section 5111.02 of the Revised Code to implement sections 5111.65 to 5111.688 of the Revised Code, including rules applicable to an exiting operator that provides written notification under section 5111.66 of the Revised Code of a voluntary withdrawal of participation. Rules adopted under this section shall comply with section 1919(c)(2)(F) of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396r(c)(2)(F), regarding restrictions on transfers or discharges of nursing facility residents in the case of a voluntary withdrawal of participation. The rules may prescribe a



medicaid reimbursement methodology and other procedures that are applicable after the effective date of a voluntary withdrawal of participation that differ from the reimbursement methodology and other procedures that would otherwise apply.

Sec. 5111.85. (A) As used in this section and sections 5111.851 to 5111.856 of the Revised Code, "medicaid waiver component" means a component of the medicaid program authorized by a waiver granted by the United States department of health and human services under section 1115 or 1915 of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 1315 or 1396n. "Medicaid waiver component" does not include a care management system established under section 5111.16 of the Revised Code.

(B) The director of job and family services may adopt rules under Chapter 119. of the Revised Code governing medicaid waiver components that establish all of the following:

- (1) Eligibility requirements for the medicaid waiver components;
- (2) The type, amount, duration, and scope of services the medicaid waiver components provide;
- (3) The conditions under which the medicaid waiver components cover services;
- (4) The amount the medicaid waiver components pay for services or the method by which the amount is determined;
- (5) The manner in which the medicaid waiver components pay for services;
- (6) Safeguards for the health and welfare of medicaid recipients receiving services under a medicaid waiver component;
- (7) Procedures for enforcing the rules, including establishing corrective action plans for, and imposing financial and administrative sanctions on, persons and government entities that violate the rules. Sanctions shall include terminating medicaid provider agreements. The procedures shall include due process protections.
- (8) Other policies necessary for the efficient administration of the medicaid waiver components.

(C) The director of job and family services may adopt different rules for the different medicaid waiver components. The rules shall be consistent with the terms of the waiver authorizing the medicaid waiver component.

~~(D) The director of job and family services may conduct reviews of the medicaid waiver components. The reviews may include physical inspections of records and sites where services are provided under the medicaid waiver components and interviews of providers and recipients of the services. If the director determines pursuant to a review that a person or government entity~~

~~has violated a rule governing a medicaid waiver component, the director may establish a corrective action plan for the violator and impose fiscal, administrative, or both types of sanctions on the violator in accordance with rules adopted under division (B) of this section.~~

Sec. 5111.851. (A) As used in sections 5111.851 to 5111.855 of the Revised Code:

"Administrative agency" means, with respect to a home and community-based services medicaid waiver component, the department of job and family services or, if a state agency or political subdivision contracts with the department under section 5111.91 of the Revised Code to administer the component, that state agency or political subdivision.

"Home and community-based services medicaid waiver component" means a medicaid waiver component under which home and community-based services are provided as an alternative to hospital, nursing facility, or intermediate care facility for the mentally retarded services.

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

"Intermediate care facility for the mentally retarded" has the same meaning as in section 5111.20 of the Revised Code.

"Level of care determination" means a determination of whether an individual needs the level of care provided by a hospital, nursing facility, or intermediate care facility for the mentally retarded and whether the individual, if determined to need that level of care, would receive hospital, nursing facility, or intermediate care facility for the mentally retarded services if not for a home and community-based services medicaid waiver component.

"Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.

"Skilled nursing facility" means a facility certified as a skilled nursing facility under Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended.

(B) The following requirements apply to each home and community-based services medicaid waiver component:

(1) Only an individual who qualifies for a component shall receive that component's services.

(2) A level of care determination shall be made as part of the process of determining whether an individual qualifies for a component and shall be made each year after the initial determination if, during such a subsequent year, the administrative agency determines there is a reasonable indication that the individual's needs have changed.

(3) A written plan of care or individual service plan based on an individual assessment of the services that an individual needs to avoid needing admission to a hospital, nursing facility, or intermediate care facility for the mentally retarded shall be created for each individual determined eligible for a component.

(4) Each individual determined eligible for a component shall receive that component's services in accordance with the individual's level of care determination and written plan of care or individual service plan.

(5) No individual may receive services under a component while the individual is a hospital inpatient or resident of a skilled nursing facility, nursing facility, or intermediate care facility for the mentally retarded.

(6) No individual may receive prevocational, educational, or supported employment services under a component if the individual is eligible for such services that are funded with federal funds provided under 29 U.S.C. 730 or the "Individuals with Disabilities Education Act," 111 Stat. 37 (1997), 20 U.S.C. 1400, as amended.

(7) Safeguards shall be taken to protect the health and welfare of individuals receiving services under a component, including safeguards established in rules adopted under section 5111.85 of the Revised Code and safeguards established by licensing and certification requirements that are applicable to the providers of that component's services.

(8) No services may be provided under a component by a provider that is subject to standards that 42 U.S.C. 1382e(e)(1) requires be established if the provider fails to comply with the standards applicable to the provider.

(9) Individuals determined to be eligible for a component, or such individuals' representatives, shall be informed of that component's services, including any choices that the individual or representative may make regarding the component's services, and given the choice of either receiving services under that component or, as appropriate, hospital, nursing facility, or intermediate care facility for the mentally retarded services.

Sec. 5111.852. The department of job and family services may review and approve, modify, or deny written plans of care and individual service plans that section 5111.851 of the Revised Code requires be created for individuals determined eligible for a home and community-based services medicaid waiver component. If a state agency or political subdivision contracts with the department under section 5111.91 of the Revised Code to administer a home and community-based services medicaid waiver component and approves, modifies, or denies a written plan of care or individual service plan pursuant to the agency's or subdivision's administration of the component, the department may review the agency's or

subdivision's approval, modification, or denial and order the agency or subdivision to reverse or modify the approval, modification, or denial. The state agency or political subdivision shall comply with the department's order.

The department of job and family services shall be granted full and immediate access to any records the department needs to implement its duties under this section.

Sec. 5111.853. Each administrative agency shall maintain, for a period of time the department of job and family services shall specify, financial records documenting the costs of services provided under the home and community-based services medicaid waiver components that the agency administers, including records of independent audits. The administrative agency shall make the financial records available on request to the United States secretary of health and human services, United States comptroller general, and their designees.

Sec. 5111.854. Each administrative agency is financially accountable for funds expended for services provided under the home and community-based services medicaid waiver components that the agency administers.

Sec. 5111.855. Each state agency and political subdivision that enters into a contract with the department of job and family services under section 5111.91 of the Revised Code to administer a home and community-based services medicaid waiver component, or one or more aspects of such a component, shall provide the department a written assurance that the agency or subdivision will not violate any of the requirements of sections 5111.85 to 5111.854 of the Revised Code.

Sec. 5111.856. To the extent necessary for the efficient and economical administration of medicaid waiver components, the department of job and family services may transfer an individual enrolled in a medicaid waiver component administered by the department to another medicaid waiver component the department administers if the individual is eligible for the medicaid waiver component and the transfer does not jeopardize the individual's health or safety.

Sec. ~~5111.97~~ 5111.86. (A) As used in this section:

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

(2) "Medicaid waiver component" has the same meaning as in section 5111.85 of the Revised Code.

(3) "Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.

(4) "Ohio home care program" means the program the department of job and family services administers that provides state plan services and medicaid waiver component services pursuant to rules adopted under sections 5111.01 and 5111.02 of the Revised Code and a medicaid waiver that went into effect July 1, 1998.

(B) The director of job and family services may submit a request requests to the United States secretary of health and human services pursuant to section 1915 of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396n, as amended, to obtain waivers of federal medicaid requirements that would otherwise be violated in the creation and implementation of two or more medicaid waiver components under which home and community-based services programs to replace the Ohio home care program being operated pursuant to rules adopted under sections 5111.01 and 5111.02 of the Revised Code and a medicaid waiver granted prior to the effective date of this section are provided to eligible individuals who need the level of care provided by a nursing facility or hospital. In the request requests, the director may specify the following:

(1) That one of the replacement programs will provide home and community-based services to individuals in need of nursing facility care, including individuals enrolled in the Ohio home care program;

(2) That the other replacement program will provide services to individuals in need of hospital care, including individuals enrolled in the Ohio home care program;

(3) That there will be a The maximum number of individuals who may be enrolled in the replacement programs in addition to the number of individuals to be transferred from the Ohio home care program each of the medicaid waiver components included in the requests;

(4) That there will be a (2) The maximum amount the department medicaid program may expend each year for each individual enrolled in the replacement programs medicaid waiver components;

(5) That there will be a (3) The maximum aggregate amount the department medicaid program may expend each year for all individuals enrolled in the replacement programs medicaid waiver components;

(6)(4) Any other requirement requirements the director selects for the replacement programs medicaid waiver components.

(B)(C) If the secretary grants approves the medicaid waivers requested under this section, the director may create and implement the replacement programs medicaid waiver components in accordance with the provisions of the approved waivers granted. The department of job and family services shall administer the replacement programs medicaid waiver components.

~~As the replacement programs are implemented, the director shall reduce the maximum number of individuals who may be enrolled in the Ohio home care program by the number of individuals who are transferred to the replacement programs. When all individuals who are eligible to be transferred to the replacement programs have been transferred, the director may submit to the secretary an amendment to the state medicaid plan to provide for the elimination of the Ohio home care program.~~

After the first of any medicaid waiver components created under this section begins to enroll eligible individuals, the director may submit to the United States secretary of health and human services an amendment to a medicaid waiver component of the Ohio home care program authorizing the department to cease enrolling additional individuals in that medicaid waiver component of the Ohio home care program. If the secretary approves the amendment, the director may cease to enroll additional individuals in that medicaid waiver component of the Ohio home care program.

Sec. 5111.87. (A) As used in this section and section 5111.871 of the Revised Code, ~~"intermediate;~~

(1) "Intermediate care facility for the mentally retarded" has the same meaning as in section 5111.20 of the Revised Code.

(2) "Medicaid waiver component" has the same meaning as in section 5111.85 of the Revised Code.

(B) The director of job and family services may apply to the United States secretary of health and human services for both of the following:

(1) One or more medicaid ~~waivers~~ waiver components under which home and community-based services are provided to individuals with mental retardation or other developmental disability as an alternative to placement in an intermediate care facility for the mentally retarded;

(2) One or more medicaid ~~waivers~~ waiver components under which home and community-based services are provided in the form of ~~either or both~~ any of the following:

(a) Early intervention and supportive services for children under three years of age ~~that are provided or arranged by county boards of mental retardation and who have~~ developmental delays or disabilities the director determines are significant;

(b) Therapeutic services for children who have autism ~~and are under six years of age at the time of enrollment;~~

(c) Specialized habilitative services for individuals who are eighteen years of age or older and have autism.

(C) No medicaid waiver component authorized by division (B)(2)(b) or (c) of this section shall provide services that are available under another

medicaid waiver component. No medicaid waiver component authorized by division (B)(2)(b) of this section shall provide services to an individual that the individual is eligible to receive through an individualized education program as defined in section 3323.01 of the Revised Code.

(D) The director of mental retardation and developmental disabilities or director of health may request that the director of job and family services apply for one or more medicaid waivers under this section.

~~(D)~~(E) Before applying for a waiver under this section, the director of job and family services shall seek, accept, and consider public comments.

Sec. 5111.871. The department of job and family services shall enter into a contract with the department of mental retardation and developmental disabilities under section 5111.91 of the Revised Code with regard to one or more of the components of the medicaid program established by the department of job and family services under one or more of the medicaid waivers sought under section 5111.87 of the Revised Code. The contract shall provide for the department of mental retardation and developmental disabilities to administer the components in accordance with the terms of the waivers. The directors of job and family services and mental retardation and developmental disabilities shall adopt rules in accordance with Chapter 119. of the Revised Code governing the components.

If the department of mental retardation and developmental disabilities or the department of job and family services denies an individual's application for home and community-based services provided under any of these medicaid components, the department that denied the services shall give timely notice to the individual that the individual may request a hearing under section 5101.35 of the Revised Code.

The departments of mental retardation and developmental disabilities and job and family services may approve, reduce, deny, or terminate a service included in the individualized service plan developed for a medicaid recipient eligible for home and community-based services provided under any of these medicaid components. The departments shall consider the recommendations a county board of mental retardation and developmental disabilities makes under division (A)(1)(c) of section 5126.055 of the Revised Code. If either department approves, reduces, denies, or terminates a service, that department shall give timely notice to the medicaid recipient that the recipient may request a hearing under section 5101.35 of the Revised Code.

If supported living or residential services, as defined in section 5126.01 of the Revised Code, are to be provided under any of these components, any person or government entity with a current, valid medicaid provider

agreement and a current, valid license under section 5123.19 or certificate under section ~~5123.045~~ 5123.16 or 5126.431 of the Revised Code may provide the services.

Sec. 5111.88. (A) As used in sections 5111.88 to 5111.8812 of the Revised Code:

"Administrative agency" means the department of job and family services or, if the department assigns the day-to-day administration of the ICF/MR conversion pilot program to the department of mental retardation and developmental disabilities pursuant to section 5111.887 of the Revised Code, the department of mental retardation and developmental disabilities.

"ICF/MR conversion pilot program" means the medicaid waiver component authorized by a waiver sought under division (B)(1) of this section.

"ICF/MR services" means intermediate care facility for the mentally retarded services covered by the medicaid program that an intermediate care facility for the mentally retarded provides to a resident of the facility who is a medicaid recipient eligible for medicaid-covered intermediate care facility for the mentally retarded services.

"Intermediate care facility for the mentally retarded" has the same meaning as in section 5111.20 of the Revised Code.

"Medicaid waiver component" has the same meaning as in section 5111.85 of the Revised Code.

(B) By July 1, 2006, or as soon thereafter as practical, but not later than January 1, 2007, the director of job and family services shall, after consulting with and receiving input from the ICF/MR conversion advisory council, submit both of the following to the United States secretary of health and human services:

(1) An application for a waiver authorizing the ICF/MR conversion pilot program under which intermediate care facilities for the mentally retarded, other than such facilities operated by the department of mental retardation and developmental disabilities, may volunteer to convert from providing intermediate care facility for the mentally retarded services to providing home and community-based services and individuals with mental retardation or a developmental disability who are eligible for ICF/MR services may volunteer to receive instead home and community-based services;

(2) An amendment to the state medicaid plan to authorize the director, beginning on the first day that the ICF/MR conversion pilot program begins implementation under section 5111.882 of the Revised Code and except as provided by section 5111.8811 of the Revised Code, to refuse to enter into



or amend a medicaid provider agreement with the operator of an intermediate care facility for the mentally retarded if the provider agreement or amendment would authorize the operator to receive medicaid payments for more intermediate care facility for the mentally retarded beds than the operator receives on the day before that day.

(C) The director shall notify the governor, speaker and minority leader of the house of representatives, and president and minority leader of the senate when the director submits the application for the ICF/MR conversion pilot program under division (B)(1) of this section and the amendment to the state medicaid plan under division (B)(2) of this section. The director is not required to submit the application and the amendment at the same time.

Sec. 5111.881. (A) There is hereby created the ICF/MR conversion advisory council. The council shall consist of all of the following members:

(1) Two members of the house of representatives appointed by the speaker of the house of representatives, each from a different political party;

(2) Two members of the senate appointed by the president of the senate, each from a different political party;

(3) The director of job and family services or the director's designee;

(4) The director of mental retardation and developmental disabilities or the director's designee;

(5) One representative of each of the following organizations, appointed by the organization:

(a) Advocacy and protective services, incorporated;

(b) The arc of Ohio;

(c) The Ohio league for the mentally retarded;

(d) People first of Ohio;

(e) The Ohio association of county boards of mental retardation and developmental disabilities;

(f) The Ohio provider resource association;

(g) The Ohio health care association;

(h) The Ohio legal rights service;

(i) The Ohio developmental disabilities council;

(j) The cerebral palsy association of Ohio.

(B) At least four members appointed to the ICF/MR conversion advisory council, other than the members appointed under division (A)(1) or (2) of this section, shall be either of the following:

(1) A family member of an individual who, at the time of the family member's appointment, is a resident of an intermediate care facility for the mentally retarded;

(2) An individual with mental retardation or a developmental disability.

(C) The speaker of the house of representatives and the president of the senate jointly shall appoint one of the members appointed under division (A)(1) or (2) of this section to serve as chair of the ICF/MR conversion advisory council.

(D) Members of the ICF/MR conversion advisory council shall receive no compensation for serving on the council.

(E) The ICF/MR conversion advisory council shall do all of the following:

(1) Consult with the director of job and family services before the director submits the application for the ICF/MR conversion pilot program and the amendment to the state medicaid plan under division (B) of section 5111.88 of the Revised Code;

(2) Consult with the administrative agency before the administrative agency makes adjustments to the program under division (F) of section 5111.882 of the Revised Code;

(3) Consult with the director of job and family services when the director adopts the rules for the program;

(4) Consult with the administrative agency when the administrative agency conducts the evaluation of the program and prepares the initial and final reports of the evaluation under section 5111.889 of the Revised Code.

(F) The ICF/MR conversion advisory council shall cease to exist on the issuance of the final report of the evaluation conducted under section 5111.889 of the Revised Code.

Sec. 5111.882. If the United States secretary of health and human services approves the waiver requested under division (B)(1) of section 5111.88 of the Revised Code, the administrative agency shall implement the ICF/MR conversion pilot program for not less than three years as follows:

(A) Permit no more than two hundred individuals to participate in the program at one time;

(B) Select, from among volunteers only, enough intermediate care facilities for the mentally retarded to convert from providing ICF/MR services to providing home and community-based services as necessary to accommodate each individual participating in the program and ensure that the facilities selected for conversion cease, except as provided by section 5111.8811 of the Revised Code, to provide any ICF/MR services once the conversion takes place;

(C) Subject to division (A) of this section, permit individuals who reside in an intermediate care facility for the mentally retarded that converts to providing home and community-based services to choose whether to participate in the program or to transfer to another intermediate care facility

for the mentally retarded that is not converting:

(D) Ensure that no individual receiving ICF/MR services on the effective date of this section suffers an interruption in medicaid-covered services that the individual is eligible to receive;

(E) Collect information as necessary for the evaluation required by section 5111.889 of the Revised Code;

(F) After consulting with the ICF/MR conversion advisory council, make adjustments to the program that the administrative agency and, if the administrative agency is not the department of job and family services, the department agree are both necessary for the program to be implemented more effectively and consistent with the terms of the waiver authorizing the program. No adjustment may be made that expands the size or scope of the program.

Sec. 5111.883. Each individual participating in the ICF/MR conversion pilot program shall receive home and community-based services pursuant to a written individual service plan that shall be created for the individual. The individual service plan shall provide for the individual to receive home and community-based services as necessary to meet the individual's health and welfare needs.

Sec. 5111.884. Each individual participating in the ICF/MR conversion pilot program has the right to choose the qualified and willing provider from which the individual will receive home and community-based services provided under the program.

Sec. 5111.885. The administrative agency shall inform each individual participating in the ICF/MR conversion pilot program of the individual's right to a state hearing under section 5101.35 of the Revised Code regarding a decision or order the administrative agency makes concerning the individual's participation in the program.

Sec. 5111.886. The department of mental retardation and developmental disabilities may not convert any of the intermediate care facilities for the mentally retarded that the department operates to a provider of home and community-based services under the ICF/MR conversion pilot program.

Sec. 5111.887. (A) If the United States secretary of health and human services approves the waiver requested under division (B)(1) of section 5111.88 of the Revised Code, the department of job and family services may do both of the following:

(1) Contract with the department of mental retardation and developmental disabilities under section 5111.91 of the Revised Code to assign the day-to-day administration of the ICF/MR conversion pilot program to the department of mental retardation and developmental

disabilities:

(2) Transfer funds to pay for the nonfederal share of the costs of the ICF/MR conversion pilot program to the department of mental retardation and developmental disabilities.

(B) If the department of job and family services takes both actions authorized by division (A) of this section, the department of mental retardation and developmental disabilities shall be responsible for paying the nonfederal share of the costs of the ICF/MR conversion pilot program.

Sec. 5111.888. The director of job and family services, in consultation with the ICF/MR conversion advisory council, shall adopt rules under section 5111.85 of the Revised Code as necessary to implement the ICF/MR conversion pilot program, including rules establishing both of the following:

(A) The type, amount, duration, and scope of home and community-based services provided under the program;

(B) The amount the program pays for the home and community-based services or the method by which the amount is determined.

Sec. 5111.889. (A) The administrative agency, in consultation with the ICF/MR conversion advisory council, shall conduct an evaluation of the ICF/MR conversion pilot program. All of the following shall be examined as part of the evaluation:

(1) The effectiveness of the home and community-based services provided under the program in meeting the health and welfare needs of the individuals participating in the program as identified in the individuals' written individual service plans;

(2) The satisfaction of the individuals participating in the program with the home and community-based services;

(3) The impact that the conversion from providing ICF/MR services to providing home and community-based services has on the intermediate care facilities for the mentally retarded that convert;

(4) The program's cost effectiveness, including administrative cost effectiveness;

(5) Feedback about the program from the individuals participating in the program, such individuals' families and guardians, county boards of mental retardation and developmental disabilities, and providers of home and community-based services under the program;

(6) Other matters the administrative agency considers appropriate for evaluation.

(B) The administrative agency, in consultation with the ICF/MR conversion advisory council, shall prepare two reports of the evaluation conducted under this section. The initial report shall be finished not sooner

than the last day of the ICF/MR conversion pilot program's first year of operation. The final report shall be finished not sooner than the last day of the program's second year of operation. The administrative agency shall provide a copy of each report to the governor, president and minority leader of the senate, and speaker and minority leader of the house of representatives.

Sec. 5111.8810. The ICF/MR conversion pilot program shall not be implemented statewide unless the general assembly enacts law authorizing the statewide implementation.

Sec. 5111.8811. An intermediate care facility for the mentally retarded that converts from providing ICF/MR services to providing home and community-based services under the ICF/MR conversion pilot program may reconvert to providing ICF/MR services after the program terminates unless either of the following is the case:

(A) The program, following the general assembly's enactment of law authorizing the program's statewide implementation, is implemented statewide;

(B) The facility no longer meets the requirements for certification as an intermediate care facility for the mentally retarded.

Sec. 5111.8812. (A) Subject to division (B) of this section and beginning not later than two and one-half years after the date the ICF/MR conversion pilot program terminates, the department of mental retardation and developmental disabilities shall be responsible for a portion of the nonfederal share of medicaid expenditures for ICF/MR services provided by an intermediate care facility for the mentally retarded that reconverts to providing ICF/MR services under section 5111.8811 of the Revised Code. The portion for which the department shall be responsible shall be the portion that the department and department of job and family services specify in an agreement.

(B) The department of mental retardation and developmental disabilities shall not be responsible for any portion of the nonfederal share of medicaid expenditures for ICF/MR services incurred for any beds of an intermediate care facility for the mentally retarded that are in excess of the number of beds the facility had while participating in the ICF/MR conversion pilot program.

Sec. 5111.89. (A) As used in sections 5111.89 to 5111.893 of the Revised Code:

"Assisted living program" means the medicaid waiver component for which the director of job and family services is authorized by this section to request a medicaid waiver.

"Assisted living services" means the following home and community-based services: personal care, homemaker, chore, attendant care, companion, medication oversight, and therapeutic social and recreational programming.

"County or district home" means a county or district home operated under Chapter 5155. of the Revised Code.

"Medicaid waiver component" has the same meaning as in section 5111.85 of the Revised Code.

"Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.

"Residential care facility" has the same meaning as in section 3721.01 of the Revised Code.

(B) The director of job and family services may submit a request to the United States secretary of health and human services under 42 U.S.C. 1396n to obtain a waiver of federal medicaid requirements that would otherwise be violated in the creation and implementation of a program under which assisted living services are provided to not more than one thousand eight hundred individuals who meet the program's eligibility requirements established under section 5111.891 of the Revised Code.

If the secretary approves the medicaid waiver requested under this section and the director of budget and management approves the contract, the department of job and family services shall enter into a contract with the department of aging under section 5111.91 of the Revised Code that provides for the department of aging to administer the assisted living program. The contract shall include an estimate of the program's costs.

The director of job and family services may adopt rules under section 5111.85 of the Revised Code regarding the assisted living program. The director of aging may adopt rules under Chapter 119. of the Revised Code regarding the program that the rules adopted by the director of job and family services authorize the director of aging to adopt.

Sec. 5111.891. To be eligible for the assisted living program, an individual must meet all of the following requirements:

(A) Need an intermediate level of care as determined under rule 5101:3-3-06 of the Administrative Code;

(B) At the time the individual applies for the assisted living program, be one of the following:

(1) A nursing facility resident who is seeking to move to a residential care facility and would remain in a nursing facility for long term care if not for the assisted living program;

(2) A participant of any of the following medicaid waiver components

who would move to a nursing facility if not for the assisted living program:

(a) The PASSPORT program created under section 173.40 of the Revised Code;

(b) The medicaid waiver component called the choices program that the department of aging administers;

(c) A medicaid waiver component that the department of job and family services administers.

(C) At the time the individual receives assisted living services under the assisted living program, reside in a residential care facility, including both of the following:

(1) A residential care facility that is owned or operated by a metropolitan housing authority that has a contract with the United States department of housing and urban development to receive an operating subsidy or rental assistance for the residents of the facility;

(2) A county or district home licensed as a residential care facility.

(D) Meet all other eligibility requirements for the assisted living program established in rules adopted under section 5111.85 of the Revised Code.

Sec. 5111.892. A residential care facility providing services covered by the assisted living program to an individual enrolled in the program shall have staff on-site twenty-four hours each day who are able to do all of the following:

(A) Meet the scheduled and unpredicted needs of the individuals enrolled in the assisted living program in a manner that promotes the individuals' dignity and independence;

(B) Provide supervision services for those individuals;

(C) Help keep the individuals safe and secure.

Sec. 5111.893. If the United States secretary of health and human services approves a medicaid waiver authorizing the assisted living program, the director of aging shall contract with a person or government entity to evaluate the program's cost effectiveness. The director shall provide the results of the evaluation to the governor, president and minority leader of the senate, and speaker and minority leader of the house of representatives not later than June 30, 2007.

Sec. 5111.914. (A) As used in this section, "provider" has the same meaning as in section 5111.06 of the Revised Code.

(B) If a state agency that enters into a contract with the department of job and family services under section 5111.91 of the Revised Code identifies that a medicaid overpayment has been made to a provider, the state agency may commence actions to recover the overpayment on behalf

of the department.

(C) In recovering an overpayment pursuant to this section, a state agency shall comply with the following procedures:

(1) The state agency shall attempt to recover the overpayment by notifying the provider of the overpayment and requesting voluntary repayment. Not later than five business days after notifying the provider, the state agency shall notify the department in writing of the overpayment. The state agency may negotiate a settlement of the overpayment and notify the department of the settlement. A settlement negotiated by the state agency is not valid and shall not be implemented until the department has given its written approval of the settlement.

(2) If the state agency is unable to obtain voluntary repayment of an overpayment, the agency shall give the provider notice of an opportunity for a hearing in accordance with Chapter 119. of the Revised Code. If the provider timely requests a hearing in accordance with section 119.07 of the Revised Code, the state agency shall conduct the hearing to determine the legal and factual validity of the overpayment. On completion of the hearing, the state agency shall submit its hearing officer's report and recommendation and the complete record of proceedings, including all transcripts, to the director of job and family services for final adjudication. The director may issue a final adjudication order in accordance with Chapter 119. of the Revised Code. The state agency shall pay any attorney's fees imposed under section 119.092 of the Revised Code. The department of job and family services shall pay any attorney's fees imposed under section 2335.39 of the Revised Code.

(D) In any action taken by a state agency under this section that requires the agency to give notice of an opportunity for a hearing in accordance with Chapter 119. of the Revised Code, if the agency gives notice of the opportunity for a hearing but the provider subject to the notice does not request a hearing or timely request a hearing in accordance with section 119.07 of the Revised Code, the agency is not required to hold a hearing. The agency may request that the director of job and family services issue a final adjudication order in accordance with Chapter 119. of the Revised Code.

(E) This section does not preclude the department of job and family services from adjudicating a final fiscal audit under section 5111.06 of the Revised Code, recovering overpayments under section 5111.061 of the Revised Code, or making findings or taking other actions authorized by this chapter.

Sec. 5111.915. (A) The department of job and family services shall



enter into an agreement with the department of administrative services for the department of administrative services to contract through competitive selection pursuant to section 125.07 of the Revised Code with a vendor to perform an assessment of the data collection and data warehouse functions of the medicaid data warehouse system, including the ability to link the data sets of all agencies serving medicaid recipients.

The assessment of the data system shall include functions related to fraud and abuse detection, program management and budgeting, and performance measurement capabilities of all agencies serving medicaid recipients, including the departments of aging, alcohol and drug addiction services, health, job and family services, mental health, and mental retardation and developmental disabilities.

The department of administrative services shall enter into this contract within thirty days after the effective date of this section. The contract shall require the vendor to complete the assessment within ninety days after the effective date of this section.

A qualified vendor with whom the department of administrative services contracts to assess the data system shall also assist the medicaid agencies in the definition of the requirements for an enhanced data system or a new data system and assist the department of administrative services in the preparation of a request for proposal to enhance or develop a data system.

(B) Based on the assessment performed pursuant to division (A) of this section, the department of administrative services shall seek a qualified vendor through competitive selection pursuant to section 125.07 of the Revised Code to develop or enhance a data collection and data warehouse system for the department of job and family services and all agencies serving medicaid recipients.

Within ninety days after the effective date of this section, the department of job and family services shall seek enhanced federal funding for ninety per cent of the funds required to establish or enhance the data system. The department of administrative services shall not award a contract for establishing or enhancing the data system until the department of job and family services receives approval from the secretary of the United States department of health and human services for the ninety per cent federal match.

Sec. ~~5111.88~~ 5111.97. (A) As used in this section and in section 5111.971 of the Revised Code, "nursing facility" has the same meaning as in section 5111.20 of the Revised Code.

(B) To the extent funds are available, the director of job and family services may establish the Ohio access success project to help medicaid

recipients make the transition from residing in a nursing facility to residing in a community setting. The program may be established as a separate non-medicaid program or integrated into a new or existing program of medicaid-funded home and community-based services authorized by a waiver approved by the United States department of health and human services. ~~The department~~ The director shall permit any recipient of medicaid-funded nursing facility services to apply for participation in the program, but may limit the number of program participants. If an application is received before the applicant has been a recipient of medicaid-funded nursing facility services for six months, the director shall ensure that an assessment is conducted as soon as practicable to determine whether the applicant is eligible for participation in the program. To the maximum extent possible, the assessment and eligibility determination shall be completed not later than the date that occurs six months after the applicant became a recipient of medicaid-funded nursing facility services.

~~(C)~~ (C) To be eligible for benefits under the project, a medicaid recipient must satisfy all of the following requirements:

(1) Be a recipient of medicaid-funded nursing facility services, at the time of applying for the benefits;

~~(2) Have resided continuously in a nursing facility for not less than eighteen months prior to applying to participate in the project;~~

~~(3)~~ Need the level of care provided by nursing facilities;

~~(4)~~ (3) For participation in a non-medicaid program, receive services to remain in the community with a projected cost not exceeding eighty per cent of the average monthly medicaid cost of a medicaid recipient in a nursing facility;

~~(5)~~ (4) For participation in a program established as part of a medicaid-funded home and community-based services waiver program, meet waiver enrollment criteria.

~~(D)~~ (D) If the director establishes the Ohio access success project, the benefits provided under the project may include payment of all of the following:

(1) The first month's rent in a community setting;

(2) Rental deposits;

(3) Utility deposits;

(4) Moving expenses;

(5) Other expenses not covered by the medicaid program that facilitate a medicaid recipient's move from a nursing facility to a community setting.

~~(E)~~ (E) If the project is established as a non-medicaid program, no participant may receive more than two thousand dollars worth of benefits

under the project.

~~(E)~~ (F) The director may submit a request to the United States secretary of health and human services pursuant to section 1915 of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396n, as amended, to create a medicaid home and community-based services waiver program to serve individuals who meet the criteria for participation in the Ohio access success project. The director may adopt rules under Chapter 119. of the Revised Code for the administration and operation of the program.

Sec. 5111.971. (A) As used in this section, "long-term medicaid waiver component" means any of the following:

(1) The PASSPORT program created under section 173.40 of the Revised Code;

(2) The medicaid waiver component called the choices program that the department of aging administers;

(3) A medicaid waiver component that the department of job and family services administers.

(B) The director of job and family services shall submit a request to the United States secretary of health and human services for a waiver of federal medicaid requirements that would be otherwise violated in the creation of a pilot program under which not more than two hundred individuals who meet the pilot program's eligibility requirements specified in division (D) of this section receive a spending authorization to pay for the cost of medically necessary health care services that the pilot program covers. The spending authorization shall be in an amount not exceeding seventy per cent of the average cost under the medicaid program for providing nursing facility services to an individual. An individual participating in the pilot program shall also receive necessary support services, including fiscal intermediary and other case management services, that the pilot program covers.

(C) If the United States secretary of health and human services approves the waiver submitted under division (B) of this section, the department of job and family services shall enter into a contract with the department of aging under section 5111.91 of the Revised Code that provides for the department of aging to administer the pilot program that the waiver authorizes.

(D) To be eligible to participate in the pilot program created under division (B) of this section, an individual must meet all of the following requirements:

(1) Need an intermediate level of care as determined under rule 5101:3-3-06 of the Administrative Code;

(2) At the time the individual applies to participate in the pilot program,

be one of the following:

(a) A nursing facility resident who is seeking to move to a residential care facility or county or district home and who would remain in a nursing facility if not for the pilot program;

(b) A participant of any long-term medicaid waiver component who would move to a nursing facility if not for the pilot program.

(3) Meet all other eligibility requirements for the pilot program established in rules adopted under section 5111.85 of the Revised Code.

(E) The director of job and family services may adopt rules under section 5111.85 of the Revised Code as the director considers necessary to implement the pilot program created under division (B) of this section. The director of aging may adopt rules under Chapter 119. of the Revised Code as the director considers necessary for the pilot program's implementation. The rules may establish a list of medicaid-covered services not covered by the pilot program that an individual participating in the pilot program may not receive if the individual also receives medicaid-covered services outside of the pilot program.

Sec. 5111.98. (A) The director of job and family services may do all of the following as necessary for the department of job and family services to fulfill the duties it has, as the single state agency for the medicaid program, under the "Medicare Prescription Drug, Improvement, and Modernization Act of 2003" Pub. L. No. 108-173, 117 Stat. 2066:

(1) Adopt rules;

(2) Assign duties to county departments of job and family services;

(3) Make payments to the United States department of health and human services from appropriations made to the department of job and family services for this purpose.

(B) Rules adopted under division (A)(1) of this section shall be adopted as follows:

(1) If the rules concern the department's duties regarding service providers, in accordance with Chapter 119. of the Revised Code;

(2) If the rules concern the department's duties concerning individuals' eligibility for services, in accordance with section 111.15 of the Revised Code;

(3) If the rules concern the department's duties concerning financial and operational matters between the department and county departments of job and family services, in accordance with section 111.15 of the Revised Code as if the rules were internal management rules.

Sec. 5111.99. (A) Whoever violates division (B) of section 5111.26 or division ~~(D)~~(E) of section 5111.31 of the Revised Code shall be fined not

less than five hundred dollars nor more than one thousand dollars for the first offense and not less than one thousand dollars nor more than five thousand dollars for each subsequent offense. Fines paid under this section shall be deposited in the state treasury to the credit of the general revenue fund.

(B) Whoever violates division (D) of section 5111.61 of the Revised Code is guilty of registering a false complaint, a misdemeanor of the first degree.

Sec. 5112.03. (A) The director of job and family services shall adopt, and may amend and rescind, rules in accordance with Chapter 119. of the Revised Code for the purpose of administering sections 5112.01 to 5112.21 of the Revised Code, including rules that do all of the following:

(1) Define as a "disproportionate share hospital" any hospital included under subsection (b) of section 1923 of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 1396r-4(b), as amended, and any other hospital the director determines appropriate;

(2) Prescribe the form for submission of cost reports under section 5112.04 of the Revised Code;

(3) Establish, in accordance with division (A) of section 5112.06 of the Revised Code, the assessment rate or rates to be applied to hospitals under that section;

(4) Establish schedules for hospitals to pay installments on their assessments under section 5112.06 of the Revised Code and for governmental hospitals to pay installments on their intergovernmental transfers under section 5112.07 of the Revised Code;

(5) Establish procedures to notify hospitals of adjustments made under division (B)(2)(b) of section 5112.06 of the Revised Code in the amount of installments on their assessment;

(6) Establish procedures to notify hospitals of adjustments made under division (D) of section 5112.09 of the Revised Code in the total amount of their assessment and to adjust for the remainder of the program year the amount of the installments on the assessments;

(7) Establish, in accordance with section 5112.08 of the Revised Code, the methodology for paying hospitals under that section.

The director shall consult with hospitals when adopting the rules required by divisions (A)(4) and (5) of this section in order to minimize hospitals' cash flow difficulties.

(B) Rules adopted under this section may provide that "total facility costs" excludes costs associated with any of the following:

(1) Recipients of the medical assistance program;

(2) Recipients of financial assistance provided under Chapter 5115. of the Revised Code;

~~(3) Recipients of medical assistance provided under Chapter 5115. of the Revised Code;~~

(4) Recipients of the program for medically handicapped children established under section 3701.023 of the Revised Code;

~~(5)~~(4) Recipients of the medicare program established under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended:

~~(6)~~(5) Recipients of Title V of the "Social Security Act";

~~(7)~~(6) Any other category of costs deemed appropriate by the director in accordance with Title XIX of the "Social Security Act" and the rules adopted under that title.

Sec. 5112.08. The director of job and family services shall adopt rules under section 5112.03 of the Revised Code establishing a methodology to pay hospitals that is sufficient to expend all money in the indigent care pool. Under the rules:

(A) The department of job and family services may classify similar hospitals into groups and allocate funds for distribution within each group.

(B) The department shall establish a method of allocating funds to hospitals, taking into consideration the relative amount of indigent care provided by each hospital or group of hospitals. The amount to be allocated shall be based on any combination of the following indicators of indigent care that the director considers appropriate:

(1) Total costs, volume, or proportion of services to recipients of the medical assistance program, including recipients enrolled in health insuring corporations;

(2) Total costs, volume, or proportion of services to low-income patients in addition to recipients of the medical assistance program, which may include recipients of Title V of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, ~~and~~ recipients of disability financial ~~or medical~~ assistance provided under Chapter 5115. of the Revised Code, and recipients of disability medical assistance formerly provided under Chapter 5115. of the Revised Code;

(3) The amount of uncompensated care provided by the hospital or group of hospitals;

(4) Other factors that the director considers to be appropriate indicators of indigent care.

(C) The department shall distribute funds to each hospital or group of hospitals in a manner that first may provide for an additional distribution to

individual hospitals that provide a high proportion of indigent care in relation to the total care provided by the hospital or in relation to other hospitals. The department shall establish a formula to distribute the remainder of the funds. The formula shall be consistent with section 1923 of the "Social Security Act," 42 U.S.C.A. 1396r-4, as amended, shall be based on any combination of the indicators of indigent care listed in division (B) of this section that the director considers appropriate.

(D) The department shall distribute funds to each hospital in installments not later than ten working days after the deadline established in rules for each hospital to pay an installment on its assessment under section 5112.06 of the Revised Code. In the case of a governmental hospital that makes intergovernmental transfers, the department shall pay an installment under this section not later than ten working days after the earlier of that deadline or the deadline established in rules for the governmental hospital to pay an installment on its intergovernmental transfer. If the amount in the hospital care assurance program fund and the hospital care assurance match fund created under section 5112.18 of the Revised Code is insufficient to make the total distributions for which hospitals are eligible to receive in any period, the department shall reduce the amount of each distribution by the percentage by which the amount is insufficient. The department shall distribute to hospitals any amounts not distributed in the period in which they are due as soon as moneys are available in the funds.

Sec. 5112.17. (A) As used in this section:

(1) "Federal poverty guideline" means the official poverty guideline as revised annually by the United States secretary of health and human services in accordance with section 673 of the "Community Service Block Grant Act," 95 Stat. 511 (1981), 42 U.S.C.A. 9902, as amended, for a family size equal to the size of the family of the person whose income is being determined.

(2) "Third-party payer" means any private or public entity or program that may be liable by law or contract to make payment to or on behalf of an individual for health care services. "Third-party payer" does not include a hospital.

(B) Each hospital that receives funds distributed under sections 5112.01 to 5112.21 of the Revised Code shall provide, without charge to the individual, basic, medically necessary hospital-level services to individuals who are residents of this state, are not recipients of the medical assistance program, and whose income is at or below the federal poverty guideline. Recipients of disability financial assistance ~~and recipients of disability medical assistance~~ provided under Chapter 5115. of the Revised Code

qualify for services under this section. The director of job and family services shall adopt rules under section 5112.03 of the Revised Code specifying the hospital services to be provided under this section.

(C) Nothing in this section shall be construed to prevent a hospital from requiring an individual to apply for eligibility under the medical assistance program before the hospital processes an application under this section. Hospitals may bill any third-party payer for services rendered under this section. Hospitals may bill the medical assistance program, in accordance with Chapter 5111. of the Revised Code and the rules adopted under that chapter, for services rendered under this section if the individual becomes a recipient of the program. Hospitals may bill individuals for services under this section if all of the following apply:

(1) The hospital has an established post-billing procedure for determining the individual's income and canceling the charges if the individual is found to qualify for services under this section.

(2) The initial bill, and at least the first follow-up bill, is accompanied by a written statement that does all of the following:

(a) Explains that individuals with income at or below the federal poverty guideline are eligible for services without charge;

(b) Specifies the federal poverty guideline for individuals and families of various sizes at the time the bill is sent;

(c) Describes the procedure required by division (C)(1) of this section.

(3) The hospital complies with any additional rules the department adopts under section 5112.03 of the Revised Code.

Notwithstanding division (B) of this section, a hospital providing care to an individual under this section is subrogated to the rights of any individual to receive compensation or benefits from any person or governmental entity for the hospital goods and services rendered.

(D) Each hospital shall collect and report to the department, in the form and manner prescribed by the department, information on the number and identity of patients served pursuant to this section.

(E) This section applies beginning May 22, 1992, regardless of whether the department has adopted rules specifying the services to be provided. Nothing in this section alters the scope or limits the obligation of any governmental entity or program, including the program awarding reparations to victims of crime under sections 2743.51 to 2743.72 of the Revised Code and the program for medically handicapped children established under section 3701.023 of the Revised Code, to pay for hospital services in accordance with state or local law.

Sec. 5112.30. As used in sections 5112.30 to 5112.39 of the Revised



Code, "~~intermediate~~:"

(A) "Intermediate care facility for the mentally retarded" has the same meaning as in section 5111.20 of the Revised Code, except that it does not include any such facility operated by the department of mental retardation and developmental disabilities.

(B) "Medicaid" has the same meaning as in section 5111.01 of the Revised Code.

Sec. 5112.31. The department of job and family services shall do all of the following:

(A) For the purpose of providing home and community-based services for mentally retarded and developmentally disabled persons, annually assess each intermediate care facility for the mentally retarded a franchise permit fee equal to nine dollars and sixty-three cents multiplied by the product of the following:

(1) The number of beds certified under Title XIX of the "Social Security Act" on the first day of May of the calendar year in which the assessment is determined pursuant to division (A) of section 5112.33 of the Revised Code;

(2) The number of days in the fiscal year beginning on the first day of July of the same calendar year.

(B) Beginning July 1, ~~2005~~ 2007, and the first day of each July thereafter, adjust fees determined under division (A) of this section in accordance with the composite inflation factor established in rules adopted under section 5112.39 of the Revised Code.

(C) If the United States secretary of health and human services determines that the franchise permit fee established by sections 5112.30 to 5112.39 of the Revised Code would be an impermissible health care-related tax under section 1903(w) of the "Social Security Act," 42 U.S.C.A. 1396b(w), as amended, ~~the department shall~~ take all necessary actions to cease implementation of those sections in accordance with rules adopted under section 5112.39 of the Revised Code.

Sec. 5112.341. (A) In addition to assessing a penalty pursuant to section 5112.34 of the Revised Code, the department of job and family services may do either of the following if an intermediate care facility for the mentally retarded fails to pay the full amount of a franchise permit fee installment when due:

(1) Withhold an amount equal to the installment and penalty assessed under section 5112.34 of the Revised Code from a medicaid payment due the facility until the facility pays the installment and penalty;

(2) Terminate the facility's medicaid provider agreement.

(B) The department may withhold a medicaid payment under division

(A)(1) of this section without providing notice to the intermediate care facility for the mentally retarded and without conducting an adjudication under Chapter 119. of the Revised Code.

Sec. 5115.20. (A) The department of job and family services shall establish a disability advocacy program and each county department of job and family services shall establish a disability advocacy program unit or join with other county departments of job and family services to establish a joint county disability advocacy program unit. Through the program the department and county departments shall cooperate in efforts to assist applicants for and recipients of assistance under the disability financial assistance program ~~and the disability medical assistance program~~, who might be eligible for supplemental security income benefits under Title XVI of the "Social Security Act," 86 Stat. 1475 (1972), 42 U.S.C.A. 1383, as amended, in applying for those benefits.

As part of their disability advocacy programs, the state department and county departments may enter into contracts for the services of persons and government entities that in the judgment of the department or county department have demonstrated expertise in representing persons seeking supplemental security income benefits. Each contract shall require the person or entity with which a department contracts to assess each person referred to it by the department to determine whether the person appears to be eligible for supplemental security income benefits, and, if the person appears to be eligible, assist the person in applying and represent the person in any proceeding of the social security administration, including any appeal or reconsideration of a denial of benefits. The department or county department shall provide to the person or entity with which it contracts all records in its possession relevant to the application for supplemental security income benefits. The department shall require a county department with relevant records to submit them to the person or entity.

(B) Each applicant for or recipient of disability financial assistance ~~or disability medical assistance~~ who, in the judgment of the department or a county department might be eligible for supplemental security benefits, shall, as a condition of eligibility for assistance, apply for such benefits if directed to do so by the department or county department.

(C) With regard to applicants for and recipients of disability financial assistance ~~or disability medical assistance~~, each county department of job and family services shall do all of the following:

- (1) Identify applicants and recipients who might be eligible for supplemental security income benefits;
- (2) Assist applicants and recipients in securing documentation of

disabling conditions or refer them for such assistance to a person or government entity with which the department or county department has contracted under division (A) of this section;

(3) Inform applicants and recipients of available sources of representation, which may include a person or government entity with which the department or county department has contracted under division (A) of this section, and of their right to represent themselves in reconsiderations and appeals of social security administration decisions that deny them supplemental security income benefits. The county department may require the applicants and recipients, as a condition of eligibility for assistance, to pursue reconsiderations and appeals of social security administration decisions that deny them supplemental security income benefits, and shall assist applicants and recipients as necessary to obtain such benefits or refer them to a person or government entity with which the department or county department has contracted under division (A) of this section.

(4) Require applicants and recipients who, in the judgment of the county department, are or may be aged, blind, or disabled, to apply for medical assistance under Chapter 5111. of the Revised Code, make determinations when appropriate as to eligibility for medical assistance, and refer their applications when necessary to the disability determination unit established in accordance with division (F) of this section for expedited review;

(5) Require each applicant and recipient who in the judgment of the department or the county department might be eligible for supplemental security income benefits, as a condition of eligibility for disability financial assistance ~~or disability medical assistance~~, to execute a written authorization for the secretary of health and human services to withhold benefits due that individual and pay to the director of job and family services or the director's designee an amount sufficient to reimburse the state and county shares of interim assistance furnished to the individual. For the purposes of division (C)(5) of this section, "benefits" and "interim assistance" have the meanings given in Title XVI of the "Social Security Act."

(D) The director of job and family services shall adopt rules in accordance with section 111.15 of the Revised Code for the effective administration of the disability advocacy program. The rules shall include all of the following:

(1) Methods to be used in collecting information from and disseminating it to county departments, including the following:

(a) The number of individuals in the county who are disabled recipients of disability financial assistance ~~or disability medical assistance~~;

(b) The final decision made either by the social security administration

or by a court for each application or reconsideration in which an individual was assisted pursuant to this section.

(2) The type and process of training to be provided by the department of job and family services to the employees of the county department of job and family services who perform duties under this section;

(3) Requirements for the written authorization required by division (C)(5) of this section.

(E) The department shall provide basic and continuing training to employees of the county department of job and family services who perform duties under this section. Training shall include but not be limited to all processes necessary to obtain federal disability benefits, and methods of advocacy.

(F) The department shall establish a disability determination unit and develop guidelines for expediting reviews of applications for medical assistance under Chapter 5111. of the Revised Code for persons who have been referred to the unit under division (C)(4) of this section. The department shall make determinations of eligibility for medical assistance for any such person within the time prescribed by federal regulations.

(G) The department may, under rules the director of job and family services adopts in accordance with section 111.15 of the Revised Code, pay a portion of the federal reimbursement described in division (C)(5) of this section to persons or government entities that assist or represent assistance recipients in reconsiderations and appeals of social security administration decisions denying them supplemental security income benefits.

(H) The director shall conduct investigations to determine whether disability advocacy programs are being administered in compliance with the Revised Code and the rules adopted by the director pursuant to this section.

Sec. 5115.22. (A) If a recipient of disability financial assistance ~~or disability medical assistance~~, or an individual whose income and resources are included in determining the recipient's eligibility for the assistance, becomes possessed of resources or income in excess of the amount allowed to retain eligibility, or if other changes occur that affect the recipient's eligibility or need for assistance, the recipient shall notify the state or county department of job and family services within the time limits specified in rules adopted by the director of job and family services in accordance with section 111.15 of the Revised Code. Failure of a recipient to report possession of excess resources or income or a change affecting eligibility or need within those time limits shall be considered prima-facie evidence of intent to defraud under section 5115.23 of the Revised Code.

(B) As a condition of eligibility for disability financial assistance ~~or~~

~~disability medical assistance~~, and as a means of preventing or reducing the provision of assistance at public expense, each applicant for or recipient of the assistance shall make reasonable efforts to secure support from persons responsible for the applicant's or recipient's support, and from other sources, including any federal program designed to provide assistance to individuals with disabilities. The state or county department of job and family services may provide assistance to the applicant or recipient in securing other forms of financial assistance.

Sec. 5115.23. As used in this section, "erroneous payments" means disability financial assistance payments ~~or disability medical assistance payments~~ made to persons who are not entitled to receive them, including payments made as a result of misrepresentation or fraud, and payments made due to an error by the recipient or by the county department of job and family services that made the payment.

The department of job and family services shall adopt rules in accordance with section 111.15 of the Revised Code specifying the circumstances under which action is to be taken under this section to recover erroneous payments. The department, or a county department of job and family services at the request of the department, shall take action to recover erroneous payments in the circumstances specified in the rules. The department or county department may institute a civil action to recover erroneous payments.

Whenever disability financial assistance ~~or disability medical assistance~~ has been furnished to a recipient for whose support another person is responsible, the other person shall, in addition to the liability otherwise imposed, as a consequence of failure to support the recipient, be liable for all assistance furnished the recipient. The value of the assistance so furnished may be recovered in a civil action brought by the county department of job and family services.

Each county department of job and family services shall retain fifty per cent of the erroneous payments it recovers under this section. The department of job and family services shall receive the remaining fifty per cent.

Sec. 5119.61. Any provision in this chapter that refers to a board of alcohol, drug addiction, and mental health services also refers to the community mental health board in an alcohol, drug addiction, and mental health service district that has a community mental health board.

The director of mental health with respect to all facilities and programs established and operated under Chapter 340. of the Revised Code for mentally ill and emotionally disturbed persons, shall do all of the following:

(A) Adopt rules pursuant to Chapter 119. of the Revised Code that may be necessary to carry out the purposes of Chapter 340. and sections 5119.61 to 5119.63 of the Revised Code.

(1) The rules shall include all of the following:

(a) Rules governing a community mental health agency's services under section 340.091 of the Revised Code to an individual referred to the agency under division (C)(2) of section 173.35 of the Revised Code;

(b) For the purpose of division (A)(16) of section 340.03 of the Revised Code, rules governing the duties of mental health agencies and boards of alcohol, drug addiction, and mental health services under section 3722.18 of the Revised Code regarding referrals of individuals with mental illness or severe mental disability to adult care facilities and effective arrangements for ongoing mental health services for the individuals. The rules shall do at least the following:

(i) Provide for agencies and boards to participate fully in the procedures owners and managers of adult care facilities must follow under division (A)(2) of section 3722.18 of the Revised Code;

(ii) Specify the manner in which boards are accountable for ensuring that ongoing mental health services are effectively arranged for individuals with mental illness or severe mental disability who are referred by the board or mental health agency under contract with the board to an adult care facility.

(c) Rules governing a board of alcohol, drug addiction, and mental health services when making a report to the director of health under section 3722.17 of the Revised Code regarding the quality of care and services provided by an adult care facility to a person with mental illness or a severe mental disability.

(2) Rules may be adopted to govern the method of paying a community mental health facility, as defined in section ~~5111.022~~ 5111.023 of the Revised Code, for providing services listed in division (B) of that section. Such rules must be consistent with the contract entered into between the departments of job and family services and mental health under section 5111.91 of the Revised Code and include requirements ensuring appropriate service utilization.

(B) Review and evaluate, and, taking into account the findings and recommendations of the board of alcohol, drug addiction, and mental health services of the district served by the program and the requirements and priorities of the state mental health plan, including the needs of residents of the district now residing in state mental institutions, approve and allocate funds to support community programs, and make recommendations for

needed improvements to boards of alcohol, drug addiction, and mental health services;

(C) Withhold state and federal funds for any program, in whole or in part, from a board of alcohol, drug addiction, and mental health services in the event of failure of that program to comply with Chapter 340. or section 5119.61, 5119.611, 5119.612, or 5119.62 of the Revised Code or rules of the department of mental health. The director shall identify the areas of noncompliance and the action necessary to achieve compliance. The director shall offer technical assistance to the board to achieve compliance. The director shall give the board a reasonable time within which to comply or to present its position that it is in compliance. Before withholding funds, a hearing shall be conducted to determine if there are continuing violations and that either assistance is rejected or the board is unable to achieve compliance. Subsequent to the hearing process, if it is determined that compliance has not been achieved, the director may allocate all or part of the withheld funds to a public or private agency to provide the services not in compliance until the time that there is compliance. The director shall establish rules pursuant to Chapter 119. of the Revised Code to implement this division.

(D) Withhold state or federal funds from a board of alcohol, drug addiction, and mental health services that denies available service on the basis of religion, race, color, creed, sex, national origin, age, disability as defined in section 4112.01 of the Revised Code, developmental disability, or the inability to pay;

(E) Provide consultative services to community mental health agencies with the knowledge and cooperation of the board of alcohol, drug addiction, and mental health services;

(F) Provide to boards of alcohol, drug addiction, and mental health services state or federal funds, in addition to those allocated under section 5119.62 of the Revised Code, for special programs or projects the director considers necessary but for which local funds are not available;

(G) Establish criteria by which a board of alcohol, drug addiction, and mental health services reviews and evaluates the quality, effectiveness, and efficiency of services provided through its community mental health plan. The criteria shall include requirements ensuring appropriate service utilization. The department shall assess a board's evaluation of services and the compliance of each board with this section, Chapter 340. or section 5119.62 of the Revised Code, and other state or federal law and regulations. The department, in cooperation with the board, periodically shall review and evaluate the quality, effectiveness, and efficiency of services provided

through each board. The department shall collect information that is necessary to perform these functions.

(H) Develop and operate a community mental health information system.

Boards of alcohol, drug abuse, and mental health services shall submit information requested by the department in the form and manner prescribed by the department. Information collected by the department shall include, but not be limited to, all of the following:

(1) Information regarding units of services provided in whole or in part under contract with a board, including diagnosis and special needs, demographic information, the number of units of service provided, past treatment, financial status, and service dates in accordance with rules adopted by the department in accordance with Chapter 119. of the Revised Code;

(2) Financial information other than price or price-related data regarding expenditures of boards and community mental health agencies, including units of service provided, budgeted and actual expenses by type, and sources of funds.

Boards shall submit the information specified in division (H)(1) of this section no less frequently than annually for each client, and each time the client's case is opened or closed. The department shall not collect any information for the purpose of identifying by name any person who receives a service through a board of alcohol, drug addiction, and mental health services, except as required by state or federal law to validate appropriate reimbursement. For the purposes of division (H)(1) of this section, the department shall use an identification system that is consistent with applicable nationally recognized standards.

(I) Review each board's community mental health plan submitted pursuant to section 340.03 of the Revised Code and approve or disapprove it in whole or in part. Periodically, in consultation with representatives of boards and after considering the recommendations of the medical director, the director shall issue criteria for determining when a plan is complete, criteria for plan approval or disapproval, and provisions for conditional approval. The factors that the director considers may include, but are not limited to, the following:

(1) The mental health needs of all persons residing within the board's service district, especially severely mentally disabled children, adolescents, and adults;

(2) The demonstrated quality, effectiveness, efficiency, and cultural relevance of the services provided in each service district, the extent to



which any services are duplicative of other available services, and whether the services meet the needs identified above;

(3) The adequacy of the board's accounting for the expenditure of funds.

If the director disapproves all or part of any plan, the director shall provide the board an opportunity to present its position. The director shall inform the board of the reasons for the disapproval and of the criteria that must be met before the plan may be approved. The director shall give the board a reasonable time within which to meet the criteria, and shall offer technical assistance to the board to help it meet the criteria.

If the approval of a plan remains in dispute thirty days prior to the conclusion of the fiscal year in which the board's current plan is scheduled to expire, the board or the director may request that the dispute be submitted to a mutually agreed upon third-party mediator with the cost to be shared by the board and the department. The mediator shall issue to the board and the department recommendations for resolution of the dispute. Prior to the conclusion of the fiscal year in which the current plan is scheduled to expire, the director, taking into consideration the recommendations of the mediator, shall make a final determination and approve or disapprove the plan, in whole or in part.

Sec. 5120.09. Under the supervision and control of the director of rehabilitation and correction, the division of business administration shall do all of the following:

(A) Submit the budgets for the several divisions of the department of rehabilitation and correction, as prepared by the respective chiefs of those divisions, to the director. The director, with the assistance of the chief of the division of business administration, shall compile a departmental budget that contains all proposals submitted by the chiefs of the divisions and shall forward the departmental budget to the governor with comments and recommendations that the director considers necessary.

(B) Maintain accounts and records and compile statistics that the director prescribes;

(C) Under the control of the director, coordinate and make the necessary purchases and requisitions for the department and its divisions, except as provided under section 5119.16 of the Revised Code;

(D) Administer within this state federal criminal justice acts that the governor requires the department to administer. In order to improve the criminal justice system of this state, the division of business administration shall apply for, allocate, disburse, and account for grants that are made available pursuant to those federal criminal justice acts and grants that are made available from other federal government sources, state government

sources, or private sources. As used in this division, "criminal justice system" and "federal criminal justice acts" have the same meanings as in section ~~481.51~~ 5502.61 of the Revised Code.

(E) Audit the activities of governmental entities, persons as defined in section 1.59 of the Revised Code, and other types of nongovernmental entities that are financed in whole or in part by funds that the department allocates or disburses and that are derived from grants described in division (D) of this section;

(F) Enter into contracts, including contracts with federal, state, or local governmental entities, persons as defined in section 1.59 of the Revised Code, foundations, and other types of nongovernmental entities, that are necessary for the department to carry out its duties and that neither the director nor another section of the Revised Code authorizes another division of the department to enter;

(G) Exercise other powers and perform other duties that the director may assign to the division of business administration.

Sec. 5120.51. (A)(1) If the director of rehabilitation and correction determines that a bill introduced in the general assembly is likely to have a significant impact on the population of, or the cost of operating, any or all state correctional institutions under the administration of the department of rehabilitation and correction, the department shall prepare a population and cost impact statement for the bill, in accordance with division (A)(2) of this section.

(2) A population and cost impact statement required for a bill ~~shall~~ shall estimate the increase or decrease in the correctional institution population that likely would result if the bill were enacted, shall estimate, in dollars, the amount by which revenues or expenditures likely would increase or decrease if the bill were enacted, and briefly shall explain each of the estimates.

A population and cost impact statement required for a bill initially shall be prepared after the bill is referred to a committee of the general assembly in the house of origination but before the meeting of the committee at which the committee is scheduled to vote on whether to recommend the bill for passage. A copy of the statement shall be distributed to each member of the committee that is considering the bill and to the member of the general assembly who introduced it. If the bill is recommended for passage by the committee, the department shall update the statement before the bill is taken up for final consideration by the house of origination. A copy of the updated statement shall be distributed to each member of that house and to the member of the general assembly who introduced the bill. If the bill is passed

by the house of origination and is introduced in the second house, the provisions of this division concerning the preparation, updating, and distribution of the statement in the house of origination also apply in the second house.

(B) The governor or any member of the general assembly, at any time, may request the department to prepare a population and cost impact statement for any bill introduced in the general assembly. Upon receipt of a request, the department promptly shall prepare a statement that includes the estimates and explanations described in division (A)(2) of this section and present a copy of it to the governor or member who made the request.

(C) In the preparation of a population and cost impact statement required by division (A) or (B) of this section, the department shall use a technologically sophisticated system capable of estimating future state correctional institution populations. The system shall have the capability to adjust its estimates based on actual and proposed changes in sentencing laws and trends, sentence durations, parole rates, crime rates, and any other data that affect state correctional institution populations. The department, in conjunction with the advisory committee appointed under division (E) of this section, shall review and update the data used in the system, not less than once every six months, to improve the accuracy of the system.

(D) At least once every six months, the department shall provide to the correctional institution inspection committee a copy of the estimates of state correctional institution populations obtained through use of the system described in division (C) of this section and a description of the assumptions regarding sentencing laws and trends, sentence durations, parole rates, crime rates, and other relevant data that were made by the department to obtain the estimates. Additionally, a copy of the estimates and a description of the assumptions made to obtain them shall be provided, upon reasonable request, to other legislative staff, including the staff of the legislative service commission ~~and the legislative budget office of the legislative service commission~~, to the office of budget and management, and to the ~~office~~ division of criminal justice services in the department of public safety.

(E) The correctional institution inspection committee shall appoint an advisory committee to review the operation of the system for estimating future state correctional institution populations that is used by the department in the preparation of population cost impact statements pursuant to this section and to join with the department in its reviews and updating of the data used in the system under division (C) of this section. The advisory committee shall be comprised of at least one prosecuting attorney, at least one common pleas court judge, at least one public defender, at least one

person who is a member or staff employee of the committee, and at least one representative of the ~~office~~ division of criminal justice services in the department of public safety.

Sec. ~~5121.03~~ 5121.01. As used in ~~this chapter~~ sections 5121.01 to 5121.21 of the Revised Code:

(A) ~~Patient means a person receiving care or treatment in a program or facility that provides services to mentally ill individuals.~~

(B) ~~The department means the department of mental health or the department of mental retardation and developmental disabilities, whichever provides care or treatment to the patient.~~

(C) ~~"Resident"~~ means a person admitted to an institution or other facility pursuant to Chapter 5123. of the Revised Code who is under observation or receiving habilitation and care ~~in an institution for the mentally retarded.~~

(D) ~~State-operated community mental health services means community-based services the department of mental health operates for a board of alcohol, drug addiction, and mental health services pursuant to a community mental health plan approved under division (A)(1)(c) of section 340.03 of the Revised Code.~~

(E)(B) ~~"Applicable cost"~~ means the rate for support applicable to a ~~patient or resident~~ as specified in this section.

The cost for support of ~~patients in hospitals and~~ residents in institutions under the jurisdiction of ~~the department of mental health or the department of mental retardation and developmental disabilities~~, and of residents in private facilities or homes whose care or treatment is being paid for by the ~~department of mental retardation and developmental disabilities~~, shall be based on the average per capita cost of the care and treatment of ~~such patients or the~~ residents. The cost of services for ~~mentally ill patients or mentally retarded~~ residents shall be computed using the projected average daily per capita cost at the ~~hospital or~~ institution, or at the discretion of the department ~~under the jurisdiction of which the hospital or institution is operated~~, the subunit thereof in which services are provided. Such costs shall be computed at least annually for the next prospective period using generally accepted governmental accounting principles. The cost of services for ~~mentally retarded~~ residents that are being cared for and maintained in a private facility or home under the supervision of the department ~~of mental retardation and developmental disabilities regional offices~~ and for which a purchase of services contract is being paid to the private facility or home by the department shall not be more than the per diem cost of the contract. The cost of services for a resident receiving pre-admission care, after-care, day-care, or routine consultation and treatment services in a community

service unit under the jurisdiction of the department, shall be computed on the basis of the average cost of such services at the institution at which they are provided.

~~The cost for support of a patient receiving state-operated community mental health services is an amount determined using guidelines the department of mental health shall issue. The guidelines shall be based on cost findings and rate settings applicable to such services.~~

The department shall annually determine the ability to pay of a patient or resident or the patient's or resident's liable relatives and the amount that such person shall pay in accordance with section 5121.04 of the Revised Code.

Collections of support payments shall be made by ~~the department of mental health and the department of mental retardation and developmental disabilities~~ and, subject to meeting prior requirements for payment and crediting of such collections and other available receipts, in accordance with the bond proceedings applicable to obligations issued pursuant to section 154.20 of the Revised Code, such collections and other available receipts designated by ~~the director of the department of mental health and the director of the department of mental retardation and developmental disabilities~~ for deposit in the special accounts, together with insurance contract payments provided for in division (B)(8) of section 5121.04 of the Revised Code, shall be remitted to the treasurer of state for deposit in the state treasury to the credit of ~~the mental health operating fund and the mental retardation operating fund~~, which ~~are~~ is hereby created, to be used for the general purposes of ~~the department of mental health and the department of mental retardation and developmental disabilities~~. The ~~department of mental health shall make refunds of overpayment of support charges from the mental health operating fund, and the department of mental retardation and developmental disabilities shall make refunds of overpayment of support charges from the mental retardation operating fund.~~

~~Sec. 5121.01~~ 5121.02. All ~~patients or residents of~~ individuals admitted to a benevolent state institution, operated by the department of mental retardation and developmental disabilities under section 5123.03 of the Revised Code shall be maintained at the expense of the state. Their traveling and incidental expenses in conveying them to the state institution shall be paid by the county of commitment. Upon admission, the ~~patients or residents~~ individuals shall be neatly and comfortably clothed. Thereafter, the expense of necessary clothing shall be borne by the responsible relatives or guardian if they are financially able. If not furnished, the state shall bear the expense. Any required traveling expense after admission to the state

institution shall be borne by the state if the responsible relatives or guardian are unable to do so.

Sec. ~~5121.02~~ 5121.03. When any person is committed to an institution under the jurisdiction of ~~the department of mental health or the department of mental retardation and developmental disabilities~~ pursuant to judicial proceedings, the judge ordering such commitment shall:

(A) Make a reliable report on the financial condition of such person and of each of the relatives of the person who are liable for ~~his~~ the person's support, as provided in section 5121.06 of the Revised Code and rules and procedures ~~agreed upon~~ adopted by ~~the director of mental health and the director of mental retardation and developmental disabilities;~~

(B) Certify to the managing officer of such institution, and the managing officer shall thereupon enter upon ~~his~~ the managing officer's records the name and address of any guardian appointed and of any relative liable for such person's support under section 5121.06 of the Revised Code.

Sec. 5121.04. (A) ~~The department of mental health and the department of mental retardation and developmental disabilities shall investigate the financial condition of the patients in hospitals and residents in institutions, residents whose care or treatment is being paid for in a private facility or home under the control of the department of mental retardation and developmental disabilities, and of the relatives named in section 5121.06 of the Revised Code as liable for the support of such patients or residents, in order to determine the ability of any patient, resident, or such liable relatives to pay for the support of the patient or resident and to provide suitable clothing as required by the superintendent of the institution.~~

~~The department of mental health shall investigate the financial condition of patients receiving state-operated community mental health services and of the liable relatives to determine the patient's or relative's ability to pay for the patient's support. In all cases, in determining ability to pay and the amount to be charged, due regard shall be had for others who may be dependent for support upon such relatives or the estate of the patient.~~

(B) The department shall follow the provisions of this division in determining the ability to pay of a ~~patient or resident or the patient's or resident's liable relatives and the amount to be charged such patient or resident or liable relatives.~~

(1) Subject to divisions (B)(10) and (11) of this section, a ~~patient or resident without dependents shall be liable for the full applicable cost. A patient or resident without dependents who has a gross annual income equal to or exceeding the sum of the full applicable cost, plus fifty dollars per~~

month, regardless of the source of such income, shall pay currently the full amount of the applicable cost; if the ~~patient's or~~ resident's gross annual income is less than such sum, not more than fifty dollars per month shall be kept for personal use by or on behalf of the ~~patient or~~ resident, except as permitted in the state plan for providing medical assistance under Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, and the balance shall be paid currently on the ~~patient's or~~ resident's support. Subject to divisions (B)(10) and (11) of this section, the estate of a ~~patient or~~ resident without dependents shall pay currently any remaining difference between the applicable cost and the amounts prescribed in this section, or shall execute an agreement with the department for payment to be made at some future date under terms suitable to the department. However, no security interest, mortgage, or lien shall be taken, granted, or charged against any principal residence of a ~~patient or~~ resident without dependents under an agreement or otherwise to secure support payments, and no foreclosure actions shall be taken on security interests, mortgages, or liens taken, granted, or charged against principal residences of ~~patients or~~ residents prior to October 7, 1977.

(2) The ability to pay of a ~~patient or~~ resident with dependents, or of a liable relative of a ~~patient or~~ resident either with or without dependents, shall be determined in accordance with the ~~patient's, resident's, or~~ liable relative's income or other assets, the needs of others who are dependent on such income and other assets for support, and, if applicable, divisions (B)(10) and (11) of this section.

For the first thirty days of care and treatment of each admission ~~and for the first thirty days of care and treatment from state-operated community mental health services,~~ but in no event for more than thirty days in any calendar year, the ~~mentally ill patient or mentally retarded~~ resident with dependents or the liable relative of a ~~mentally ill patient or a mentally retarded~~ resident either with or without dependents shall be charged an amount equal to the percentage of the average applicable cost determined in accordance with the schedule of adjusted gross annual income contained after this paragraph. After such first thirty days of care and treatment, such ~~mentally ill patient or mentally retarded~~ resident or such liable relative shall be charged an amount equal to the percentage of a base support rate of four dollars per day for ~~mentally ill patients and mentally retarded~~ residents, as determined in accordance with the schedule of gross annual income contained after this paragraph, or in accordance with division (B)(5) of this section. Beginning January 1, 1978, the department shall increase the base rate when the consumer price index average is more than 4.0 for the

preceding calendar year by not more than the average for such calendar year.

Adjusted Gross Annual

Income of ~~Patient or~~ Resident  
or Liable Relative (FN a)

Number of Dependents (FN b)

8 or

1 2 3 4 5 6 7 more  
Rate of Support (In Percentages)

\$15,000 or less	--	--	--	--	--	--	--	--
15,001 to 17,500	20	--	--	--	--	--	--	--
17,501 to 20,000	25	20	--	--	--	--	--	--
20,001 to 21,000	30	25	20	--	--	--	--	--
21,001 to 22,000	35	30	25	20	--	--	--	--
22,001 to 23,000	40	35	30	25	20	--	--	--
23,001 to 24,000	45	40	35	30	25	20	--	--
24,001 to 25,000	50	45	40	35	30	25	20	--
25,001 to 26,000	55	50	45	40	35	30	25	20
26,001 to 27,000	60	55	50	45	40	35	30	25
27,001 to 28,000	70	60	55	50	45	40	35	30
28,001 to 30,000	80	70	60	55	50	45	40	35
30,001 to 40,000	90	80	70	60	55	50	45	40
40,001 and over	100	90	80	70	60	55	50	45

Footnote a. The ~~patient or~~ resident or relative shall furnish a copy of the ~~patient's~~, resident's, or relative's federal income tax return as evidence of gross annual income.

Footnote b. The number of dependents includes the liable relative but excludes ~~the patient or a~~ resident in ~~the hospital or an~~ institution. "Dependent" includes any person who receives more than half the person's support from the ~~patient~~ resident or the ~~patient's~~ resident's liable relative.

(3) A ~~patient or~~ resident or liable relative having medical, funeral, or related expenses in excess of four per cent of the adjusted gross annual income, which expenses were not covered by insurance, may adjust such gross annual income by reducing the adjusted gross annual income by the full amount of such expenses. Proof of such expenses satisfactory to the department must be furnished.

(4) Additional dependencies may be claimed if:

(a) The liable relative is blind;

(b) The liable relative is over sixty-five;

(c) A child is a college student with expenses in excess of fifty dollars per month;



(d) The services of a housekeeper, costing in excess of fifty dollars per month, are required if the person who normally keeps house for minor children is the ~~patient or~~ resident.

(5) If with respect to any ~~patient or~~ resident with dependents there is chargeable under division (B)(2) of this section less than fifty per cent of the applicable cost or, if the base support rate was used, less than fifty per cent of the amount determined by use of the base support rate, and if with respect to such ~~patient or~~ resident there is a liable relative who has an estate having a value in excess of fifteen thousand dollars or if such ~~patient or~~ resident has a dependent and an estate having a value in excess of fifteen thousand dollars, there shall be paid with respect to such ~~patient or~~ resident a total of fifty per cent of the applicable cost or the base support rate amount, as the case may be, on a current basis or there shall be executed with respect to such ~~patient or~~ resident an agreement with the department for payment to be made at some future date under terms suitable to the department.

(6) When a person has been a ~~patient or~~ resident for fifteen years and the support charges for which a relative is liable have been paid for the fifteen-year period, the liable relative shall be relieved of any further support charges.

(7) The department shall accept voluntary payments from ~~patients or~~ residents or liable relatives whose incomes are below the minimum shown in the schedule set forth in this division. The department also shall accept voluntary payments in excess of required amounts from both liable and nonliable relatives.

(8) If a ~~patient or~~ resident is covered by an insurance policy, or other contract that provides for payment of expenses for care and treatment for ~~mental illness or mental retardation or other developmental disability~~ at or from an institution; ~~or~~ facility (including a ~~hospital or~~ community service unit under the jurisdiction of the department), ~~or state-operated community mental health service~~; the other provisions of this section, except divisions (B)(8), (10), and (11) of this section, and of section ~~5121.03~~ 5121.01 of the Revised Code shall be suspended to the extent that such insurance policy or other contract is in force, and such ~~patient or~~ resident shall be charged the full amount of the applicable cost. Any insurance carrier or other third party payor providing coverage for such care and treatment shall pay for this support obligation in an amount equal to the lesser of either the applicable cost or the benefits provided under the policy or other contract. Whether or not an insured, owner of, or other person having an interest in such policy or other contract is liable for support payments under other provisions of this chapter, the insured, policy owner, or other person shall assign payment

directly to the department of all assignable benefits under the policy or other contract and shall pay over to the department, within ten days of receipt, all insurance or other benefits received as reimbursement or payment for expenses incurred by the ~~patient or~~ resident or for any other reason. If the insured, policy owner, or other person refuses to assign such payment to the department or refuses to pay such received reimbursements or payments over to the department within ten days of receipt, the insured's, policy owners', or other person's total liability for the services equals the applicable statutory liability for payment for the services as determined under other provisions of this chapter, plus the amounts payable under the terms of the policy or other contract. In no event shall this total liability exceed the full amount of the applicable cost. Upon its request, the department is entitled to a court order that compels the insured, owner of, or other person having an interest in the policy or other contract to comply with the assignment requirements of this division or that itself serves as a legally sufficient assignment in compliance with such requirements. Notwithstanding section ~~5122.34~~ 5123.89 of the Revised Code and any other law relating to confidentiality of records, the managing officer of the institution or facility where a person is or has been a ~~patient or resident, or the managing officer of the state-operated community mental health services from which the patient receives services,~~ shall disclose pertinent medical information concerning the ~~patient or~~ resident to the insurance carrier or other third party payor in question, in order to effect collection from the carrier or payor of the state's claim for care and treatment under this division. For such disclosure, the managing officer is not subject to any civil or criminal liability.

(9) The rate to be charged for pre-admission care, after-care, day-care, or routine consultation and treatment services shall be based upon the ability of the ~~patient or~~ resident or the ~~patient's or~~ resident's liable relatives to pay. When it is determined by the department that a charge shall be made, such charge shall be computed as provided in divisions (B)(1) and (2) of this section.

(10) If a ~~patient or~~ resident with or without dependents is the beneficiary of a trust created pursuant to section 1339.51 of the Revised Code, then, notwithstanding any contrary provision of this chapter or of a rule adopted pursuant to this chapter, divisions (C) and (D) of that section shall apply in determining the assets or resources of the ~~patient or~~ resident, the ~~patient's or~~ resident's estate, the settlor, or the settlor's estate and to claims arising under this chapter against the ~~patient or~~ resident, the ~~patient's or~~ resident's estate, the settlor, or the settlor's estate.

(11) If the department ~~of mental retardation and developmental disabilities~~ waives the liability of an individual and the individual's liable relatives pursuant to section 5123.194 of the Revised Code, the liability of the individual and relative ceases in accordance with the waiver's terms.

(C) The department may enter into agreements with a ~~patient or~~ resident or a liable relative for support payments to be made in the future. However, no security interest, mortgage, or lien shall be taken, granted, or charged against any principal family residence of a ~~patient or~~ resident with dependents or a liable relative under an agreement or otherwise to secure support payments, and no foreclosure actions shall be taken on security interests, mortgages or liens taken, granted, or charged against principal residences of ~~patients or~~ residents or liable relatives prior to October 7, 1977.

(D) The department shall make all investigations and determinations required by this section within ninety days after a ~~patient or~~ resident is admitted to an institution under the department's control ~~or a patient begins to receive state-operated community mental health services,~~ and immediately shall notify by mail the persons liable of the amount to be charged.

(E) All actions to enforce the collection of payments agreed upon or charged by the department shall be commenced within six years after the date of default of an agreement to pay support charges or the date such payment becomes delinquent. If a payment is made pursuant to an agreement which is in default, a new six-year period for actions to enforce the collection of payments under such agreement shall be computed from the date of such payment. For purposes of this division an agreement is in default or a payment is delinquent if a payment is not made within thirty days after it is incurred or a payment, pursuant to an agreement, is not made within thirty days after the date specified for such payment. In all actions to enforce the collection of payment for the liability for support, every court of record shall receive into evidence the proof of claim made by the state together with all debts and credits, and it shall be prima-facie evidence of the facts contained in it.

Sec. 5121.05. The ~~department of mental health and the~~ department of mental retardation and developmental disabilities may subpoena witnesses, take testimony under oath, and examine any public records relating to the income and other assets of a ~~patient or~~ resident or ~~of a relative liable for such patient's or resident's support~~ relative. All information, conclusions, and recommendations shall be submitted to the department by the investigating agent of the department. The department shall determine the

amount of support to be paid, by whom, and whether clothing shall be furnished by the relatives or guardian.

Sec. 5121.06. (A) The following persons other than the ~~patient or~~ resident or the ~~patient's or~~ resident's estate are liable relatives and all the following persons are jointly and severally liable for the support of a ~~patient or~~ resident in a ~~hospital or~~ an institution under the control of ~~the department of mental health or~~ the department of mental retardation and developmental disabilities ~~or for the support of a patient receiving state-operated community mental health services:~~

- (1) The ~~patient or~~ resident or the ~~patient's or~~ resident's estate;
- (2) The ~~patient's or~~ resident's spouse;
- (3) The father or mother, or both, of a minor ~~patient or~~ resident under the age of eighteen years.

(B) The department shall determine, pursuant to section 5121.04 of the Revised Code, the amount to be charged each ~~such~~ resident and liable ~~person~~ relative in the order named in this section, but shall not collect from any person more than one hundred per cent of the applicable cost.

(C) An action to collect delinquent payments or to enforce agreements in default may be brought against any or all persons named in this section. To the extent parents of adult ~~patients or~~ residents, pursuant to the language of this section previously in force, incurred charges for the support of such ~~patients or~~ residents between the eighteenth birthday of such ~~patient or~~ resident and July 1, 1975, their liability for such period may be cancelled, compromised, or settled as provided in section 5121.07 of the Revised Code.

(D) Irrespective of the number of ~~patients or~~ residents whose care might be chargeable against a liable relative, no individual liable relative nor ~~any~~ group of liable relatives who are members of the same family unit shall be charged with the support of more than one ~~patient or~~ resident during the same period of time, and different periods of time for which such liable relative has paid the charges for such different ~~patients or~~ residents' care and support shall be added together for the purpose of completing the maximum fifteen-year period of liability of such liable relative under division (B)(6) of section 5121.04 of the Revised Code.

Sec. 5121.061. The authority of ~~the department of mental health or~~ the department of mental retardation and developmental disabilities to modify support charges pursuant to section 5121.04 of the Revised Code shall not be exercised until the ~~patient or~~ resident or liable relative has petitioned the department for modification as provided in section 5121.07 of the Revised Code and has offered to the department satisfactory proof of ~~his~~ the

resident's or liable relative's earnings and assets. The department may modify the charges if its investigation warrants such modification.

Sec. 5121.07. Any person who has been charged with the payment of the support of a ~~patient or resident of any benevolent institution;~~ or for pre-admission care, after-care, day-care, or routine consultation and treatment services in a community service unit under the control of ~~the department of mental health or the department of mental retardation and developmental disabilities;~~ or for the cost of state-operated community mental health services may petition the department for a release from, or modification of, such charge, and the department, after an investigation, may cancel or modify such former charge, or may cancel, compromise, or settle any accrued liability in an amount not exceeding five thousand dollars. Amounts in excess thereof may be canceled, compromised, or settled as provided in section 131.02 of the Revised Code. The department may for due cause increase the amount previously ordered paid.

Sec. 5121.08. The managing officers of the ~~benevolent~~ institutions under the control of ~~the department of mental health and the department of mental retardation and developmental disabilities;~~ the managing officers of state-operated community mental health services; and the committing court, if requested, shall submit to the department such information as they may obtain concerning the financial condition of any ~~patient or resident or~~ of relatives liable for the ~~patient's or resident's~~ support.

Sec. 5121.09. In case the estate of any ~~patient or resident in a benevolent~~ an institution under the jurisdiction of ~~the department of mental health or the department of mental retardation and developmental disabilities or receiving state-operated community mental health services~~ is sufficient for the ~~patient's or resident's~~ support, without hardship to any others who may be dependent thereon, and no guardian has been appointed for such estate, the agent of the department shall petition the probate court of the proper county to appoint a guardian.

Sec. 5121.10. Upon the death of a ~~person who is a patient or~~ former resident, of any ~~benevolent~~ institution under the jurisdiction of ~~the department of mental health or the department of mental retardation and developmental disabilities or state-operated community mental health services;~~ or upon the death of a person responsible under section 5121.06 of the Revised Code for the support of a ~~patient or resident,~~ the department may waive the presentation of any claim for support against the estate of such decedent, when in its judgment an otherwise dependent person will be directly benefited by the estate. Claims against an estate for support of a ~~patient or resident~~ are subject to section 1339.51 and Chapter

2117. of the Revised Code, and shall be treated, and may be barred, the same as the claims of other creditors of the estate, pursuant to that section or chapter.

The department may accept from a guardian or trustee of a ~~patient or~~ resident a contract agreeing to pay to the state from the property of the guardian's or trustee's ward before or at the death of the ward a fixed annual amount for the support of the ward while the ward is a ~~patient or~~ resident, with interest at four per cent per annum. A copy of the contract shall be filed in the probate court of the proper county and duly entered as a part of the records concerning the ward.

Sec. 5121.11. The state shall bear the expense of the burial or cremation of an indigent ~~patient or~~ resident who dies in a state ~~hospital for the mentally ill, or institution for the mentally retarded,~~ operated by the department of mental retardation and developmental disabilities under section 5123.03 of the Revised Code or in a state correctional institution; if the body is not claimed for interment or cremation at the expense of friends or relatives; or is not delivered for anatomical purposes or for the study of embalming in accordance with section 1713.34 of the Revised Code. The managing officer of the institution shall provide at the grave of the person or, if the person's cremated remains are buried, at the grave of the person's cremated remains, a metal, stone, or concrete marker on which shall be inscribed the name and age of the person and the date of death.

Sec. 5121.12. The support and maintenance of ~~patients confined in state hospitals for the mentally ill or of residents confined in state institutions for the mentally retarded~~ operated by the department of mental retardation and developmental disabilities under section 5123.03 of the Revised Code, including those transferred to them from state correctional institutions, and also including persons under indictment or conviction for crime, shall be collected and paid in accordance with ~~this chapter~~ sections 5121.01 to 5121.21 of the Revised Code.

Sec. 5121.21. ~~(A)~~ If payment of any amount due the state under the provisions of Chapter 5121. of the Revised Code is made on account of a ~~patient or~~ resident by any liable relative, as defined in division (A) of section 5121.06 of the Revised Code, such relative may recover the following amounts from the following persons; provided, that in no event may such relative recover in total more than such relative has paid the state, and provided, that in no event is the person from whom recovery is sought obliged to pay at a rate of support higher than such person would have paid had the state proceeded directly against such person:

~~(1)(A)~~ Any liable person may recover from the ~~patient or~~ resident, his

~~the resident's~~ guardian, or from the executor or administrator of the ~~patient's~~ ~~or resident's~~ estate, the full amount of payment made by such liable relative.

~~(2)(B)~~ Any liable relative may recover from the ~~patient's~~ ~~or resident's~~ ~~husband or wife~~, spouse the full amount of payment made by such liable relative.

~~(3)(C)~~ A minor ~~patient's~~ ~~or resident's~~ mother may recover from such minor ~~patient's~~ ~~or resident's~~ father ~~the full~~ one-half of the amount of payment made by such mother.

~~(4)(D)~~ Any liable relative, other than the ~~patient's~~ ~~or resident's~~ spouse and other than a minor ~~patient's~~ ~~or resident's~~ parent, may recover from such ~~of a patient's~~ ~~or resident's~~ adult sons and daughters as are liable under division (A)(4) of section 5121.06 of the Revised Code, the full amount of payment made by such liable relative; provided, that there may be recovered from each such son or daughter only such proportion of the total payment as the figure one bears to the total number of such adult sons and daughters.

~~(5)(E)~~ An adult ~~patient's~~ ~~or resident's~~ mother may recover from an adult ~~patient's~~ ~~or resident's~~ father ~~the full~~ one-half of the amount of payment made by such mother.

Sec. 5121.30. As used in sections 5121.30 to 5121.56 of the Revised Code:

(A) "Community mental health services client" or "client" means a person receiving state-operated community mental health services.

(B) "Countable assets" means all of the following:

(1) Cash;

(2) Bank deposits;

(3) Securities;

(4) Individual retirement accounts;

(5) Qualified employer plans, including 401(k) and Keogh plans;

(6) Annuities;

(7) Funds in a trust created under section 1339.51 of the Revised Code;

(8) Investment property and income;

(9) The cash surrender values of life insurance policies;

(10) Assets acquired by gift, bequest, devise, or inheritance;

(11) Any other asset determined by the department of mental health to be equivalent to the assets enumerated in this division.

(C) "Federal poverty level" or "FPL" means the income level represented by the poverty guidelines as revised annually by the United States department of health and human services in accordance with section 673(2) of the "Omnibus Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C. 9902, as amended, for a family size equal to the size of the family of

the person whose income is being determined.

(D) "Federal poverty guidelines" means the poverty guidelines as revised annually by the United States department of health and human services in accordance with section 673(2) of the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C. 9902, as amended, for a family size equal to the size of the family of the person whose income is being determined.

(E) "Hospital" means an institution, hospital, or other place established, controlled, or supervised by the department of mental health under Chapter 5119. of the Revised Code.

(F) "Liable relative" means all of the following:

(1) A patient's spouse;

(2) A patient's mother or father, or both, if the patient is under eighteen years of age;

(3) A patient's guardian.

(G) "Patient" means a person admitted to a hospital for inpatient care or treatment, including a person transferred to a hospital from a state correctional institution or a person under indictment or conviction who has been transferred to a hospital.

Sec. 5121.31. All patients shall be maintained at the expense of the state. The traveling and incidental expenses in conveying them to a hospital shall be paid by the county of commitment. On admission, patients shall be neatly and comfortably clothed. Thereafter, the expense of necessary clothing shall be borne by the responsible relatives or guardian if they are financially able. If not furnished, the state shall bear the expense. Any required traveling expense after admission to the hospital shall be borne by the state if the responsible relatives or guardian is unable to do so.

Sec. 5121.32. On an annual basis, the department of mental health shall determine both of the following using generally accepted governmental accounting principles:

(A) The applicable per diem charge for each hospital operated by the department;

(B) The ancillary per diem rate for each hospital operated by the department.

In determining a hospital's applicable per diem charge and ancillary per diem rate, the department shall consider the average actual per diem cost of maintaining and treating a patient at the hospital or, at the department's discretion, the average actual per diem cost of maintaining and treating a patient in a unit of the hospital.

Sec. 5121.33. Except as provided in sections 5121.35, 5121.43,



5121.46, 5121.47, 5121.49, and 5121.52 of the Revised Code, the department of mental health shall, for each billing cycle, charge a patient, patient's estate, or liable relative an amount equal to the sum of the following:

(A) The applicable per diem charge multiplied by the number of days the patient was admitted to the hospital;

(B) An amount that was previously billed but not paid.

Sec. 5121.34. (A) A patient, patient's estate, and patient's liable relatives shall be jointly and severally liable for amounts charged by the department of mental health in accordance with section 5121.33 or 5121.35 of the Revised Code. In no case shall any of the foregoing persons be liable for more than one hundred per cent of the full sum charged under section 5121.33 of the Revised Code.

(B) Collections of support payments shall be made by the department and, subject to meeting prior requirements for payment and crediting of such collections and other available receipts, in accordance with the bond proceedings applicable to obligations issued pursuant to section 154.20 of the Revised Code. The collections and other available receipts designated by the director of mental health for deposit in the special accounts, together with insurance contract payments provided for in section 5121.43 of the Revised Code, shall be remitted to the treasurer of state for deposit in the state treasury to the credit of the mental health operating fund, which is hereby created, to be used for the general purposes of the department. The department shall make refunds of overpayment of support charges from the mental health operating fund.

Sec. 5121.35. The department of mental health shall charge a patient, patient's estate, or liable relative an amount discounted from the amount the department charges under section 5121.33 of the Revised Code if the department determines through the application process described in section 5121.36 of the Revised Code or through the financial assessment process described in section 5121.37 of the Revised Code that the patient, estate, or relative is eligible for a discount.

Sec. 5121.36. (A) A patient, patient's estate, or liable relative may apply for a discount by completing an application form prescribed by the director of mental health. The department of mental health may require a patient, estate, or relative to furnish any of the following with an application form:

(1) A copy of the patient's, estate's, or liable relative's federal income tax return for the year preceding the date of application or, if that is not yet available, the preceding year;

(2) A copy of the patient's, estate's, or liable relative's employee tax

withholding return (form W-2) for the year preceding the date of application;

(3) Any other relevant documents prescribed by the director of mental health.

(B) To be considered, an application must be submitted to the department not later than ninety days after the date the patient is admitted to a hospital.

(C) From the information provided by a patient, estate, or relative, the department shall determine whether the department will charge the person a discounted amount in accordance with sections 5121.40 and 5121.41 of the Revised Code. In making this determination, the department shall consider whether the patient is covered by an insurance policy or other contract that provides for payment of expenses and treatment for mental illness. If the department determines that the patient has coverage, the department shall require payment in accordance with section 5121.43 of the Revised Code.

(D) The department shall notify the patient, executor or administrator of the patient's estate, or liable relative who submitted the application form in writing regarding whether that person will be charged a discounted amount and the per diem rate to be charged.

(E) In accordance with section 5121.42 of the Revised Code, the department may, at any time, modify an amount charged or change the per diem rate to be charged if the department learns of countable assets or income that was not previously disclosed or was acquired after the application form was submitted. Within a reasonable time, the department shall notify in writing any person affected by a modification or change.

Sec. 5121.37. After a patient's admittance to a hospital, the department of mental health shall conduct a financial assessment to determine whether the patient, patient's estate, or liable relative will be charged an amount discounted from the amount the department charges under section 5121.33 of the Revised Code. The department shall make the determination in accordance with sections 5121.40 and 5121.41 of the Revised Code.

If a discounted rate is to be charged, the department shall notify the person whose financial condition was assessed. The notice shall specify the per diem rate to be charged.

In accordance with section 5121.42 of the Revised Code, the department may, at any time, modify an amount charged or change the per diem rate to be charged if the department learns of countable assets or income that was not previously disclosed or was acquired after the assessment was conducted. Within a reasonable time, the department shall notify in writing any person affected by a modification or change.

Sec. 5121.38. The department of mental health may subpoena witnesses, take testimony under oath, and examine any public records relating to the income and other assets of a patient or of a relative liable for such patient's support. All information, conclusions, and recommendations shall be submitted to the department by the investigating agent of the department.

Sec. 5121.40. (A) A patient, patient's estate, or liable relative may be eligible to be charged an amount discounted from the amount the department of mental health charges under section 5121.33 of the Revised Code if the patient, estate, or relative has countable assets with a total value that is not greater than an amount equal to fifty per cent of the difference between the following:

(1) The gross annual income that corresponds with a family size of two persons at one hundred per cent of the federal poverty level for the state;

(2) The gross annual income that corresponds with a family size of one person at one hundred per cent of the federal poverty level for the state. For purposes of determining family size, the patient is one dependent. One additional dependent shall be included for each of the following circumstances and persons:

(a) The patient or liable relative is legally blind or deaf.

(b) The patient or liable relative is of sixty-five years of age or older.

(c) Each child under eighteen years of age for which the patient or liable relative has legal custody;

(d) The patient's or liable relative's spouse.

(B) A patient, estate, or relative may, not later than ninety days after the patient's admission to a hospital, surrender the value of countable assets sufficient to reduce countable assets to not more than the limit described in division (A) of this section.

Sec. 5121.41. (A) If the assets of a patient, patient's estate, or liable relative do not exceed the countable asset limit in section 5121.40 of the Revised Code and the annual income of the patient, estate, or relative does not exceed four hundred per cent of the federal poverty level, the patient, estate, or relative shall be charged an amount discounted from the amount the department charges under section 5121.33 of the Revised Code for the first thirty days the patient is admitted as an inpatient in a hospital and for which the patient is liable for the cost of care. The amount of the discount shall be computed according to the following schedule:

		Annual Gross Income					
		Expressed as a Percentage of FPL					
Inpatient	0 -	176 -	200 -	250 -	300 -	350 -	
Days at a	175	199	249	299	349	400	

Hospital

	<u>Percentage discount from charged amount</u>					
<u>1 - 14</u>	<u>100</u>	<u>90</u>	<u>70</u>	<u>50</u>	<u>30</u>	<u>10</u>
<u>15 - 30</u>	<u>100</u>	<u>95</u>	<u>75</u>	<u>55</u>	<u>35</u>	<u>15</u>

(B) A patient, estate, or relative who is charged a discounted amount for the first thirty days the patient is admitted as an inpatient and who has an annual income not greater than one hundred seventy-five per cent of the federal poverty level shall not be charged for the days the patient is admitted beyond the thirtieth day.

(C) A patient, estate, or relative who is charged a discounted amount for the first thirty days the patient is admitted as an inpatient and who has an annual income greater than one hundred seventy-five per cent of the federal poverty level shall be charged an amount equal to the sum of the following for the days the patient is admitted beyond the thirtieth day:

(1) The ancillary per diem rate multiplied by the number of days the patient was admitted to the hospital;

(2) An amount that was previously charged but not paid.

Sec. 5121.42. (A) Except as provided in division (B) of this section, a patient, patient's estate, or liable relative shall cease to be eligible for a discount under sections 5121.36 or 5121.37 of the Revised Code on accumulation of countable assets in excess of an amount equal to fifty per cent of the difference between the following:

(1) The gross annual income that corresponds with a family size of two persons at one hundred per cent of the federal poverty level for the state;

(2) The gross annual income that corresponds with a family size of one person at one hundred per cent of the federal poverty level for the state.

(B) Money needed to meet the patient's needs and burial fund as determined by a needs assessment conducted by the department of mental health pursuant to rules adopted under section 5119.01 of the Revised Code shall be excluded from any determination the department makes under division (A) of this section.

Sec. 5121.43. If a patient is covered by an insurance policy or other contract that provides for payment of expenses for care and treatment for mental illness at or from a hospital under the jurisdiction of the department of mental health, sections 5121.33 to 5121.55 of the Revised Code are inapplicable to the extent that the policy or contract is in force. Any insurance carrier or other third party payor providing coverage for such care and treatment shall pay for the patient's support obligation in amounts equal to the lesser of amounts charged by the department under section 5121.33 of the Revised Code or the benefits provided under the policy or other contract.

Whether or not an insured, owner of, or other person having an interest in such policy or other contract is liable for support payments, the insured, policy owner, or other person shall assign payment directly to the department of all assignable benefits under the policy or other contract and shall pay to the department, within ten days of receipt, all insurance or other benefits received as reimbursement or payment for expenses incurred by the patient or for any other reason. If the insured, policy owner, or other person refuses to assign payment to the department or refuses to pay received reimbursements or payments to the department within ten days of receipt, the total liability of the insured, policy owner, or other person for the services is an amount equal to the per diem charge for the hospital where the patient was admitted multiplied by the number of days the patient was admitted.

In no event shall this total liability exceed the department's actual cost of providing care and treatment to a patient. The department may disqualify patients and liable relatives who have retained third party funds from future discounts. The department may request that the attorney general petition a court of competent jurisdiction to compel the insured, owner of, or other person having an interest in the policy or contract to comply with the assignment requirements in this section.

Sec. 5121.44. The department of mental health may enter into an extended payment agreement with a patient, patient's estate, or liable relative who has notified the department that the patient, estate, or relative cannot reasonably pay an amount the department has charged. In no case shall the department take a security interest, mortgage, or lien against the principal family residence of a patient or liable relative.

Sec. 5121.45. (A) For purposes of this section, "delinquent payment" means an amount owed by a patient, patient's estate, or liable relative to the department of mental health for which the person has failed to do either of the following not later than ninety days after the service associated with the charge was incurred:

(1) Make payment in full;

(2) Make a payment in accordance with the terms of an agreement entered into under section 5121.44 of the Revised Code.

(B) An action to enforce the collection of a delinquent payment shall be commenced not later than six years after the later of the following:

(1) The last date the department received money to satisfy the delinquent payment;

(2) The date the charge was due.

(C) In all actions to enforce the collection of delinquent payments, a

court of record shall receive into evidence the proof of claim document made by the state together with all debts and credits. The proof of claim document shall be prima-facie evidence of the facts stated in the document.

Sec. 5121.46. The department of mental health shall not charge a liable relative under sections 5121.33 and 5121.35 of the Revised Code who has done either of the following:

(A) Paid all amounts charged by the department for the care and treatment of a particular patient for fifteen consecutive years;

(B) Paid amounts charged by the department for the care and treatment of more than one patient for a total of fifteen consecutive years.

Sec. 5121.47. Irrespective of the number of patients for which the department of mental health may charge a liable relative under sections 5121.33 or 5121.35 of the Revised Code, the department shall not charge a liable relative or group of liable relatives who are members of the same family unit for the support of more than one patient during the same period of time.

Sec. 5121.48. The department shall accept voluntary payments from a patient, patient's estate, or liable relative in excess of a discounted amount charged in accordance with section 5121.35 of the Revised Code.

Sec. 5121.49. (A) Any person who has been charged under section 5121.33 or 5121.35 of the Revised Code may petition the department of mental health to do the following:

(1) Release the person from a charge;

(2) Modify or cancel a charge.

(B) The department shall respond to a petition in writing and inform the petitioner of whether a release, modification, or cancellation has been approved.

Sec. 5121.50. When a patient is committed to a hospital pursuant to judicial proceedings, the judge ordering the commitment shall:

(A) Make a reliable report on the financial condition of the patient and of each liable relative, as provided in rules adopted by the director of mental health;

(B) Certify the report required under division (A) of this section to the managing officer of the hospital. The managing officer shall thereupon enter in the managing officer's records the name and address of any guardian appointed and of any relative liable for the patient's support.

Sec. 5121.51. In case the estate of any patient in a hospital is sufficient for the patient's support and no guardian has been appointed for such estate, the agent of the department of mental health shall petition the probate court of the proper county to appoint a guardian.

Sec. 5121.52. On the death of a person who is a patient, or has been a patient in a hospital, or on the death of a person responsible under section 5121.34 of the Revised Code for the support of a patient, the department of mental health may waive the presentation of any claim for support against the estate of such decedent, when in its judgment an otherwise dependent person will be directly benefited by the estate. Claims against an estate for support of a patient are subject to section 1339.51 and Chapter 2117. of the Revised Code, and shall be treated, and may be barred, the same as the claims of other creditors of the estate, pursuant to that section or chapter.

The department of mental health may accept from a guardian or trustee of a patient a contract agreeing to pay to the state from the property of the guardian's or trustee's ward before or at the death of the ward a fixed annual amount for the support of the ward while the ward is a patient, with interest at four per cent per annum. A copy of the contract shall be filed in the probate court of the proper county and duly entered as a part of the records concerning the ward.

Sec. 5121.53. The state shall bear the expense of the burial or cremation of an indigent patient who dies in a hospital if the body is not claimed for interment or cremation at the expense of friends or relatives, or is not delivered for anatomical purposes or for the study of embalming in accordance with section 1713.34 of the Revised Code. The managing officer of the hospital shall provide at the grave of the patient or, if the patient's cremated remains are buried, at the grave of the patient's cremated remains, a metal, stone, or concrete marker on which shall be inscribed the name and age of the patient and the date of death.

Sec. 5121.54. If payment of any amount due the state under the provisions of this chapter is made on account of a patient by any liable relative, as defined in section 5121.30 of the Revised Code, the relative may recover from the patient, the patient's guardian, or the executor or administrator of the patient's estate, the full amount of payment made by the liable relative; provided, that in no event may a relative recover in total more than the relative has paid the state, and provided, that in no event is the person from whom recovery is sought obliged to pay at a rate of support higher than the person would have paid had the state proceeded directly against that person.

Sec. 5121.55. The cost for support of a client of state-operated community mental health services is an amount determined using guidelines the department of mental health shall issue. The guidelines shall be based on cost findings and rate-settings applicable to such services.

Sec. 5121.56. The support and maintenance of patients confined in state

hospitals for the mentally ill, including persons transferred to them from state correctional institutions, and also including persons under indictment or conviction for crime, shall be collected and paid in accordance with sections 5121.30 to 5121.55 of the Revised Code.

Sec. 5122.03. A patient admitted under section 5122.02 of the Revised Code who requests ~~his~~ release in writing, or whose release is requested in writing by ~~his~~ the patient's counsel, legal guardian, parent, spouse, or adult next of kin shall be released forthwith, except that when:

(A) The patient was admitted on ~~his~~ the patient's own application and the request for release is made by a person other than the patient, release may be conditional upon the agreement of the patient; or

(B) The chief clinical officer of the hospital, within three court days from the receipt of the request for release, files or causes to be filed with the court of the county where the patient is hospitalized or of the county where the patient is a resident, an affidavit under section 5122.11 of the Revised Code. Release may be postponed until the hearing held under section 5122.141 of the Revised Code. A telephone communication within three court days from the receipt of the request for release from the chief clinical officer to the court, indicating that the required affidavit has been mailed, is sufficient compliance with the time limit for filing such affidavit.

Unless the patient is released within three days from the receipt of the request by the chief clinical officer, the request shall serve as a request for an initial hearing under section 5122.141 of the Revised Code. If the court finds that the patient is a mentally ill person subject to hospitalization by court order, all provisions of this chapter with respect to involuntary hospitalization apply to such person.

Judicial proceedings for hospitalization shall not be commenced with respect to a voluntary patient except pursuant to this section.

Sections ~~5121.01 to 5121.10~~ 5121.30 to 5121.56 of the Revised Code apply to persons received in a hospital operated by the department of mental health on a voluntary application.

The chief clinical officer of the hospital shall provide reasonable means and arrangements for informing patients of their rights to release as provided in this section and for assisting them in making and presenting requests for release or for a hearing under section 5122.141 of the Revised Code.

Before a patient is released from a public hospital, the chief clinical officer shall, when possible, notify the board of the patient's county of residence of the patient's pending release after ~~he~~ the chief clinical officer has informed the patient that the board will be so notified.

Sec. 5122.31. (A) All certificates, applications, records, and reports



made for the purpose of this chapter and sections 2945.38, 2945.39, 2945.40, 2945.401, and 2945.402 of the Revised Code, other than court journal entries or court docket entries, and directly or indirectly identifying a patient or former patient or person whose hospitalization has been sought under this chapter, shall be kept confidential and shall not be disclosed by any person except:

~~(A)~~(1) If the person identified, or the person's legal guardian, if any, or if the person is a minor, the person's parent or legal guardian, consents, and if the disclosure is in the best interests of the person, as may be determined by the court for judicial records and by the chief clinical officer for medical records;

~~(B)~~(2) When disclosure is provided for in this chapter or section 5123.60 of the Revised Code;

~~(C)~~(3) That hospitals, boards of alcohol, drug addiction, and mental health services, and community mental health agencies may release necessary medical information to insurers and other third-party payers, including government entities responsible for processing and authorizing payment, to obtain payment for goods and services furnished to the patient;

~~(D)~~(4) Pursuant to a court order signed by a judge;

~~(E)~~(5) That a patient shall be granted access to the patient's own psychiatric and medical records, unless access specifically is restricted in a patient's treatment plan for clear treatment reasons;

~~(F)~~(6) That hospitals and other institutions and facilities within the department of mental health may exchange psychiatric records and other pertinent information with other hospitals, institutions, and facilities of the department, and with community mental health agencies and boards of alcohol, drug addiction, and mental health services with which the department has a current agreement for patient care or services. Records and information that may be released pursuant to this division shall be limited to medication history, physical health status and history, financial status, summary of course of treatment in the hospital, summary of treatment needs, and a discharge summary, if any.

~~(G)~~(7) That a patient's family member who is involved in the provision, planning, and monitoring of services to the patient may receive medication information, a summary of the patient's diagnosis and prognosis, and a list of the services and personnel available to assist the patient and the patient's family, if the patient's treating physician determines that the disclosure would be in the best interests of the patient. No such disclosure shall be made unless the patient is notified first and receives the information and does not object to the disclosure.

~~(H)~~(8) That community mental health agencies may exchange psychiatric records and certain other information with the board of alcohol, drug addiction, and mental health services and other agencies in order to provide services to a person involuntarily committed to a board. Release of records under this division shall be limited to medication history, physical health status and history, financial status, summary of course of treatment, summary of treatment needs, and discharge summary, if any.

~~(H)~~(9) That information may be disclosed to the executor or the administrator of an estate of a deceased patient when the information is necessary to administer the estate;

~~(H)~~(10) That records in the possession of the Ohio historical society may be released to the closest living relative of a deceased patient upon request of that relative;

~~(K)~~(11) That information may be disclosed to staff members of the appropriate board or to staff members designated by the director of mental health for the purpose of evaluating the quality, effectiveness, and efficiency of services and determining if the services meet minimum standards. Information obtained during such evaluations shall not be retained with the name of any patient.

~~(H)~~(12) That records pertaining to the patient's diagnosis, course of treatment, treatment needs, and prognosis shall be disclosed and released to the appropriate prosecuting attorney if the patient was committed pursuant to section 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code, or to the attorney designated by the board for proceedings pursuant to involuntary commitment under this chapter.

~~(M)~~(13) That the department of mental health may exchange psychiatric hospitalization records, other mental health treatment records, and other pertinent information with the department of rehabilitation and correction to ensure continuity of care for inmates who are receiving mental health services in an institution of the department of rehabilitation and correction. The department shall not disclose those records unless the inmate is notified, receives the information, and does not object to the disclosure. The release of records under this division is limited to records regarding an inmate's medication history, physical health status and history, summary of course of treatment, summary of treatment needs, and a discharge summary, if any.

~~(N)~~(14) That a community mental health agency that ceases to operate may transfer to either a community mental health agency that assumes its caseload or to the board of alcohol, drug addiction, and mental health services of the service district in which the patient resided at the time services were most recently provided any treatment records that have not

been transferred elsewhere at the patient's request.

~~(D)(B)~~ Before records are disclosed pursuant to divisions ~~(C)(A)(3)~~, ~~(F)(6)~~, and ~~(H)(8)~~ of this section, the custodian of the records shall attempt to obtain the patient's consent for the disclosure. No person shall reveal the contents of a medical record of a patient except as authorized by law.

(C) The managing officer of a hospital who releases necessary medical information under division (A)(3) of this section to allow an insurance carrier or other third party payor to comply with section 5121.43 of the Revised Code shall neither be subject to criminal nor civil liability.

Sec. 5123.01. As used in this chapter:

(A) "Chief medical officer" means the licensed physician appointed by the managing officer of an institution for the mentally retarded with the approval of the director of mental retardation and developmental disabilities to provide medical treatment for residents of the institution.

(B) "Chief program director" means a person with special training and experience in the diagnosis and management of the mentally retarded, certified according to division (C) of this section in at least one of the designated fields, and appointed by the managing officer of an institution for the mentally retarded with the approval of the director to provide habilitation and care for residents of the institution.

(C) "Comprehensive evaluation" means a study, including a sequence of observations and examinations, of a person leading to conclusions and recommendations formulated jointly, with dissenting opinions if any, by a group of persons with special training and experience in the diagnosis and management of persons with mental retardation or a developmental disability, which group shall include individuals who are professionally qualified in the fields of medicine, psychology, and social work, together with such other specialists as the individual case may require.

(D) "Education" means the process of formal training and instruction to facilitate the intellectual and emotional development of residents.

(E) "Habilitation" means the process by which the staff of the institution assists the resident in acquiring and maintaining those life skills that enable the resident to cope more effectively with the demands of the resident's own person and of the resident's environment and in raising the level of the resident's physical, mental, social, and vocational efficiency. Habilitation includes but is not limited to programs of formal, structured education and training.

~~(F) "Habilitation center services" means services provided by a habilitation center certified by the department of mental retardation and developmental disabilities under section 5123.041 of the Revised Code and~~

~~covered by the medicaid program pursuant to rules adopted under section 5111.041 of the Revised Code.~~

~~(G)~~ "Health officer" means any public health physician, public health nurse, or other person authorized or designated by a city or general health district.

~~(H)~~(G) "Home and community-based services" means medicaid-funded home and community-based services specified in division (B)(1) of section 5111.87 of the Revised Code provided under the medicaid waiver components the department of mental retardation and developmental disabilities administers pursuant to section 5111.871 of the Revised Code.

~~(H)~~(H) "Indigent person" means a person who is unable, without substantial financial hardship, to provide for the payment of an attorney and for other necessary expenses of legal representation, including expert testimony.

~~(I)~~(I) "Institution" means a public or private facility, or a part of a public or private facility, that is licensed by the appropriate state department and is equipped to provide residential habilitation, care, and treatment for the mentally retarded.

~~(K)~~(J) "Licensed physician" means a person who holds a valid certificate issued under Chapter 4731. of the Revised Code authorizing the person to practice medicine and surgery or osteopathic medicine and surgery, or a medical officer of the government of the United States while in the performance of the officer's official duties.

~~(L)~~(K) "Managing officer" means a person who is appointed by the director of mental retardation and developmental disabilities to be in executive control of an institution for the mentally retarded under the jurisdiction of the department.

~~(M)~~(L) "Medicaid" has the same meaning as in section 5111.01 of the Revised Code.

~~(N)~~(M) "Medicaid case management services" means case management services provided to an individual with mental retardation or other developmental disability that the state medicaid plan requires.

~~(O)~~(N) "Mentally retarded person" means a person having significantly subaverage general intellectual functioning existing concurrently with deficiencies in adaptive behavior, manifested during the developmental period.

~~(P)~~(O) "Mentally retarded person subject to institutionalization by court order" means a person eighteen years of age or older who is at least moderately mentally retarded and in relation to whom, because of the person's retardation, either of the following conditions exist:

(1) The person represents a very substantial risk of physical impairment or injury to self as manifested by evidence that the person is unable to provide for and is not providing for the person's most basic physical needs and that provision for those needs is not available in the community;

(2) The person needs and is susceptible to significant habilitation in an institution.

~~(Q)~~(P) "A person who is at least moderately mentally retarded" means a person who is found, following a comprehensive evaluation, to be impaired in adaptive behavior to a moderate degree and to be functioning at the moderate level of intellectual functioning in accordance with standard measurements as recorded in the most current revision of the manual of terminology and classification in mental retardation published by the American association on mental retardation.

~~(R)~~(Q) As used in this division, "substantial functional limitation," "developmental delay," and "established risk" have the meanings established pursuant to section 5123.011 of the Revised Code.

"Developmental disability" means a severe, chronic disability that is characterized by all of the following:

(1) It is attributable to a mental or physical impairment or a combination of mental and physical impairments, other than a mental or physical impairment solely caused by mental illness as defined in division (A) of section 5122.01 of the Revised Code.

(2) It is manifested before age twenty-two.

(3) It is likely to continue indefinitely.

(4) It results in one of the following:

(a) In the case of a person under three years of age, at least one developmental delay or an established risk;

(b) In the case of a person at least three years of age but under six years of age, at least two developmental delays or an established risk;

(c) In the case of a person six years of age or older, a substantial functional limitation in at least three of the following areas of major life activity, as appropriate for the person's age: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and, if the person is at least sixteen years of age, capacity for economic self-sufficiency.

(5) It causes the person to need a combination and sequence of special, interdisciplinary, or other type of care, treatment, or provision of services for an extended period of time that is individually planned and coordinated for the person.

~~(S)~~(R) "Developmentally disabled person" means a person with a

developmental disability.

~~(T)~~(S) "State institution" means an institution that is tax-supported and under the jurisdiction of the department.

~~(U)~~(T) "Residence" and "legal residence" have the same meaning as "legal settlement," which is acquired by residing in Ohio for a period of one year without receiving general assistance prior to July 17, 1995, under former Chapter 5113. of the Revised Code, financial assistance under Chapter 5115. of the Revised Code, or assistance from a private agency that maintains records of assistance given. A person having a legal settlement in the state shall be considered as having legal settlement in the assistance area in which the person resides. No adult person coming into this state and having a spouse or minor children residing in another state shall obtain a legal settlement in this state as long as the spouse or minor children are receiving public assistance, care, or support at the expense of the other state or its subdivisions. For the purpose of determining the legal settlement of a person who is living in a public or private institution or in a home subject to licensing by the department of job and family services, the department of mental health, or the department of mental retardation and developmental disabilities, the residence of the person shall be considered as though the person were residing in the county in which the person was living prior to the person's entrance into the institution or home. Settlement once acquired shall continue until a person has been continuously absent from Ohio for a period of one year or has acquired a legal residence in another state. A woman who marries a man with legal settlement in any county immediately acquires the settlement of her husband. The legal settlement of a minor is that of the parents, surviving parent, sole parent, parent who is designated the residential parent and legal custodian by a court, other adult having permanent custody awarded by a court, or guardian of the person of the minor, provided that:

(1) A minor female who marries shall be considered to have the legal settlement of her husband and, in the case of death of her husband or divorce, she shall not thereby lose her legal settlement obtained by the marriage.

(2) A minor male who marries, establishes a home, and who has resided in this state for one year without receiving general assistance prior to July 17, 1995, under former Chapter 5113. of the Revised Code, financial assistance under Chapter 5115. of the Revised Code, or assistance from a private agency that maintains records of assistance given shall be considered to have obtained a legal settlement in this state.

(3) The legal settlement of a child under eighteen years of age who is in

the care or custody of a public or private child caring agency shall not change if the legal settlement of the parent changes until after the child has been in the home of the parent for a period of one year.

No person, adult or minor, may establish a legal settlement in this state for the purpose of gaining admission to any state institution.

~~(V)~~(U)(1) "Resident" means, subject to division (R)(2) of this section, a person who is admitted either voluntarily or involuntarily to an institution or other facility pursuant to section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code subsequent to a finding of not guilty by reason of insanity or incompetence to stand trial or under this chapter who is under observation or receiving habilitation and care in an institution.

(2) "Resident" does not include a person admitted to an institution or other facility under section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code to the extent that the reference in this chapter to resident, or the context in which the reference occurs, is in conflict with any provision of sections 2945.37 to 2945.402 of the Revised Code.

~~(W)~~(V) "Respondent" means the person whose detention, commitment, or continued commitment is being sought in any proceeding under this chapter.

~~(X)~~(W) "Working day" and "court day" mean Monday, Tuesday, Wednesday, Thursday, and Friday, except when such day is a legal holiday.

~~(Y)~~(X) "Prosecutor" means the prosecuting attorney, village solicitor, city director of law, or similar chief legal officer who prosecuted a criminal case in which a person was found not guilty by reason of insanity, who would have had the authority to prosecute a criminal case against a person if the person had not been found incompetent to stand trial, or who prosecuted a case in which a person was found guilty.

~~(Z)~~(Y) "Court" means the probate division of the court of common pleas.

Sec. 5123.045. ~~(A)~~ No person or government entity shall receive payment for providing home and community-based services unless the person or government entity is one of the following:

~~(1)~~(A) Certified under this section 5123.16 of the Revised Code;

~~(2)~~ Certified as a supported living provider under section ~~5126.431~~ of the Revised Code;

~~(3)~~(B) Licensed as a residential facility under section 5123.19 of the Revised Code. ~~Division (A)(3) of this section does not apply to an intermediate care facility for the mentally retarded as defined in section 5111.20 of the Revised Code.~~

~~(B)~~ The department of mental retardation and developmental disabilities

~~shall do all of the following in accordance with Chapter 119. of the Revised Code:~~

~~(1) Certify a person or government entity to provide home and community-based services if the person or government entity satisfies the requirements for certification established by rules adopted under division (C) of this section;~~

~~(2) Revoke a certificate when required to do so by rules adopted under division (C) of this section;~~

~~(3) Hold hearings when there is a dispute between the department and a person or government entity concerning actions the department takes or does not take under division (B)(1) or (2) of this section.~~

~~(C) The director of mental retardation and developmental disabilities shall adopt rules in accordance with Chapter 119. of the Revised Code establishing certification requirements and procedures for a person or government entity that seeks to provide home and community-based services and is not certified as a supported living provider under section 5126.431 of the Revised Code or licensed as a residential facility under section 5123.19 of the Revised Code. The rules shall specify the program areas for which certification is required and include procedures for all of the following:~~

~~(1) Ensuring that providers comply with section 5126.28 or 5126.281 of the Revised Code, as appropriate;~~

~~(2) Evaluating the services provided to ensure that they are provided in a quality manner advantageous to the individual receiving the services. The procedures shall require that all of the following be considered as part of an evaluation:~~

~~(a) The provider's experience and financial responsibility;~~

~~(b) The provider's ability to comply with standards for the home and community-based services that the provider provides;~~

~~(c) The provider's ability to meet the needs of the individuals served;~~

~~(d) Any other factor the director considers relevant.~~

~~(3) Determining when to revoke a provider's certificate. The reasons for which a certificate may be revoked may include good cause, including misfeasance, malfeasance, nonfeasance, confirmed abuse or neglect, financial irresponsibility, or other conduct the director determines is injurious to individuals being served.~~

~~(D) The records of an evaluation conducted in accordance with rules adopted under division (C)(2) of this section are public records for purposes of section 149.43 of the Revised Code and shall be made available on request of any person, including individuals being served, individuals~~



~~seeking home and community-based services, and county boards of mental retardation and developmental disabilities.~~

Sec. 5123.046. The department of mental retardation and developmental disabilities shall review each component of the three-calendar year plan it receives from a county board of mental retardation and developmental disabilities under section 5126.054 of the Revised Code and, in consultation with the department of job and family services and office of budget and management, approve each component that includes all the information and conditions specified in that section. The fourth component of the plan shall be approved or disapproved not later than forty-five days after the fourth component is submitted to the department under division (B)(3) of section 5126.054 of the Revised Code. If the department approves all four components of the plan, the plan is approved. Otherwise, the plan is disapproved. If the plan is disapproved, the department shall take action against the county board under division (B) of section 5126.056 of the Revised Code.

In approving plans under this section, the department shall ensure that the aggregate of all plans provide for the increased enrollment into home and community-based services during each state fiscal year of at least five hundred individuals who did not receive residential services, supported living, or home and community-based services the prior state fiscal year if the department has enough additional enrollment available for this purpose.

The department shall establish protocols that the department shall use to determine whether a county board is complying with the programmatic and financial accountability mechanisms and achieving outcomes specified in its approved plan. If the department determines that a county board is not in compliance with the mechanisms or achieving the outcomes specified in its approved plan, the department may take action under division ~~(G)~~(F) of section 5126.055 of the Revised Code.

Sec. 5123.047. (A) ~~The department of mental retardation and developmental disabilities shall pay the nonfederal share of medicaid expenditures for habilitation center services provided to an individual with mental retardation or other developmental disability unless section 5111.041 of the Revised Code requires a county board of mental retardation and developmental disabilities or a school district to pay the nonfederal share.~~

~~(B)~~ The department of mental retardation and developmental disabilities shall pay the nonfederal share of medicaid expenditures for medicaid case management services if ~~either of the following apply:~~

~~(1)~~ The the services are provided to an individual with mental retardation or other developmental disability who a county board of mental

retardation and developmental disabilities has determined under section 5126.041 of the Revised Code is not eligible for county board services;

~~(2) The services are provided to an individual with mental retardation or other developmental disability by a public or private agency with which the department has contracted under section 5123.56 of the Revised Code to provide protective services to the individual.~~

~~(C)~~(B) The department shall pay the nonfederal share of medicaid expenditures for home and community-based services if ~~either~~ any of the following apply:

(1) The services are provided to an individual with mental retardation or other developmental disability who a county board has determined under section 5126.041 of the Revised Code is not eligible for county board services;

(2) The services are provided to an individual with mental retardation or other developmental disability given priority for the services pursuant to division (D)(3) of section 5126.042 of the Revised Code. The department shall pay the nonfederal share of medicaid expenditures for home and community-based services provided to such an individual for as long as the individual continues to be eligible for and receive the services, regardless of whether the services are provided after June 30, 2003.

(3) An agreement entered into under section 5123.048 of the Revised Code requires that the department pay the nonfederal share of medicaid expenditures for the services.

Sec. 5123.048. The director of mental retardation and developmental disabilities may enter into an agreement with a county board of mental retardation and developmental disabilities under which the department of mental retardation and developmental disabilities is to pay the nonfederal share of medicaid expenditures for home and community-based services provided to individuals with mental retardation or other developmental disability residing in the county served by the county board.

Sec. 5123.049. The director of mental retardation and developmental disabilities shall adopt rules in accordance with Chapter 119. of the Revised Code governing the authorization and payment of home and community-based services; and medicaid case management services; ~~and habilitation center services.~~ The rules shall provide for private providers of the services to receive one hundred per cent of the medicaid allowable payment amount and for government providers of the services to receive the federal share of the medicaid allowable payment, less the amount withheld as a fee under section 5123.0412 of the Revised Code and any amount that may be required by rules adopted under section 5123.0413 of the Revised

Code to be deposited into the state MR/DD risk fund. The rules shall establish the process by which county boards of mental retardation and developmental disabilities shall certify and provide the nonfederal share of medicaid expenditures that the county board is required by division (A) of section 5126.057 of the Revised Code to pay. The process shall require a county board to certify that the county board has funding available at one time for two months costs for those expenditures. The process may permit a county board to certify that the county board has funding available at one time for more than two months costs for those expenditures.

Sec. 5123.0412. (A) The department of mental retardation and developmental disabilities shall charge each county board of mental retardation and developmental disabilities an annual fee equal to one and one-half per cent of the total value of all medicaid paid claims for medicaid case management services and home and community-based services ~~for which the county board contracts or provides itself~~ provided during the year to an individual eligible for services from the county board. No county board shall pass the cost of a fee charged to the county board under this section on to ~~a person or government entity with which the county board contracts to provide the~~ another provider of these services.

(B) The fees collected under this section shall be deposited into the ODMR/DD administration and oversight fund and the ODJFS administration and oversight fund, both of which are hereby created in the state treasury. The portion of the fees to be deposited into the ODMR/DD administration and oversight fund and the portion of the fees to be deposited into the ODJFS administration and oversight fund shall be the portion specified in an interagency agreement entered into under division (C) of this section. The department of mental retardation and developmental disabilities shall use the money in the ODMR/DD administration and oversight fund and the department of job and family services shall use the money in the ODJFS administration and oversight fund for both of the following purposes:

(1) The administrative and oversight costs of ~~habilitation center services;~~ medicaid case management services; and home and community-based services ~~that a county board develops and monitors and the county board or a person or government entity under contract with the county board provides~~. The administrative and oversight costs shall include costs for staff, systems, and other resources the departments need and dedicate solely to the following duties associated with the services:

- (a) Eligibility determinations;
- (b) Training;

- (c) Fiscal management;
- (d) Claims processing;
- (e) Quality assurance oversight;
- (f) Other duties the departments identify.

(2) Providing technical support to county boards' local administrative authority under section 5126.055 of the Revised Code for the services.

(C) The departments of mental retardation and developmental disabilities and job and family services shall enter into an interagency agreement to do both of the following:

(1) Specify which portion of the fees collected under this section is to be deposited into the ODMR/DD administration and oversight fund and which portion is to be deposited into the ODJFS administration and oversight fund;

(2) Provide for the departments to coordinate the staff whose costs are paid for with money in the ODMR/DD administration and oversight fund and the ODJFS administration and oversight fund.

(D) The departments shall submit an annual report to the director of budget and management certifying how the departments spent the money in the ODMR/DD administration and oversight fund and the ODJFS administration and oversight fund for the purposes specified in division (B) of this section.

Sec. 5123.16. (A) In accordance with Chapter 119. of the Revised Code, the director of mental retardation and developmental disabilities shall adopt and may amend and rescind rules for the certification of persons or government entities as described in division (A) of section 5123.045 of the Revised Code that provide or propose to provide home and community-based waiver services. The rules shall establish or specify all of the following:

(1) Procedures for issuing and renewing certification and establishing expiration dates for currently certified providers;

(2) Procedures and criteria for denying, refusing to renew, terminating, and revoking certification in accordance with this section and Chapter 119. of the Revised Code;

(3) Procedures for ordering the suspension of a certified provider's certification;

(4) Fees for issuing and renewing certification. All fees collected pursuant to this section shall be deposited in the state treasury to the credit of the provider certification fund, which is hereby created. Money credited to the fund shall be used solely for the operation of the provider certification program established under this section.

(5) Program services for which certification is required and provider

standards for those services;

(6) Procedures for certification;

(7) Procedures for ensuring that providers comply with sections 5123.52 and 5126.281 of the Revised Code.

(B) A provider's certification may be terminated when the certified provider has not billed for services for a period of more than twelve consecutive months and the provider has been notified in accordance with Chapter 119. of the Revised Code.

(C) The director may suspend or revoke a provider's certification in accordance with Chapter 119. of the Revised Code for good cause, including misfeasance, malfeasance, nonfeasance, confirmed abuse or neglect, noncompliance with provider certification standards, financial irresponsibility, or other conduct the department determines is injurious to individuals being served.

(D)(1) The director may suspend a certified provider's certification to serve one or more individuals currently served by the provider in one or more counties before providing an opportunity for an adjudication under Chapter 119. of the Revised Code when the director determines that the certified provider has demonstrated a pattern of serious noncompliance with certification standards or that a violation of certification standards creates a substantial risk to the health and safety of an individual served by the certified provider and both the following conditions are met:

(a) The individual or guardian, as appropriate, has been made aware of the patterns of serious noncompliance or violations of certification standards that create a substantial risk to the health and safety of the individual, and the individual or guardian does not choose to select another certified provider; and

(b) A county board of mental retardation and developmental disabilities has filed a complaint with the probate court in accordance with section 5126.33 of the Revised Code and the probate court does not issue an order authorizing the board to arrange protective services for the individual.

(2) The director may suspend a certified provider's certification to begin to serve one or more individuals not currently being served by the provider in one or more counties before providing an opportunity for an adjudication under Chapter 119. of the Revised Code when the director determines that the certified provider has demonstrated a pattern of serious noncompliance with certification standards or that a violation of certification standards creates a substantial risk to the health and safety of an individual served by the certified provider.

(3) Except as provided in division (D)(4) of this section, appeals from

proceedings initiated to terminate a provider's certification under division (B) of this section or to suspend or revoke a provider's certification under division (C) of this section shall be conducted in accordance with Chapter 119. of the Revised Code.

(4) Appeals from proceedings initiated to order the suspension of a certified provider's certification shall be conducted in accordance with Chapter 119. of the Revised Code, unless the order was issued before providing an opportunity for an adjudication, in which case all of the following apply:

(a) The department shall notify the certified provider within twenty-four hours of ordering of the suspension.

(b) The certified provider may request a hearing not later than ten days after receiving the notice specified in section 119.07 of the Revised Code.

(c) If a timely request for a hearing is made, the hearing shall commence not later than thirty days after the department receives the request.

(d) After commencing, the hearing shall continue, uninterrupted, except for Saturdays, Sundays, and legal holidays, unless other interruptions are agreed to by the provider and the director.

(e) If the hearing is conducted by a hearing examiner, the hearing examiner shall file a report and recommendations not later than ten days after the close of the hearing. For purposes of division (D)(4)(d) of this section, the hearing shall not be considering closed until the hearing examiner receives the transcript of the hearing, if a transcript is ordered, and all post-hearing briefs, if any, are timely filed.

(f) A copy of such written report and recommendations of the hearing examiner shall, within five days of the date of the filing thereof, be served upon the provider or the provider's attorney, by certified mail.

(g) The provider may file objections to the report and recommendations not later than five days after the receipt of the report and recommendations.

(h) No recommendation of the hearing examiner shall be approved, modified, or disapproved by the department until five days after service of the hearing examiner's report and recommendations upon the provider or the provider's attorney.

(i) Not later than fifteen days after the service of such report and recommendations of the hearing examiner upon the provider or the provider's attorney, the director shall issue an order approving, modifying, or disapproving the report and recommendation.

(j) The order shall be lifted when the provider has submitted an acceptable plan of compliance and the department determines the plan of compliance has been appropriately implemented.

(k) Following the issuance of an adjudication order by the director, the provider may appeal the order in accordance with section 119.12 of the Revised Code.

(l) Notwithstanding the pendency of the hearing, the director shall lift the order for the suspension of the certified provider's certification under division (D)(1) or (D)(2) of this section when the director determines that the violation that formed the basis for the order has been corrected. The hearing shall continue unless the provider withdraws, in writing, the appeal of the department's suspension.

(E) All applicants for or holders of certification under this section shall maintain a current address with the director at all times.

(F) An applicant whose certification has been denied in accordance with this section may not apply to become a certified provider within one year of the date of the applicant's denial of certification. A certified provider whose certification has been revoked in accordance with this section may not apply for certification within five years of the revocation of the certified provider's certification.

(G) The records of surveys of providers conducted in accordance with this section are public records for purposes of section 149.43 of the Revised Code and shall be made available upon request of any person, including individuals being served, individuals seeking home and community-based services, and county boards of mental retardation and developmental disabilities.

(H) The certification of a provider that is certified to provide home and community-based services on the effective date of this section shall remain in effect until the department establishes an expiration date for the certification unless the certification is voluntarily surrendered or terminated, suspended or revoked in accordance with this section.

(I) As used in this section, "home and community-based services" has the same meaning as in section 5126.01 of the Revised Code.

(J) The director of mental retardation and developmental disabilities shall not apply any provisions of sections 5126.40 to 5126.47 of the Revised Code to any provider of home and community-based services certified under this section.

Sec. 5123.34. This chapter attempts to do all of the following:

(A) Provide humane and scientific treatment and care and the highest attainable degree of individual development for persons with mental retardation or a developmental disability;

(B) Promote the study of the causes of mental retardation and developmental disabilities, with a view to ultimate prevention;

(C) Secure by uniform and systematic management the highest attainable degree of economy in the administration of the institutions under the control of the department of mental retardation and developmental disabilities.

Sections 5123.02 to 5123.04, ~~5123.041 to 5123.042~~, 5123.043, 5123.10, 5123.21, 5123.221, 5123.25, and 5123.31 of the Revised Code shall be liberally construed to attain these purposes.

Sec. 5123.41. As used in this section and sections 5123.42 to 5123.47 of the Revised Code:

(A) "Adult services" has the same meaning as in section 5126.01 of the Revised Code.

(B) "Certified home and community-based services provider" means a person or government entity certified under section ~~5123.045~~ 5123.16 of the Revised Code.

(C) "Certified supported living provider" means a person or government entity certified under section 5126.431 of the Revised Code.

(D) "Drug" has the same meaning as in section 4729.01 of the Revised Code.

(E) "Family support services" has the same meaning as in section 5126.01 of the Revised Code.

(F) "Health-related activities" means the following:

- (1) Taking vital signs;
- (2) Application of clean dressings that do not require health assessment;
- (3) Basic measurement of bodily intake and output;
- (4) Oral suctioning;
- (5) Use of glucometers;
- (6) External urinary catheter care;
- (7) Emptying and replacing colostomy bags;
- (8) Collection of specimens by noninvasive means.

(G) "Licensed health professional authorized to prescribe drugs" has the same meaning as in section 4729.01 of the Revised Code.

(H) "Medicaid" has the same meaning as in section 5111.01 of the Revised Code.

(I) "MR/DD personnel" means the employees and the workers under contract who provide specialized services to individuals with mental retardation and developmental disabilities. "MR/DD personnel" includes those who provide the services as follows:

- (1) Through direct employment with the department of mental retardation and developmental disabilities or a county board of mental retardation and developmental disabilities;



(2) Through an entity under contract with the department of mental retardation and developmental disabilities or a county board of mental retardation and developmental disabilities;

(3) Through direct employment or by being under contract with private entities, including private entities that operate residential facilities.

(J) "Nursing delegation" means the process established in rules adopted by the board of nursing pursuant to Chapter 4723. of the Revised Code under which a registered nurse or licensed practical nurse acting at the direction of a registered nurse transfers the performance of a particular nursing activity or task to another person who is not otherwise authorized to perform the activity or task.

(K) "Prescribed medication" means a drug that is to be administered according to the instructions of a licensed health professional authorized to prescribe drugs.

(L) "Residential facility" means a facility licensed under section 5123.19 of the Revised Code or subject to section 5123.192 of the Revised Code.

(M) "Specialized services" has the same meaning as in section 5123.50 of the Revised Code.

(N) "Tube feeding" means the provision of nutrition to an individual through a gastrostomy tube or a jejunostomy tube.

Sec. 5123.701. (A) Except as provided in division (E) of this section, any person in the community who is eighteen years of age or older and who is or believes self to be mentally retarded may make written application to the managing officer of any institution for temporary admission for short-term care. The application may be made on behalf of a minor by a parent or guardian, and on behalf of an adult adjudicated mentally incompetent by a guardian.

(B) For purposes of this section, short-term care shall be defined to mean appropriate services provided to a person with mental retardation for no more than fourteen consecutive days and for no more than forty-two days in a fiscal year. When circumstances warrant, the fourteen-day period may be extended at the discretion of the managing officer. Short-term care is provided in a developmental center to meet the family's or caretaker's needs for separation from the person with mental retardation.

(C) The managing officer of an institution, with the concurrence of the chief program director, may admit a person for short-term care only after a medical examination has been made of the person and only if the managing officer concludes that the person is mentally retarded.

(D) If application for admission for short-term care of a minor or of a

person adjudicated mentally incompetent is made by the minor's parent or guardian or by the incompetent's guardian and the minor or incompetent is admitted, the probate division of the court of common pleas shall determine, upon petition by the legal rights service, whether the admission for short-term care is in the best interest of the minor or the incompetent.

(E) A person who is found not guilty by reason of insanity shall not admit self to an institution for short-term care unless a hearing was held regarding the person pursuant to division (A) of section 2945.40 of the Revised Code and either of the following applies:

(1) The person was found at the hearing not to be a mentally retarded person subject to institutionalization by court order;

(2) The person was found at the hearing to be a mentally retarded person subject to institutionalization by court order, was involuntarily committed, and was finally discharged.

(F) The mentally retarded person, liable relatives, and guardians of mentally retarded persons admitted for respite care shall pay support charges in accordance with sections ~~5121.03~~ 5121.01 to ~~5121.07~~ 5121.21 of the Revised Code.

(G) At the conclusion of each period of short-term care, the person shall return to the person's family or caretaker. Under no circumstances shall a person admitted for short-term care according to this section remain in the institution after the period of short-term care unless the person is admitted according to section 5123.70, sections 5123.71 to 5123.76, or section 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code.

Sec. 5123.71. (A)(1) Proceedings for the involuntary institutionalization of a person pursuant to sections 5123.71 to 5123.76 of the Revised Code shall be commenced by the filing of an affidavit with the probate division of the court of common pleas of the county where the person resides or where the person is institutionalized, in the manner and form prescribed by the department of mental retardation and developmental disabilities either on information or actual knowledge, whichever is determined to be proper by the court. The affidavit may be filed only by a person who has custody of the individual as a parent, guardian, or service provider or by a person acting on behalf of the department or a county board of mental retardation and developmental disabilities. This section does not apply regarding the institutionalization of a person pursuant to section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code.

The affidavit shall contain an allegation setting forth the specific category or categories under division ~~(P)~~(O) of section 5123.01 of the Revised Code upon which the commencement of proceedings is based and a

statement of the factual ground for the belief that the person is a mentally retarded person subject to institutionalization by court order. Except as provided in division (A)(2) of this section, the affidavit shall be accompanied by both of the following:

(a) A comprehensive evaluation report prepared by the person's evaluation team that includes a statement by the members of the team certifying that they have performed a comprehensive evaluation of the person and that they are of the opinion that the person is a mentally retarded person subject to institutionalization by court order;

(b) An assessment report prepared by the county board of mental retardation and developmental disabilities under section 5123.711 of the Revised Code specifying that the individual is in need of services on an emergency or priority basis.

(2) In lieu of the comprehensive evaluation report, the affidavit may be accompanied by a written and sworn statement that the person or the guardian of a person adjudicated incompetent has refused to allow a comprehensive evaluation and county board assessment and assessment reports. Immediately after accepting an affidavit that is not accompanied by the reports of a comprehensive evaluation and county board assessment, the court shall cause a comprehensive evaluation and county board assessment of the person named in the affidavit to be performed. The evaluation shall be conducted in the least restrictive environment possible and the assessment shall be conducted in the same manner as assessments conducted under section 5123.711 of the Revised Code. The evaluation and assessment must be completed before a probable cause hearing or full hearing may be held under section 5123.75 or 5123.76 of the Revised Code.

A written report of the evaluation team's findings and the county board's assessment shall be filed with the court. The reports shall, consistent with the rules of evidence, be accepted as probative evidence in any proceeding under section 5123.75 or 5123.76 of the Revised Code. If the counsel for the person who is evaluated or assessed is known, the court shall send to the counsel a copy of the reports as soon as possible after they are filed and prior to any proceedings under section 5123.75 or 5123.76 of the Revised Code.

(B) Any person who is involuntarily detained in an institution or otherwise is in custody under this chapter shall be informed of the right to do the following:

(1) Immediately make a reasonable number of telephone calls or use other reasonable means to contact an attorney, a physician, or both, to contact any other person or persons to secure representation by counsel, or

to obtain medical assistance, and be provided assistance in making calls if the assistance is needed and requested;

(2) Retain counsel and have independent expert evaluation and, if the person is an indigent person, be represented by court-appointed counsel and have independent expert evaluation at court expense;

(3) Upon request, have a hearing to determine whether there is probable cause to believe that the person is a mentally retarded person subject to institutionalization by court order.

(C) No person who is being treated by spiritual means through prayer alone in accordance with a recognized religious method of healing may be ordered detained or involuntarily committed unless the court has determined that the person represents a very substantial risk of self-impairment, self-injury, or impairment or injury to others.

Sec. 5123.76. (A) The full hearing shall be conducted in a manner consistent with the procedures outlined in this chapter and with due process of law. The hearing shall be held by a judge of the probate division or, upon transfer by the judge of the probate division, by another judge of the court of common pleas, or a referee designated by the judge of the probate division. Any referee designated by the judge of the probate division must be an attorney.

(1) The following shall be made available to counsel for the respondent:

(a) All relevant documents, information, and evidence in the custody or control of the state or prosecutor;

(b) All relevant documents, information, and evidence in the custody or control of the institution, facility, or program in which the respondent currently is held or in which the respondent has been held pursuant to these proceedings;

(c) With the consent of the respondent, all relevant documents, information, and evidence in the custody or control of any institution or person other than the state.

(2) The respondent has the right to be represented by counsel of the respondent's choice and has the right to attend the hearing except if unusual circumstances of compelling medical necessity exist that render the respondent unable to attend and the respondent has not expressed a desire to attend.

(3) If the respondent is not represented by counsel and the court determines that the conditions specified in division (A)(2) of this section justify the respondent's absence and the right to counsel has not been validly waived, the court shall appoint counsel forthwith to represent the respondent at the hearing, reserving the right to tax costs of appointed counsel to the

respondent unless it is shown that the respondent is indigent. If the court appoints counsel, or if the court determines that the evidence relevant to the respondent's absence does not justify the absence, the court shall continue the case.

(4) The respondent shall be informed of the right to retain counsel, to have independent expert evaluation, and, if an indigent person, to be represented by court appointed counsel and have expert independent evaluation at court expense.

(5) The hearing may be closed to the public unless counsel for the respondent requests that the hearing be open to the public.

(6) Unless objected to by the respondent, the respondent's counsel, or the designee of the director of mental retardation and developmental disabilities, the court, for good cause shown, may admit persons having a legitimate interest in the proceedings.

(7) The affiant under section 5123.71 of the Revised Code shall be subject to subpoena by either party.

(8) The court shall examine the sufficiency of all documents filed and shall inform the respondent, if present, and the respondent's counsel of the nature of the content of the documents and the reason for which the respondent is being held or for which the respondent's placement is being sought.

(9) The court shall receive only relevant, competent, and material evidence.

(10) The designee of the director shall present the evidence for the state. In proceedings under this chapter, the attorney general shall present the comprehensive evaluation, assessment, diagnosis, prognosis, record of habilitation and care, if any, and less restrictive habilitation plans, if any. The attorney general does not have a similar presentation responsibility in connection with a person who has been found not guilty by reason of insanity and who is the subject of a hearing under section 2945.40 of the Revised Code to determine whether the person is a mentally retarded person subject to institutionalization by court order.

(11) The respondent has the right to testify and the respondent or the respondent's counsel has the right to subpoena witnesses and documents and to present and cross-examine witnesses.

(12) The respondent shall not be compelled to testify and shall be so advised by the court.

(13) On motion of the respondent or the respondent's counsel for good cause shown, or upon the court's own motion, the court may order a continuance of the hearing.

(14) To an extent not inconsistent with this chapter, the Rules of Civil Procedure shall be applicable.

(B) Unless, upon completion of the hearing, the court finds by clear and convincing evidence that the respondent named in the affidavit is a mentally retarded person subject to institutionalization by court order, it shall order the respondent's discharge forthwith.

(C) If, upon completion of the hearing, the court finds by clear and convincing evidence that the respondent is a mentally retarded person subject to institutionalization by court order, the court may order the respondent's discharge or order the respondent, for a period not to exceed ninety days, to any of the following:

(1) A public institution, provided that commitment of the respondent to the institution will not cause the institution to exceed its licensed capacity determined in accordance with section 5123.19 of the Revised Code and provided that such a placement is indicated by the comprehensive evaluation report filed pursuant to section 5123.71 of the Revised Code;

(2) A private institution;

(3) A county mental retardation program;

(4) Receive private habilitation and care;

(5) Any other suitable facility, program, or the care of any person consistent with the comprehensive evaluation, assessment, diagnosis, prognosis, and habilitation needs of the respondent.

(D) Any order made pursuant to division (C)(2), (4), or (5) of this section shall be conditional upon the receipt by the court of consent by the facility, program, or person to accept the respondent.

(E) In determining the place to which, or the person with whom, the respondent is to be committed, the court shall consider the comprehensive evaluation, assessment, diagnosis, and projected habilitation plan for the respondent, and shall order the implementation of the least restrictive alternative available and consistent with habilitation goals.

(F) If, at any time it is determined by the director of the facility or program to which, or the person to whom, the respondent is committed that the respondent could be equally well habilitated in a less restrictive environment that is available, the following shall occur:

(1) The respondent shall be released by the director of the facility or program or by the person forthwith and referred to the court together with a report of the findings and recommendations of the facility, program, or person.

(2) The director of the facility or program or the person shall notify the respondent's counsel and the designee of the director of mental retardation

and developmental disabilities.

(3) The court shall dismiss the case or order placement in the less restrictive environment.

(G)(1) Except as provided in divisions (G)(2) and (3) of this section, any person who has been committed under this section may apply at any time during the ninety-day period for voluntary admission to an institution under section 5123.69 of the Revised Code. Upon admission of a voluntary resident, the managing officer immediately shall notify the court, the respondent's counsel, and the designee of the director in writing of that fact by mail or otherwise, and, upon receipt of the notice, the court shall dismiss the case.

(2) A person who is found incompetent to stand trial or not guilty by reason of insanity and who is committed pursuant to section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code shall not be voluntarily admitted to an institution pursuant to division (G)(1) of this section until after the termination of the commitment, as described in division (J) of section 2945.401 of the Revised Code.

(H) If, at the end of any commitment period, the respondent has not already been discharged or has not requested voluntary admission status, the director of the facility or program, or the person to whose care the respondent has been committed, shall discharge the respondent forthwith, unless at least ten days before the expiration of that period the designee of the director of mental retardation and developmental disabilities or the prosecutor files an application with the court requesting continued commitment.

(1) An application for continued commitment shall include a written report containing a current comprehensive evaluation and assessment, a diagnosis, a prognosis, an account of progress and past habilitation, and a description of alternative habilitation settings and plans, including a habilitation setting that is the least restrictive setting consistent with the need for habilitation. A copy of the application shall be provided to respondent's counsel. The requirements for notice under section 5123.73 of the Revised Code and the provisions of divisions (A) to (E) of this section apply to all hearings on such applications.

(2) A hearing on the first application for continued commitment shall be held at the expiration of the first ninety-day period. The hearing shall be mandatory and may not be waived.

(3) Subsequent periods of commitment not to exceed one hundred eighty days each may be ordered by the court if the designee of the director of mental retardation and developmental disabilities files an application for

continued commitment, after a hearing is held on the application or without a hearing if no hearing is requested and no hearing required under division (H)(4) of this section is waived. Upon the application of a person involuntarily committed under this section, supported by an affidavit of a licensed physician alleging that the person is no longer a mentally retarded person subject to institutionalization by court order, the court for good cause shown may hold a full hearing on the person's continued commitment prior to the expiration of any subsequent period of commitment set by the court.

(4) A mandatory hearing shall be held at least every two years after the initial commitment.

(5) If the court, after a hearing upon a request to continue commitment, finds that the respondent is a mentally retarded person subject to institutionalization by court order, the court may make an order pursuant to divisions (C), (D), and (E) of this section.

(I) Notwithstanding the provisions of division (H) of this section, no person who is found to be a mentally retarded person subject to institutionalization by court order pursuant to division ~~(P)(O)~~(2) of section 5123.01 of the Revised Code shall be held under involuntary commitment for more than five years.

(J) The managing officer admitting a person pursuant to a judicial proceeding, within ten working days of the admission, shall make a report of the admission to the department.

Sec. 5126.01. As used in this chapter:

(A) As used in this division, "adult" means an individual who is eighteen years of age or over and not enrolled in a program or service under Chapter 3323. of the Revised Code and an individual sixteen or seventeen years of age who is eligible for adult services under rules adopted by the director of mental retardation and developmental disabilities pursuant to Chapter 119. of the Revised Code.

(1) "Adult services" means services provided to an adult outside the home, except when they are provided within the home according to an individual's assessed needs and identified in an individual service plan, that support learning and assistance in the area of self-care, sensory and motor development, socialization, daily living skills, communication, community living, social skills, or vocational skills.

(2) "Adult services" includes all of the following:

- (a) Adult day habilitation services;
- (b) Adult day care;
- (c) Prevocational services;
- (d) Sheltered employment;



(e) Educational experiences and training obtained through entities and activities that are not expressly intended for individuals with mental retardation and developmental disabilities, including trade schools, vocational or technical schools, adult education, job exploration and sampling, unpaid work experience in the community, volunteer activities, and spectator sports;

(f) Community employment services and supported employment services.

(B)(1) "Adult day habilitation services" means adult services that do the following:

(a) Provide access to and participation in typical activities and functions of community life that are desired and chosen by the general population, including such activities and functions as opportunities to experience and participate in community exploration, companionship with friends and peers, leisure activities, hobbies, maintaining family contacts, community events, and activities where individuals without disabilities are involved;

(b) Provide supports or a combination of training and supports that afford an individual a wide variety of opportunities to facilitate and build relationships and social supports in the community.

(2) "Adult day habilitation services" includes all of the following:

(a) Personal care services needed to ensure an individual's ability to experience and participate in vocational services, educational services, community activities, and any other adult day habilitation services;

(b) Skilled services provided while receiving adult day habilitation services, including such skilled services as behavior management intervention, occupational therapy, speech and language therapy, physical therapy, and nursing services;

(c) Training and education in self-determination designed to help the individual do one or more of the following: develop self-advocacy skills, exercise the individual's civil rights, acquire skills that enable the individual to exercise control and responsibility over the services received, and acquire skills that enable the individual to become more independent, integrated, or productive in the community;

(d) Recreational and leisure activities identified in the individual's service plan as therapeutic in nature or assistive in developing or maintaining social supports;

(e) Counseling and assistance provided to obtain housing, including such counseling as identifying options for either rental or purchase, identifying financial resources, assessing needs for environmental modifications, locating housing, and planning for ongoing management and

maintenance of the housing selected;

(f) Transportation necessary to access adult day habilitation services;

(g) Habilitation management, as described in section 5126.14 of the Revised Code.

(3) "Adult day habilitation services" does not include activities that are components of the provision of residential services, family support services, or supported living services.

(C) "Appointing authority" means the following:

(1) In the case of a member of a county board of mental retardation and developmental disabilities appointed by, or to be appointed by, a board of county commissioners, the board of county commissioners;

(2) In the case of a member of a county board appointed by, or to be appointed by, a senior probate judge, the senior probate judge.

(D) "Community employment services" or "supported employment services" means job training and other services related to employment outside a sheltered workshop. "Community employment services" or "supported employment services" include all of the following:

(1) Job training resulting in the attainment of competitive work, supported work in a typical work environment, or self-employment;

(2) Supervised work experience through an employer paid to provide the supervised work experience;

(3) Ongoing work in a competitive work environment at a wage commensurate with workers without disabilities;

(4) Ongoing supervision by an employer paid to provide the supervision.

(E) As used in this division, "substantial functional limitation," "developmental delay," and "established risk" have the meanings established pursuant to section 5123.011 of the Revised Code.

"Developmental disability" means a severe, chronic disability that is characterized by all of the following:

(1) It is attributable to a mental or physical impairment or a combination of mental and physical impairments, other than a mental or physical impairment solely caused by mental illness as defined in division (A) of section 5122.01 of the Revised Code;

(2) It is manifested before age twenty-two;

(3) It is likely to continue indefinitely;

(4) It results in one of the following:

(a) In the case of a person under age three, at least one developmental delay or an established risk;

(b) In the case of a person at least age three but under age six, at least

two developmental delays or an established risk;

(c) In the case of a person age six or older, a substantial functional limitation in at least three of the following areas of major life activity, as appropriate for the person's age: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and, if the person is at least age sixteen, capacity for economic self-sufficiency.

(5) It causes the person to need a combination and sequence of special, interdisciplinary, or other type of care, treatment, or provision of services for an extended period of time that is individually planned and coordinated for the person.

(F) "Early childhood services" means a planned program of habilitation designed to meet the needs of individuals with mental retardation or other developmental disabilities who have not attained compulsory school age.

(G)(1) "Environmental modifications" means the physical adaptations to an individual's home, specified in the individual's service plan, that are necessary to ensure the individual's health, safety, and welfare or that enable the individual to function with greater independence in the home, and without which the individual would require institutionalization.

(2) "Environmental modifications" includes such adaptations as installation of ramps and grab-bars, widening of doorways, modification of bathroom facilities, and installation of specialized electric and plumbing systems necessary to accommodate the individual's medical equipment and supplies.

(3) "Environmental modifications" does not include physical adaptations or improvements to the home that are of general utility or not of direct medical or remedial benefit to the individual, including such adaptations or improvements as carpeting, roof repair, and central air conditioning.

(H) "Family support services" means the services provided under a family support services program operated under section 5126.11 of the Revised Code.

(I) "Habilitation" means the process by which the staff of the facility or agency assists an individual with mental retardation or other developmental disability in acquiring and maintaining those life skills that enable the individual to cope more effectively with the demands of the individual's own person and environment, and in raising the level of the individual's personal, physical, mental, social, and vocational efficiency. Habilitation includes, but is not limited to, programs of formal, structured education and training.

~~(J) "Habilitation center services" means services provided by a habilitation center certified by the department of mental retardation and developmental disabilities under section 5123.041 of the Revised Code and covered by the medicaid program pursuant to rules adopted under section 5111.041 of the Revised Code.~~

~~(K)~~ "Home and community-based services" means medicaid-funded home and community-based services specified in division (B)(1) of section 5111.87 of the Revised Code and provided under the medicaid waiver components the department of mental retardation and developmental disabilities administers pursuant to section 5111.871 of the Revised Code.

~~(L)~~(K) "Immediate family" means parents, brothers, sisters, spouses, sons, daughters, mothers-in-law, fathers-in-law, brothers-in-law, sisters-in-law, sons-in-law, and daughters-in-law.

~~(M)~~(L) "Medicaid" has the same meaning as in section 5111.01 of the Revised Code.

~~(N)~~(M) "Medicaid case management services" means case management services provided to an individual with mental retardation or other developmental disability that the state medicaid plan requires.

~~(O)~~(N) "Mental retardation" means a mental impairment manifested during the developmental period characterized by significantly subaverage general intellectual functioning existing concurrently with deficiencies in the effectiveness or degree with which an individual meets the standards of personal independence and social responsibility expected of the individual's age and cultural group.

~~(P)~~(O) "Residential services" means services to individuals with mental retardation or other developmental disabilities to provide housing, food, clothing, habilitation, staff support, and related support services necessary for the health, safety, and welfare of the individuals and the advancement of their quality of life. "Residential services" includes program management, as described in section 5126.14 of the Revised Code.

~~(Q)~~(P) "Resources" means available capital and other assets, including moneys received from the federal, state, and local governments, private grants, and donations; appropriately qualified personnel; and appropriate capital facilities and equipment.

~~(R)~~(Q) "Senior probate judge" means the current probate judge of a county who has served as probate judge of that county longer than any of the other current probate judges of that county. If a county has only one probate judge, "senior probate judge" means that probate judge.

~~(S)~~(R) "Service and support administration" means the duties performed by a service and support administrator pursuant to section 5126.15 of the

Revised Code.

~~(F)~~(S)(1) "Specialized medical, adaptive, and assistive equipment, supplies, and supports" means equipment, supplies, and supports that enable an individual to increase the ability to perform activities of daily living or to perceive, control, or communicate within the environment.

(2) "Specialized medical, adaptive, and assistive equipment, supplies, and supports" includes the following:

(a) Eating utensils, adaptive feeding dishes, plate guards, mylatex straps, hand splints, reaches, feeder seats, adjustable pointer sticks, interpreter services, telecommunication devices for the deaf, computerized communications boards, other communication devices, support animals, veterinary care for support animals, adaptive beds, supine boards, prone boards, wedges, sand bags, sidelayers, bolsters, adaptive electrical switches, hand-held shower heads, air conditioners, humidifiers, emergency response systems, folding shopping carts, vehicle lifts, vehicle hand controls, other adaptations of vehicles for accessibility, and repair of the equipment received.

(b) Nondisposable items not covered by medicaid that are intended to assist an individual in activities of daily living or instrumental activities of daily living.

~~(U)~~(T) "Supportive home services" means a range of services to families of individuals with mental retardation or other developmental disabilities to develop and maintain increased acceptance and understanding of such persons, increased ability of family members to teach the person, better coordination between school and home, skills in performing specific therapeutic and management techniques, and ability to cope with specific situations.

~~(V)~~(U)(1) "Supported living" means services provided for as long as twenty-four hours a day to an individual with mental retardation or other developmental disability through any public or private resources, including moneys from the individual, that enhance the individual's reputation in community life and advance the individual's quality of life by doing the following:

(a) Providing the support necessary to enable an individual to live in a residence of the individual's choice, with any number of individuals who are not disabled, or with not more than three individuals with mental retardation and developmental disabilities unless the individuals are related by blood or marriage;

(b) Encouraging the individual's participation in the community;

(c) Promoting the individual's rights and autonomy;

(d) Assisting the individual in acquiring, retaining, and improving the skills and competence necessary to live successfully in the individual's residence.

(2) "Supported living" includes the provision of all of the following:

(a) Housing, food, clothing, habilitation, staff support, professional services, and any related support services necessary to ensure the health, safety, and welfare of the individual receiving the services;

(b) A combination of life-long or extended-duration supervision, training, and other services essential to daily living, including assessment and evaluation and assistance with the cost of training materials, transportation, fees, and supplies;

(c) Personal care services and homemaker services;

(d) Household maintenance that does not include modifications to the physical structure of the residence;

(e) Respite care services;

(f) Program management, as described in section 5126.14 of the Revised Code.

Sec. 5126.035. (A) As used in this section:

(1) "Provider" means a person or government entity that provides services to an individual with mental retardation or other developmental disability pursuant to a service contract.

(2) "Service contract" means a contract between a county board of mental retardation and developmental disabilities and a provider under which the provider is to provide services to an individual with mental retardation or other developmental disability.

(B) Each service contract that a county board of mental retardation and developmental disabilities enters into with a provider shall do ~~at~~ both of the following:

(1) ~~Comply with rules adopted under division (E) of this section;~~

(2) If the provider is to provide home and community-based services, or ~~or~~ ~~habilitation center services~~, ~~or~~ ~~comply with all applicable statewide medicaid requirements;~~

(2) Include a general operating agreement component and an individual service needs addendum.

(C) The general operating agreement component shall include all of the following:

(1) The roles and responsibilities of the county board regarding services for individuals with mental retardation or other developmental disability who reside in the county the county board serves;

(2) The roles and responsibilities of the provider as specified in the

individual service needs addendum;

(3) Procedures for the county board to monitor the provider's services;

(4) Procedures for the county board to evaluate the quality of care and cost effectiveness of the provider's services;

(5) Procedures for payment of eligible claims;

(6) If the provider is to provide home and community-based services, or medicaid case management services, ~~or habilitation center services~~, both of the following:

(a) Procedures for reimbursement that conform to the statewide reimbursement process and the county board's plan submitted under section 5126.054 of the Revised Code;

(b) Procedures that ensure that the county board pays the nonfederal share of the medicaid expenditures that the county board is required by division (A) of section 5126.057 of the Revised Code to pay.

(7) Procedures for the county board to perform service utilization reviews and the implementation of required corrective actions;

(8) Procedures for the provider to submit claims for payment for a service no later than three hundred thirty days after the date the service is provided;

(9) Procedures for rejecting claims for payment that are submitted after the time required by division ~~(B)(9)(C)~~(8) of this section;

(10) Procedures for developing, modifying, and executing initial and subsequent service plans. The procedures shall provide for the provider's participation.

(11) Procedures for affording individuals due process protections;

(12) General staffing, training, and certification requirements that are consistent with state requirements and compensation arrangements that are necessary to attract, train, and retain competent personnel to deliver the services pursuant to the individual service needs addendum;

(13) Methods to be used to document services provided and procedures for submitting reports the county board requires;

(14) Methods for authorizing and documenting within seventy-two hours changes to the individual service needs addendum. The methods shall allow for changes to be initially authorized verbally and subsequently in writing.

(15) Procedures for modifying the individual service needs addendum in accordance with changes to the recipient's individualized service plan;

(16) Procedures for terminating the individual service needs addendum within thirty days of a request made by the recipient;

(17) A requirement that all parties to the contract accept the contract's

terms and conditions;

(18) A designated contact person and the method of contacting the designated person to respond to medical or behavioral problems and allegations of major unusual incidents or unusual incidents;

(19) Procedures for ensuring the health and welfare of the recipient;

(20) Procedures for ensuring fiscal accountability and the collection and reporting of programmatic data;

(21) Procedures for implementing the mediation and arbitration process under section 5126.036 of the Revised Code;

(22) Procedures for amending or terminating the contract, including as necessary to make the general operating agreement component consistent with any changes made to the individual service needs addendum;

(23) Anything else allowable under federal and state law that the county board and provider agree to.

(D) The individual service needs addendum shall be consistent with the general operating agreement component and include all of the following:

(1) The name of the individual with mental retardation or other developmental disability who is to receive the services from the provider and any information about the recipient that the provider needs to be able to provide the services;

(2) A clear and complete description of the services that the recipient is to receive as determined using statewide assessment tools;

(3) A copy of the recipient's assessment and individualized service plan;

(4) A clear and complete description of the provider's responsibilities to the recipient and county board in providing appropriate services in a coordinated manner with other providers and in a manner that contributes to and ensures the recipient's health, safety, and welfare.

(E) ~~The director of mental retardation and developmental disabilities shall adopt rules in accordance with Chapter 119. of the Revised Code governing service contracts.~~ A service contract does not negate the requirement that a provider of home and community-based services, or medicaid case management services, ~~or habilitation center services~~ have a medicaid provider agreement with the department of job and family services.

Sec. 5126.042. (A) As used in this section, "emergency" means any situation that creates for an individual with mental retardation or developmental disabilities a risk of substantial self-harm or substantial harm to others if action is not taken within thirty days. An "emergency" may include one or more of the following situations:

(1) Loss of present residence for any reason, including legal action;



(2) Loss of present caretaker for any reason, including serious illness of the caretaker, change in the caretaker's status, or inability of the caretaker to perform effectively for the individual;

(3) Abuse, neglect, or exploitation of the individual;

(4) Health and safety conditions that pose a serious risk to the individual or others of immediate harm or death;

(5) Change in the emotional or physical condition of the individual that necessitates substantial accommodation that cannot be reasonably provided by the individual's existing caretaker.

(B) If a county board of mental retardation and developmental disabilities determines that available resources are not sufficient to meet the needs of all individuals who request programs and services and may be offered the programs and services, it shall establish waiting lists for services. The board may establish priorities for making placements on its waiting lists according to an individual's emergency status and shall establish priorities in accordance with divisions (D) and (E) of this section.

The individuals who may be placed on a waiting list include individuals with a need for services on an emergency basis and individuals who have requested services for which resources are not available.

Except for an individual who is to receive priority for services pursuant to division (D)(3) of this section, an individual who currently receives a service but would like to change to another service shall not be placed on a waiting list but shall be placed on a service substitution list. The board shall work with the individual, service providers, and all appropriate entities to facilitate the change in service as expeditiously as possible. The board may establish priorities for making placements on its service substitution lists according to an individual's emergency status.

In addition to maintaining waiting lists and service substitution lists, a board shall maintain a long-term service planning registry for individuals who wish to record their intention to request in the future a service they are not currently receiving. The purpose of the registry is to enable the board to document requests and to plan appropriately. The board may not place an individual on the registry who meets the conditions for receipt of services on an emergency basis.

(C) A county board shall establish a separate waiting list for each of the following categories of services, and may establish separate waiting lists within the waiting lists:

(1) Early childhood services;

(2) Educational programs for preschool and school age children;

(3) Adult services;

- (4) Service and support administration;
- (5) Residential services and supported living;
- (6) Transportation services;
- (7) Other services determined necessary and appropriate for persons with mental retardation or a developmental disability according to their individual habilitation or service plans;
- (8) Family support services provided under section 5126.11 of the Revised Code.

(D) Except as provided in division (G) of this section, a county board shall do, as priorities, all of the following in accordance with the assessment component, approved under section 5123.046 of the Revised Code, of the county board's plan developed under section 5126.054 of the Revised Code:

(1) For the purpose of obtaining additional federal medicaid funds for home and community-based services; and medicaid case management services, ~~and habilitation center services~~, do both of the following:

(a) Give an individual who is eligible for home and community-based services and meets both of the following requirements priority over any other individual on a waiting list established under division (C) of this section for home and community-based services that include supported living, residential services, or family support services:

- (i) Is twenty-two years of age or older;
- (ii) Receives supported living or family support services.

(b) Give an individual who is eligible for home and community-based services and meets both of the following requirements priority over any other individual on a waiting list established under division (C) of this section for home and community-based services that include adult services:

- (i) Resides in the individual's own home or the home of the individual's family and will continue to reside in that home after enrollment in home and community-based services;
- (ii) Receives adult services from the county board.

(2) As federal medicaid funds become available pursuant to division (D)(1) of this section, give an individual who is eligible for home and community-based services and meets any of the following requirements priority for such services over any other individual on a waiting list established under division (C) of this section:

- (a) Does not receive residential services or supported living, either needs services in the individual's current living arrangement or will need services in a new living arrangement, and has a primary caregiver who is sixty years of age or older;
- (b) Is less than twenty-two years of age and has at least one of the

following service needs that are unusual in scope or intensity:

(i) Severe behavior problems for which a behavior support plan is needed;

(ii) An emotional disorder for which anti-psychotic medication is needed;

(iii) A medical condition that leaves the individual dependent on life-support medical technology;

(iv) A condition affecting multiple body systems for which a combination of specialized medical, psychological, educational, or habilitation services are needed;

(v) A condition the county board determines to be comparable in severity to any condition described in division (D)(2)(b)(i) to (iv) of this section and places the individual at significant risk of institutionalization.

(c) Is twenty-two years of age or older, does not receive residential services or supported living, and is determined by the county board to have intensive needs for home and community-based services on an in-home or out-of-home basis.

(3) In fiscal years 2002 and 2003, give an individual who is eligible for home and community-based services, resides in an intermediate care facility for the mentally retarded or nursing facility, chooses to move to another setting with the help of home and community-based services, and has been determined by the department of mental retardation and developmental disabilities to be capable of residing in the other setting, priority over any other individual on a waiting list established under division (C) of this section for home and community-based services who does not meet these criteria. The department of mental retardation and developmental disabilities shall identify the individuals to receive priority under division (D)(3) of this section, assess the needs of the individuals, and notify the county boards that are to provide the individuals priority under division (D)(3) of this section of the individuals identified by the department and the individuals' assessed needs.

(E) Except as provided in division (G) of this section and for a number of years and beginning on a date specified in rules adopted under division (K) of this section, a county board shall give an individual who is eligible for home and community-based services, resides in a nursing facility, and chooses to move to another setting with the help of home and community-based services, priority over any other individual on a waiting list established under division (C) of this section for home and community-based services who does not meet these criteria.

(F) If two or more individuals on a waiting list established under

division (C) of this section for home and community-based services have priority for the services pursuant to division (D)(1) or (2) or (E) of this section, a county board may use, until December 31, ~~2005~~ 2007, criteria specified in rules adopted under division (K)(2) of this section in determining the order in which the individuals with priority will be offered the services. Otherwise, the county board shall offer the home and community-based services to such individuals in the order they are placed on the waiting list.

(G)(1) No individual may receive priority for services pursuant to division (D) or (E) of this section over an individual placed on a waiting list established under division (C) of this section on an emergency status.

(2) No more than four hundred individuals in the state may receive priority for services during the ~~2004~~ 2006 and ~~2005~~ 2007 biennium pursuant to division (D)(2)(b) of this section.

(3) No more than a total of seventy-five individuals in the state may receive priority for services during state fiscal years 2002 and 2003 pursuant to division (D)(3) of this section.

(4) No more than forty individuals in the state may receive priority for services pursuant to division (E) of this section for each year that priority category is in effect as specified in rules adopted under division (K) of this section.

(H) Prior to establishing any waiting list under this section, a county board shall develop and implement a policy for waiting lists that complies with this section and rules adopted under division (K) of this section.

Prior to placing an individual on a waiting list, the county board shall assess the service needs of the individual in accordance with all applicable state and federal laws. The county board shall place the individual on the appropriate waiting list and may place the individual on more than one waiting list. The county board shall notify the individual of the individual's placement and position on each waiting list on which the individual is placed.

At least annually, the county board shall reassess the service needs of each individual on a waiting list. If it determines that an individual no longer needs a program or service, the county board shall remove the individual from the waiting list. If it determines that an individual needs a program or service other than the one for which the individual is on the waiting list, the county board shall provide the program or service to the individual or place the individual on a waiting list for the program or service in accordance with the board's policy for waiting lists.

When a program or service for which there is a waiting list becomes

available, the county board shall reassess the service needs of the individual next scheduled on the waiting list to receive that program or service. If the reassessment demonstrates that the individual continues to need the program or service, the board shall offer the program or service to the individual. If it determines that an individual no longer needs a program or service, the county board shall remove the individual from the waiting list. If it determines that an individual needs a program or service other than the one for which the individual is on the waiting list, the county board shall provide the program or service to the individual or place the individual on a waiting list for the program or service in accordance with the board's policy for waiting lists. The county board shall notify the individual of the individual's placement and position on the waiting list on which the individual is placed.

(I) A child subject to a determination made pursuant to section 121.38 of the Revised Code who requires the home and community-based services provided through a medicaid component that the department of mental retardation and developmental disabilities administers under section 5111.871 of the Revised Code shall receive services through that medicaid component. For all other services, a child subject to a determination made pursuant to section 121.38 of the Revised Code shall be treated as an emergency by the county boards and shall not be subject to a waiting list.

(J) Not later than the fifteenth day of March of each even-numbered year, each county board shall prepare and submit to the director of mental retardation and developmental disabilities its recommendations for the funding of services for individuals with mental retardation and developmental disabilities and its proposals for reducing the waiting lists for services.

(K)(1) The department of mental retardation and developmental disabilities shall adopt rules in accordance with Chapter 119. of the Revised Code governing waiting lists established under this section. The rules shall include procedures to be followed to ensure that the due process rights of individuals placed on waiting lists are not violated.

(2) As part of the rules adopted under this division, the department shall adopt rules establishing criteria a county board may use under division (F) of this section in determining the order in which individuals with priority for home and community-based services will be offered the services. The rules shall also specify conditions under which a county board, when there is no individual with priority for home and community-based services pursuant to division (D)(1) or (2) or (E) of this section available and appropriate for the services, may offer the services to an individual on a waiting list for the services but not given such priority for the services. The rules adopted under

division (K)(2) of this section shall cease to have effect December 31, ~~2005~~ 2007.

(3) As part of the rules adopted under this division, the department shall adopt rules specifying both of the following for the priority category established under division (E) of this section:

(a) The number of years, which shall not exceed five, that the priority category will be in effect;

(b) The date that the priority category is to go into effect.

(L) The following shall take precedence over the applicable provisions of this section:

(1) Medicaid rules and regulations;

(2) Any specific requirements that may be contained within a medicaid state plan amendment or waiver program that a county board has authority to administer or with respect to which it has authority to provide services, programs, or supports.

Sec. 5126.054. (A) Each county board of mental retardation and developmental disabilities shall, by resolution, develop a three-calendar year plan that includes the following four components:

(1) An assessment component that includes all of the following:

(a) The number of individuals with mental retardation or other developmental disability residing in the county who need the level of care provided by an intermediate care facility for the mentally retarded, may seek home and community-based services, are given priority for the services pursuant to division (D) of section 5126.042 of the Revised Code; the service needs of those individuals; and the projected annualized cost for services;

(b) The source of funds available to the county board to pay the nonfederal share of medicaid expenditures that the county board is required by division (A) of section 5126.057 of the Revised Code to pay;

(c) Any other applicable information or conditions that the department of mental retardation and developmental disabilities requires as a condition of approving the component under section 5123.046 of the Revised Code.

(2) A component that provides for the recruitment, training, and retention of existing and new direct care staff necessary to implement services included in individualized service plans, including behavior management services and health management services such as delegated nursing and other habilitation services, and protect the health and welfare of individuals receiving services included in the individual's individualized service plan by complying with safeguards for unusual and major unusual incidents, day-to-day program management, and other requirements the

department shall identify. A county board shall develop this component in collaboration with providers of medicaid-funded services with which the county board contracts. A county board shall include all of the following in the component:

- (a) The source and amount of funds available for the component;
- (b) A plan and timeline for implementing the component with the medicaid providers under contract with the county board;
- (c) The mechanisms the county board shall use to ensure the financial and program accountability of the medicaid provider's implementation of the component.

(3) A preliminary implementation component that specifies the number of individuals to be provided, during the first year that the plan is in effect, home and community-based services pursuant to the priority given to them under divisions (D)(1) and (2) of section 5126.042 of the Revised Code and the types of home and community-based services the individuals are to receive;

(4) A component that provides for the implementation of ~~habilitation center services~~, medicaid case management services, and home and community-based services for individuals who begin to receive the services on or after the date the plan is approved under section 5123.046 of the Revised Code. A county board shall include all of the following in the component:

(a) If the department of mental retardation and developmental disabilities or department of job and family services requires, an agreement to pay the nonfederal share of medicaid expenditures that the county board is required by division (A) of section 5126.057 of the Revised Code to pay;

(b) How the services are to be phased in over the period the plan covers, including how the county board will serve individuals on a waiting list established under division (C) of section 5126.042 who are given priority status under division (D)(1) of that section;

(c) Any agreement or commitment regarding the county board's funding of home and community-based services that the county board has with the department at the time the county board develops the component;

(d) Assurances adequate to the department that the county board will comply with all of the following requirements:

(i) To provide the types of home and community-based services specified in the preliminary implementation component required by division (A)(3) of this section to at least the number of individuals specified in that component;

(ii) To use any additional funds the county board receives for the

services to improve the county board's resource capabilities for supporting such services available in the county at the time the component is developed and to expand the services to accommodate the unmet need for those services in the county;

(iii) To employ a business manager who is either a new employee who has earned at least a bachelor's degree in business administration or a current employee who has the equivalent experience of a bachelor's degree in business administration. If the county board will employ a new employee, the county board shall include in the component a timeline for employing the employee.

(iv) To employ or contract with a medicaid services manager who is either a new employee who has earned at least a bachelor's degree or a current employee who has the equivalent experience of a bachelor's degree. If the county board will employ a new employee, the county board shall include in the component a timeline for employing the employee. Two or three county boards that have a combined total enrollment in county board services not exceeding one thousand individuals as determined pursuant to certifications made under division (B) of section 5126.12 of the Revised Code may satisfy this requirement by sharing the services of a medicaid services manager or using the services of a medicaid services manager employed by or under contract with a regional council that the county boards establish under section 5126.13 of the Revised Code.

(e) An agreement to comply with the method, developed by rules adopted under section 5123.0413 of the Revised Code, of paying for extraordinary costs, including extraordinary costs for services to individuals with mental retardation or other developmental disability, and ensuring the availability of adequate funds in the event a county property tax levy for services for individuals with mental retardation or other developmental disability fails;

(f) Programmatic and financial accountability measures and projected outcomes expected from the implementation of the plan;

(g) Any other applicable information or conditions that the department requires as a condition of approving the component under section 5123.046 of the Revised Code.

(B) For the purpose of obtaining the department's approval under section 5123.046 of the Revised Code of the plan the county board develops under division (A) of this section, a county board shall do all of the following:

(1) Submit the components required by divisions (A)(1) and (2) of this section to the department not later than August 1, 2001;



(2) Submit the component required by division (A)(3) of this section to the department not later than January 31, 2002;

(3) Submit the component required by division (A)(4) of this section to the department not later than July 1, 2002.

(C) A county board whose plan developed under division (A) of this section is approved by the department under section 5123.046 of the Revised Code shall update and renew the plan in accordance with a schedule the department shall develop.

Sec. 5126.055. (A) Except as provided in section 5126.056 of the Revised Code, a county board of mental retardation and developmental disabilities has medicaid local administrative authority to, and shall, do all of the following for an individual with mental retardation or other developmental disability who resides in the county that the county board serves and seeks or receives home and community-based services:

(1) Perform assessments and evaluations of the individual. As part of the assessment and evaluation process, the county board shall do all of the following:

(a) Make a recommendation to the department of mental retardation and developmental disabilities on whether the department should approve or deny the individual's application for the services, including on the basis of whether the individual needs the level of care an intermediate care facility for the mentally retarded provides;

(b) If the individual's application is denied because of the county board's recommendation and the individual requests a hearing under section 5101.35 of the Revised Code, present, with the department of mental retardation and developmental disabilities or department of job and family services, whichever denies the application, the reasons for the recommendation and denial at the hearing;

(c) If the individual's application is approved, recommend to the departments of mental retardation and developmental disabilities and job and family services the services that should be included in the individual's individualized service plan and, if either department approves, reduces, denies, or terminates a service included in the individual's individualized service plan under section 5111.871 of the Revised Code because of the county board's recommendation, present, with the department that made the approval, reduction, denial, or termination, the reasons for the recommendation and approval, reduction, denial, or termination at a hearing under section 5101.35 of the Revised Code.

(2) If the individual has been identified by the department of mental retardation and developmental disabilities as an individual to receive priority

for home and community-based services pursuant to division (D)(3) of section 5126.042 of the Revised Code, assist the department in expediting the transfer of the individual from an intermediate care facility for the mentally retarded or nursing facility to the home and community-based services;

(3) In accordance with the rules adopted under section 5126.046 of the Revised Code, perform the county board's duties under that section regarding assisting the individual's right to choose a qualified and willing provider of the services and, at a hearing under section 5101.35 of the Revised Code, present evidence of the process for appropriate assistance in choosing providers;

(4) Unless the county board provides the services under division (A)(5) of this section, contract with the person or government entity the individual chooses in accordance with section 5126.046 of the Revised Code to provide the services if the person or government entity is qualified and agrees to provide the services. The contract shall contain all the provisions required by section 5126.035 of the Revised Code and require the provider to agree to furnish, in accordance with the provider's medicaid provider agreement and for the authorized reimbursement rate, the services the individual requires.

(5) If the county board is certified under section ~~5123.045~~ 5123.16 of the Revised Code to provide the services and agrees to provide the services to the individual and the individual chooses the county board to provide the services, furnish, in accordance with the county board's medicaid provider agreement and for the authorized reimbursement rate, the services the individual requires;

(6) Monitor the services provided to the individual and ensure the individual's health, safety, and welfare. The monitoring shall include quality assurance activities. If the county board provides the services, the department of mental retardation and developmental disabilities shall also monitor the services.

(7) Develop, with the individual and the provider of the individual's services, an effective individualized service plan that includes coordination of services, recommend that the departments of mental retardation and developmental disabilities and job and family services approve the plan, and implement the plan unless either department disapproves it;

(8) Have an investigative agent conduct investigations under section 5126.313 of the Revised Code that concern the individual;

(9) Have a service and support administrator perform the duties under division (B)(9) of section 5126.15 of the Revised Code that concern the

individual.

~~(B) Except as provided in section 5126.056 of the Revised Code, a county board has medicaid local administrative authority to, and shall, do all of the following for an individual with mental retardation or other developmental disability who resides in the county that the county board serves and seeks or receives medicaid case management services or habilitation center services, other than habilitation center services for which a school district is required by division (E) of section 5111.041 of the Revised Code to pay the nonfederal share:~~

~~(1) Perform assessments and evaluations of the individual for the purpose of recommending to the departments of mental retardation and developmental disabilities and job and family services the services that should be included in the individual's individualized service plan;~~

~~(2) If the department of mental retardation and developmental disabilities or department of job and family services approves, reduces, denies, or terminates a service included in the individual's individualized service plan under section 5111.041 or 5111.042 of the Revised Code because of the county board's recommendation under division (B)(1) of this section, present, with the department that made the approval, reduction, denial, or termination, the reasons for the recommendation and approval, reduction, denial, or termination at a hearing under section 5101.35 of the Revised Code and inform the individual that the individual may file a complaint with the county board under section 5126.06 of the Revised Code at the same time the individual pursues an appeal under section 5101.35 of the Revised Code;~~

~~(3) In accordance with rules the departments of mental retardation and developmental disabilities and job and family services shall adopt in accordance with Chapter 119. of the Revised Code governing the process for individuals to choose providers of medicaid case management services and habilitation center services, assist the individual in choosing the provider of the services. The rules shall provide for both of the following:~~

~~(a) The county board providing the individual up-to-date information about qualified providers that the department of mental retardation and developmental disabilities shall make available to the county board;~~

~~(b) If the individual chooses a provider who is qualified and willing to provide the services but is denied that provider, the individual receiving timely notice that the individual may request a hearing under section 5101.35 of the Revised Code and, at the hearing, the county board presenting evidence of the process for appropriate assistance in choosing providers;~~

~~(4) Unless the county board provides the services under division (B)(5) of this section, contract with the person or government entity that the individual chooses in accordance with the rules adopted under division (B)(3) of this section to provide the services if the person or government entity is qualified and agrees to provide the services. The contract shall contain all the provisions required by section 5126.035 of the Revised Code and require the provider to agree to furnish, in accordance with the provider's medicaid provider agreement and for the authorized reimbursement rate, the services the individual requires.~~

~~(5) If the county board is certified under section 5123.041 of the Revised Code to provide the services and agrees to provide the services to the individual and the individual chooses the county board to provide the services, furnish, in accordance with the county board's medicaid provider agreement and for the authorized reimbursement rate, the services the individual requires;~~

~~(6) Monitor the services provided to the individual. The monitoring shall include quality assurance activities. If the county board provides the services, the department of mental retardation and developmental disabilities shall also monitor the services.~~

~~(7) Develop with the individual and the provider of the individual's services, and with the approval of the departments of mental retardation and developmental disabilities and job and family services, implement an effective plan for coordinating the services in accordance with the individual's approved individualized service plan;~~

~~(8) Have an investigative agent conduct investigations under section 5126.313 of the Revised Code that concern the individual;~~

~~(9) Have a service and support administrator perform the duties under division (B)(9) of section 5126.15 of the Revised Code that concern the individual.~~

~~(C)~~ A county board shall perform its medicaid local administrative authority under this section in accordance with all of the following:

(1) The county board's plan that the department of mental retardation and developmental disabilities approves under section 5123.046 of the Revised Code;

(2) All applicable federal and state laws;

(3) All applicable policies of the departments of mental retardation and developmental disabilities and job and family services and the United States department of health and human services;

(4) The department of job and family services' supervision under its authority under section 5111.01 of the Revised Code to act as the single

state medicaid agency;

(5) The department of mental retardation and developmental disabilities' oversight.

~~(D)~~(C) The departments of mental retardation and developmental disabilities and job and family services shall communicate with and provide training to county boards regarding medicaid local administrative authority granted by this section. The communication and training shall include issues regarding audit protocols and other standards established by the United States department of health and human services that the departments determine appropriate for communication and training. County boards shall participate in the training. The departments shall assess the county board's compliance against uniform standards that the departments shall establish.

~~(E)~~(D) A county board may not delegate its medicaid local administrative authority granted under this section but may contract with a person or government entity, including a council of governments, for assistance with its medicaid local administrative authority. A county board that enters into such a contract shall notify the director of mental retardation and developmental disabilities. The notice shall include the tasks and responsibilities that the contract gives to the person or government entity. The person or government entity shall comply in full with all requirements to which the county board is subject regarding the person or government entity's tasks and responsibilities under the contract. The county board remains ultimately responsible for the tasks and responsibilities.

~~(F)~~(E) A county board that has medicaid local administrative authority under this section shall, through the departments of mental retardation and developmental disabilities and job and family services, reply to, and cooperate in arranging compliance with, a program or fiscal audit or program violation exception that a state or federal audit or review discovers. The department of job and family services shall timely notify the department of mental retardation and developmental disabilities and the county board of any adverse findings. After receiving the notice, the county board, in conjunction with the department of mental retardation and developmental disabilities, shall cooperate fully with the department of job and family services and timely prepare and send to the department a written plan of correction or response to the adverse findings. The county board is liable for any adverse findings that result from an action it takes or fails to take in its implementation of medicaid local administrative authority.

~~(G)~~(F) If the department of mental retardation and developmental disabilities or department of job and family services determines that a county board's implementation of its medicaid local administrative authority

under this section is deficient, the department that makes the determination shall require that county board do the following:

(1) If the deficiency affects the health, safety, or welfare of an individual with mental retardation or other developmental disability, correct the deficiency within twenty-four hours;

(2) If the deficiency does not affect the health, safety, or welfare of an individual with mental retardation or other developmental disability, receive technical assistance from the department or submit a plan of correction to the department that is acceptable to the department within sixty days and correct the deficiency within the time required by the plan of correction.

Sec. 5126.056. (A) The department of mental retardation and developmental disabilities shall take action under division (B) of this section against a county board of mental retardation and developmental disabilities if any of the following are the case:

(1) The county board fails to submit to the department all the components of its three-year plan required by section 5126.054 of the Revised Code within the time required by division (B) of that section.

(2) The department disapproves the county board's three-year plan under section 5123.046 of the Revised Code.

(3) The county board fails, as required by division (C) of section 5126.054 of the Revised Code, to update and renew its three-year plan in accordance with a schedule the department develops under that section.

(4) The county board fails to implement its initial or renewed three-year plan approved by the department.

(5) The county board fails to correct a deficiency within the time required by division ~~(G)~~(F) of section 5126.055 of the Revised Code to the satisfaction of the department.

(6) The county board fails to submit an acceptable plan of correction to the department within the time required by division ~~(G)~~(F)(2) of section 5126.055 of the Revised Code.

(B) If required by division (A) of this section to take action against a county board, the department shall issue an order terminating the county board's medicaid local administrative authority over all or part of home and community-based services, medicaid case management services, ~~habilitation center services, all or part of two of those services, or all or part of all three~~ both of those services. The department shall provide a copy of the order to the board of county commissioners, senior probate judge, county auditor, and president and superintendent of the county board. The department shall specify in the order the medicaid local administrative authority that the department is terminating, the reason for the termination, and the county

board's option and responsibilities under this division.

A county board whose medicaid local administrative authority is terminated may, not later than thirty days after the department issues the termination order, recommend to the department that another county board that has not had any of its medicaid local administrative authority terminated or another entity the department approves administer the services for which the county board's medicaid local administrative authority is terminated. The department may contract with the other county board or entity to administer the services. If the department enters into such a contract, the county board shall adopt a resolution giving the other county board or entity full medicaid local administrative authority over the services that the other county board or entity is to administer. The other county board or entity shall be known as the contracting authority.

If the department rejects the county board's recommendation regarding a contracting authority, the county board may appeal the rejection under section 5123.043 of the Revised Code.

If the county board does not submit a recommendation to the department regarding a contracting authority within the required time or the department rejects the county board's recommendation and the rejection is upheld pursuant to an appeal, if any, under section 5123.043 of the Revised Code, the department shall appoint an administrative receiver to administer the services for which the county board's medicaid local administrative authority is terminated. To the extent necessary for the department to appoint an administrative receiver, the department may utilize employees of the department, management personnel from another county board, or other individuals who are not employed by or affiliated with in any manner a person that provides home and community-based services; or medicaid case management services, ~~or habilitation center services~~ pursuant to a contract with any county board. The administrative receiver shall assume full administrative responsibility for the county board's services for which the county board's medicaid local administrative authority is terminated.

The contracting authority or administrative receiver shall develop and submit to the department a plan of correction to remediate the problems that caused the department to issue the termination order. If, after reviewing the plan, the department approves it, the contracting authority or administrative receiver shall implement the plan.

The county board shall transfer control of state and federal funds it is otherwise eligible to receive for the services for which the county board's medicaid local administrative authority is terminated and funds the county board may use under division (B) of section 5126.057 of the Revised Code

to pay the nonfederal share of the services that the county board is required by division (A) of that section to pay. The county board shall transfer control of the funds to the contracting authority or administrative receiver administering the services. The amount the county board shall transfer shall be the amount necessary for the contracting authority or administrative receiver to fulfill its duties in administering the services, including its duties to pay its personnel for time worked, travel, and related matters. If the county board fails to make the transfer, the department may withhold the state and federal funds from the county board and bring a mandamus action against the county board in the court of common pleas of the county served by the county board or in the Franklin county court of common pleas. The mandamus action may not require that the county board transfer any funds other than the funds the county board is required by division (B) of this section to transfer.

The contracting authority or administrative receiver has the right to authorize the payment of bills in the same manner that the county board may authorize payment of bills under this chapter and section 319.16 of the Revised Code.

Sec. 5126.057. (A) A county board of mental retardation and developmental disabilities that has medicaid local administrative authority under division (A) of section 5126.055 of the Revised Code for home and community-based services shall pay the nonfederal share of medicaid expenditures for such services provided to an individual with mental retardation or other developmental disability who the county board determines under section 5126.041 of the Revised Code is eligible for county board services unless division ~~(C)(B)(2)~~ or (3) of section 5123.047 of the Revised Code requires the department of mental retardation and developmental disabilities to pay the nonfederal share.

A county board that ~~has medicaid local administrative authority under division (B) of section 5126.055 of the Revised Code for~~ provides medicaid case management services shall pay the nonfederal share of medicaid expenditures for such services provided to an individual with mental retardation or other developmental disability who the county board determines under section 5126.041 of the Revised Code is eligible for county board services ~~unless division (B)(2) of section 5123.047 of the Revised Code requires the department of mental retardation and developmental disabilities to pay the nonfederal share.~~

~~A county board shall pay the nonfederal share of medicaid expenditures for habilitation center services when required to do so by division (D) of section 5111.041 of the Revised Code.~~



(B) A county board may use the following funds to pay the nonfederal share of the services that the county board is required by division (A) of this section to pay:

(1) To the extent consistent with the levy that generated the taxes, the following taxes:

(a) Taxes levied pursuant to division (L) of section 5705.19 of the Revised Code and section 5705.222 of the Revised Code;

(b) Taxes levied under section 5705.191 of the Revised Code that the board of county commissioners allocates to the county board to pay the nonfederal share of the services.

(2) Funds that the department of mental retardation and developmental disabilities distributes to the county board under sections 5126.11, 5126.12, 5126.15, 5126.18, and 5126.44 of the Revised Code;

(3) ~~Funds that the department allocates to the county board for habilitation center services provided under section 5111.041 of the Revised Code;~~

~~(4)~~ Earned federal revenue funds the county board receives for medicaid services the county board provides pursuant to the county board's valid medicaid provider agreement.

(C) If by December 31, 2001, the United States secretary of health and human services approves at least five hundred more slots for home and community-based services for calendar year 2002 than were available for calendar year 2001, each county board shall provide, by the last day of calendar year 2001, assurances to the department of mental retardation and developmental disabilities that the county board will have for calendar year 2002 at least one-third of the value of one-half, effective mill levied in the county the preceding year available to pay the nonfederal share of the services that the county board is required by division (A) of this section to pay.

If by December 31, 2002, the United States secretary approves at least five hundred more slots for home and community-based services for calendar year 2003 than were available for calendar year 2002, each county board shall provide, by the last day of calendar year 2002, assurances to the department that the county board will have for calendar year 2003 at least two-thirds of the value of one-half, effective mill levied in the county the preceding year available to pay the nonfederal share of the services that the county board is required by division (A) of this section to pay.

If by December 31, 2003, the United States secretary approves at least five hundred more slots for home and community-based services for calendar year 2004 than were available for calendar year 2003, each county

board shall provide, by the last day of calendar year 2003 and each calendar year thereafter, assurances to the department that the county board will have for calendar year 2004 and each calendar year thereafter at least the value of one-half, effective mill levied in the county the preceding year available to pay the nonfederal share of the services that the county board is required by division (A) of this section to pay.

(D) Each year, each county board shall adopt a resolution specifying the amount of funds it will use in the next year to pay the nonfederal share of the services that the county board is required by division (A) of this section to pay. The amount specified shall be adequate to assure that the services will be available in the county in a manner that conforms to all applicable state and federal laws. A county board shall state in its resolution that the payment of the nonfederal share represents an ongoing financial commitment of the county board. A county board shall adopt the resolution in time for the county auditor to make the determination required by division (E) of this section.

(E) Each year, a county auditor shall determine whether the amount of funds a county board specifies in the resolution it adopts under division (D) of this section will be available in the following year for the county board to pay the nonfederal share of the services that the county board is required by division (A) of this section to pay. The county auditor shall make the determination not later than the last day of the year before the year in which the funds are to be used.

Sec. 5126.12. (A) As used in this section:

(1) "Approved school age class" means a class operated by a county board of mental retardation and developmental disabilities and funded by the department of education under section 3317.20 of the Revised Code.

(2) "Approved preschool unit" means a class or unit operated by a county board of mental retardation and developmental disabilities and approved under division (B) of section 3317.05 of the Revised Code.

(3) "Active treatment" means a continuous treatment program, which includes aggressive, consistent implementation of a program of specialized and generic training, treatment, health services, and related services, that is directed toward the acquisition of behaviors necessary for an individual with mental retardation or other developmental disability to function with as much self-determination and independence as possible and toward the prevention of deceleration, regression, or loss of current optimal functional status.

(4) "Eligible for active treatment" means that an individual with mental retardation or other developmental disability resides in an intermediate care

facility for the mentally retarded certified under Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as amended; resides in a state institution operated by the department of mental retardation and developmental disabilities; or is enrolled in home and community-based services.

(5) ~~"Community alternative funding system" means the program under which habilitation center services are reimbursed under the medicaid program pursuant to section 5111.041 of the Revised Code and rules adopted under that section.~~

(6) "Traditional adult services" means vocational and nonvocational activities conducted within a sheltered workshop or adult activity center or supportive home services.

(B) Each county board of mental retardation and developmental disabilities shall certify to the director of mental retardation and developmental disabilities all of the following:

(1) On or before the fifteenth day of October, the average daily membership for the first full week of programs and services during October receiving:

(a) Early childhood services provided pursuant to section 5126.05 of the Revised Code for children who are less than three years of age on the thirtieth day of September of the academic year;

(b) Special education for handicapped children in approved school age classes;

(c) Adult services for persons sixteen years of age and older operated pursuant to section 5126.05 and division (B) of section 5126.051 of the Revised Code. Separate counts shall be made for the following:

(i) Persons enrolled in traditional adult services who are eligible for but not enrolled in active treatment ~~under the community alternative funding system;~~

(ii) Persons enrolled in traditional adult services who are eligible for and enrolled in active treatment ~~under the community alternative funding system;~~

(iii) Persons enrolled in traditional adult services but who are not eligible for active treatment ~~under the community alternative funding system;~~

(iv) Persons participating in community employment services. To be counted as participating in community employment services, a person must have spent an average of no less than ten hours per week in that employment during the preceding six months.

(d) Other programs in the county for individuals with mental retardation

and developmental disabilities that have been approved for payment of subsidy by the department of mental retardation and developmental disabilities.

The membership in each such program and service in the county shall be reported on forms prescribed by the department of mental retardation and developmental disabilities.

The department of mental retardation and developmental disabilities shall adopt rules defining full-time equivalent enrollees and for determining the average daily membership therefrom, except that certification of average daily membership in approved school age classes shall be in accordance with rules adopted by the state board of education. The average daily membership figure shall be determined by dividing the amount representing the sum of the number of enrollees in each program or service in the week for which the certification is made by the number of days the program or service was offered in that week. No enrollee may be counted in average daily membership for more than one program or service.

(2) By the fifteenth day of December, the number of children enrolled in approved preschool units on the first day of December;

(3) On or before the thirtieth day of March, an itemized report of all income and operating expenditures for the immediately preceding calendar year, in the format specified by the department of mental retardation and developmental disabilities;

(4) By the fifteenth day of February, a report of the total annual cost per enrollee for operation of programs and services in the preceding calendar year. The report shall include a grand total of all programs operated, the cost of the individual programs, and the sources of funds applied to each program.

(5) That each required certification and report is in accordance with rules established by the department of mental retardation and developmental disabilities and the state board of education for the operation and subsidization of the programs and services.

(C) To compute payments under this section to the board for the fiscal year, the department of mental retardation and developmental disabilities shall use the certification of average daily membership required by division (B)(1) of this section exclusive of the average daily membership in any approved school age class and the number in any approved preschool unit.

(D) The department shall pay each county board for each fiscal year an amount equal to nine hundred fifty dollars times the certified number of persons who on the first day of December of the academic year are under three years of age and are not in an approved preschool unit. For persons

who are at least age sixteen and are not in an approved school age class, the department shall pay each county board for each fiscal year the following amounts:

(1) One thousand dollars times the certified average daily membership of persons enrolled in traditional adult services who are eligible for but not enrolled in active treatment ~~under the community alternative funding system;~~

(2) One thousand two hundred dollars times the certified average daily membership of persons enrolled in traditional adult services who are eligible for and enrolled in active treatment ~~under the community alternative funding system;~~

(3) No less than one thousand five hundred dollars times the certified average daily membership of persons enrolled in traditional adult services but who are not eligible for active treatment ~~under the community alternative funding system;~~

(4) No less than one thousand five hundred dollars times the certified average daily membership of persons participating in community employment services.

(E) The department shall distribute this subsidy to county boards in quarterly installments of equal amounts. The installments shall be made not later than the thirtieth day of September, the thirty-first day of December, the thirty-first day of March, and the thirtieth day of June.

(F) The director of mental retardation and developmental disabilities shall make efforts to obtain increases in the subsidies for early childhood services and adult services so that the amount of the subsidies is equal to at least fifty per cent of the statewide average cost of those services minus any applicable federal reimbursements for those services. The director shall advise the director of budget and management of the need for any such increases when submitting the biennial appropriations request for the department.

(G) In determining the reimbursement of a county board for the provision of service and support administration, family support services, and other services required or approved by the director for which children three through twenty-one years of age are eligible, the department shall include the average daily membership in approved school age or preschool units. The department, in accordance with this section and upon receipt and approval of the certification required by this section and any other information it requires to enable it to determine a board's payments, shall pay the agency providing the specialized training the amounts payable under this section.

Sec. 5139.01. (A) As used in this chapter:

(1) "Commitment" means the transfer of the physical custody of a child or youth from the court to the department of youth services.

(2) "Permanent commitment" means a commitment that vests legal custody of a child in the department of youth services.

(3) "Legal custody," insofar as it pertains to the status that is created when a child is permanently committed to the department of youth services, means a legal status in which the department has the following rights and responsibilities: the right to have physical possession of the child; the right and duty to train, protect, and control the child; the responsibility to provide the child with food, clothing, shelter, education, and medical care; and the right to determine where and with whom the child shall live, subject to the minimum periods of, or periods of, institutional care prescribed in sections 2152.13 to 2152.18 of the Revised Code; provided, that these rights and responsibilities are exercised subject to the powers, rights, duties, and responsibilities of the guardian of the person of the child, and subject to any residual parental rights and responsibilities.

(4) Unless the context requires a different meaning, "institution" means a state facility that is created by the general assembly and that is under the management and control of the department of youth services or a private entity with which the department has contracted for the institutional care and custody of felony delinquents.

(5) "Full-time care" means care for twenty-four hours a day for over a period of at least two consecutive weeks.

(6) "Placement" means the conditional release of a child under the terms and conditions that are specified by the department of youth services. The department shall retain legal custody of a child released pursuant to division (C) of section 2152.22 of the Revised Code or division (C) of section 5139.06 of the Revised Code until the time that it discharges the child or until the legal custody is terminated as otherwise provided by law.

(7) "Home placement" means the placement of a child in the home of the child's parent or parents or in the home of the guardian of the child's person.

(8) "Discharge" means that the department of youth services' legal custody of a child is terminated.

(9) "Release" means the termination of a child's stay in an institution and the subsequent period during which the child returns to the community under the terms and conditions of supervised release.

(10) "Delinquent child" has the same meaning as in section 2152.02 of the Revised Code.

(11) "Felony delinquent" means any child who is at least ten years of age but less than eighteen years of age and who is adjudicated a delinquent child for having committed an act that if committed by an adult would be a felony. "Felony delinquent" includes any adult who is between the ages of eighteen and twenty-one and who is in the legal custody of the department of youth services for having committed an act that if committed by an adult would be a felony.

(12) "Juvenile traffic offender" has the same meaning as in section 2152.02 of the Revised Code.

(13) "Public safety beds" means all of the following:

(a) Felony delinquents who have been committed to the department of youth services for the commission of an act, other than a violation of section 2911.01 or 2911.11 of the Revised Code, that is a category one offense or a category two offense and who are in the care and custody of an institution or have been diverted from care and custody in an institution and placed in a community corrections facility;

(b) Felony delinquents who, while committed to the department of youth services and in the care and custody of an institution or a community corrections facility, are adjudicated delinquent children for having committed in that institution or community corrections facility an act that if committed by an adult would be a misdemeanor or a felony;

(c) Children who satisfy all of the following:

(i) They are at least ten years of age but less than eighteen years of age.

(ii) They are adjudicated delinquent children for having committed acts that if committed by an adult would be a felony.

(iii) They are committed to the department of youth services by the juvenile court of a county that has had one-tenth of one per cent or less of the statewide adjudications for felony delinquents as averaged for the past four fiscal years.

(iv) They are in the care and custody of an institution or a community corrections facility.

(d) Felony delinquents who, while committed to the department of youth services and in the care and custody of an institution are serving disciplinary time for having committed an act described in division (A)(18)(a), (b), or (c) of this section, and who have been institutionalized or institutionalized in a secure facility for the minimum period of time specified in divisions (A)(1)(b) to (e) of section 2152.16 of the Revised Code.

(e) Felony delinquents who are subject to and serving a three-year period of commitment order imposed by a juvenile court pursuant to

divisions (A) and (B) of section 2152.17 of the Revised Code for an act, other than a violation of section 2911.11 of the Revised Code, that would be a category one offense or category two offense if committed by an adult.

(f) Felony delinquents who are described in divisions (A)(13)(a) to (e) of this section, who have been granted a judicial release to court supervision under division (B) of section 2152.22 of the Revised Code or a judicial release to the department of youth services supervision under division (C) of that section from the commitment to the department of youth services for the act described in divisions (A)(13)(a) to (e) of this section, who have violated the terms and conditions of that release, and who, pursuant to an order of the court of the county in which the particular felony delinquent was placed on release that is issued pursuant to division (D) of section 2152.22 of the Revised Code, have been returned to the department for institutionalization or institutionalization in a secure facility.

(g) Felony delinquents who have been committed to the custody of the department of youth services, who have been granted supervised release from the commitment pursuant to section 5139.51 of the Revised Code, who have violated the terms and conditions of that supervised release, and who, pursuant to an order of the court of the county in which the particular child was placed on supervised release issued pursuant to division (F) of section 5139.52 of the Revised Code, have had the supervised release revoked and have been returned to the department for institutionalization. A felony delinquent described in this division shall be a public safety bed only for the time during which the felony delinquent is institutionalized as a result of the revocation subsequent to the initial thirty-day period of institutionalization required by division (F) of section 5139.52 of the Revised Code.

(14) Unless the context requires a different meaning, "community corrections facility" means a county or multicounty rehabilitation center for felony delinquents who have been committed to the department of youth services and diverted from care and custody in an institution and placed in the rehabilitation center pursuant to division (E) of section 5139.36 of the Revised Code.

(15) "Secure facility" means any facility that is designed and operated to ensure that all of its entrances and exits are under the exclusive control of its staff and to ensure that, because of that exclusive control, no child who has been institutionalized in the facility may leave the facility without permission or supervision.

(16) "Community residential program" means a program that satisfies both of the following:

(a) It is housed in a building or other structure that has no associated



major restraining construction, including, but not limited to, a security fence.

(b) It provides twenty-four-hour care, supervision, and programs for felony delinquents who are in residence.

(17) "Category one offense" and "category two offense" have the same meanings as in section 2151.26 of the Revised Code.

(18) "Disciplinary time" means additional time that the department of youth services requires a felony delinquent to serve in an institution, that delays the felony delinquent's planned release, and that the department imposes upon the felony delinquent following the conduct of an internal due process hearing for having committed any of the following acts while committed to the department and in the care and custody of an institution:

(a) An act that if committed by an adult would be a felony;

(b) An act that if committed by an adult would be a misdemeanor;

(c) An act that is not described in division (A)(18)(a) or (b) of this section and that violates an institutional rule of conduct of the department.

(19) "Unruly child" has the same meaning as in section 2151.022 of the Revised Code.

(20) "Revocation" means the act of revoking a child's supervised release for a violation of a term or condition of the child's supervised release in accordance with section 5139.52 of the Revised Code.

(21) "Release authority" means the release authority of the department of youth services that is established by section 5139.50 of the Revised Code.

(22) "Supervised release" means the event of the release of a child under this chapter from an institution and the period after that release during which the child is supervised and assisted by an employee of the department of youth services under specific terms and conditions for reintegration of the child into the community.

(23) "Victim" means the person identified in a police report, complaint, or information as the victim of an act that would have been a criminal offense if committed by an adult and that provided the basis for adjudication proceedings resulting in a child's commitment to the legal custody of the department of youth services.

(24) "Victim's representative" means a member of the victim's family or another person whom the victim or another authorized person designates in writing, pursuant to section 5139.56 of the Revised Code, to represent the victim with respect to proceedings of the release authority of the department of youth services and with respect to other matters specified in that section.

(25) "Member of the victim's family" means a spouse, child, stepchild, sibling, parent, stepparent, grandparent, other relative, or legal guardian of a

child but does not include a person charged with, convicted of, or adjudicated a delinquent child for committing a criminal or delinquent act against the victim or another criminal or delinquent act arising out of the same conduct, criminal or delinquent episode, or plan as the criminal or delinquent act committed against the victim.

(26) "Judicial release to court supervision" means a release of a child from institutional care or institutional care in a secure facility that is granted by a court pursuant to division (B) of section 2152.22 of the Revised Code during the period specified in that division.

(27) "Judicial release to department of youth services supervision" means a release of a child from institutional care or institutional care in a secure facility that is granted by a court pursuant to division (C) of section 2152.22 of the Revised Code during the period specified in that division.

(28) "Juvenile justice system" includes all of the functions of the juvenile courts, the department of youth services, any public or private agency whose purposes include the prevention of delinquency or the diversion, adjudication, detention, or rehabilitation of delinquent children, and any of the functions of the criminal justice system that are applicable to children.

(29) "Metropolitan county criminal justice services agency" means an agency that is established pursuant to division (A) of section ~~181.54~~ 5502.64 of the Revised Code.

(30) "Administrative planning district" means a district that is established pursuant to division (A) or (B) of section ~~181.56~~ 5502.66 of the Revised Code.

(31) "Criminal justice coordinating council" means a criminal justice services agency that is established pursuant to division (D) of section ~~181.56~~ 5502.66 of the Revised Code.

(32) "Comprehensive plan" means a document that coordinates, evaluates, and otherwise assists, on an annual or multi-year basis, all of the functions of the juvenile justice systems of the state or a specified area of the state, that conforms to the priorities of the state with respect to juvenile justice systems, and that conforms with the requirements of all federal criminal justice acts. These functions include, but are not limited to, all of the following:

- (a) Delinquency;
- (b) Identification, detection, apprehension, and detention of persons charged with delinquent acts;
- (c) Assistance to crime victims or witnesses, except that the comprehensive plan does not include the functions of the attorney general

pursuant to sections 109.91 and 109.92 of the Revised Code;

- (d) Adjudication or diversion of persons charged with delinquent acts;
- (e) Custodial treatment of delinquent children;
- (f) Institutional and noninstitutional rehabilitation of delinquent children.

(B) There is hereby created the department of youth services. The governor shall appoint the director of the department with the advice and consent of the senate. The director shall hold office during the term of the appointing governor but subject to removal at the pleasure of the governor. Except as otherwise authorized in section 108.05 of the Revised Code, the director shall devote the director's entire time to the duties of the director's office and shall hold no other office or position of trust or profit during the director's term of office.

The director is the chief executive and administrative officer of the department and has all the powers of a department head set forth in Chapter 121. of the Revised Code. The director may adopt rules for the government of the department, the conduct of its officers and employees, the performance of its business, and the custody, use, and preservation of the department's records, papers, books, documents, and property. The director shall be an appointing authority within the meaning of Chapter 124. of the Revised Code. Whenever this or any other chapter or section of the Revised Code imposes a duty on or requires an action of the department, the duty or action shall be performed by the director or, upon the director's order, in the name of the department.

Sec. 5139.36. (A) In accordance with this section and the rules adopted under it and from funds appropriated to the department of youth services for the purposes of this section, the department shall make grants that provide financial resources to operate community corrections facilities for felony delinquents.

(B)(1) Each community corrections facility that intends to seek a grant under this section shall file an application with the department of youth services at the time and in accordance with the procedures that the department shall establish by rules adopted in accordance with Chapter 119. of the Revised Code. In addition to other items required to be included in the application, a plan that satisfies both of the following shall be included:

(a) It reduces the number of felony delinquents committed to the department from the county or counties associated with the community corrections facility.

(b) It ensures equal access for minority felony delinquents to the programs and services for which a potential grant would be used.

(2) The department of youth services shall review each application submitted pursuant to division (B)(1) of this section to determine whether the plan described in that division, the community corrections facility, and the application comply with this section and the rules adopted under it.

(C) To be eligible for a grant under this section and for continued receipt of moneys comprising a grant under this section, a community corrections facility shall satisfy at least all of the following requirements:

(1) Be constructed, reconstructed, improved, or financed by the Ohio building authority pursuant to section 307.021 of the Revised Code and Chapter 152. of the Revised Code for the use of the department of youth services and be designated as a community corrections facility;

(2) Have written standardized criteria governing the types of felony delinquents that are eligible for the programs and services provided by the facility;

(3) Have a written standardized intake screening process and an intake committee that at least performs both of the following tasks:

(a) Screens all eligible felony delinquents who are being considered for admission to the facility in lieu of commitment to the department;

(b) Notifies, within ten days after the date of the referral of a felony delinquent to the facility, the committing court whether the felony delinquent will be admitted to the facility.

(4) Comply with all applicable fiscal and program rules that the department adopts in accordance with Chapter 119. of the Revised Code and demonstrate that felony delinquents served by the facility have been or will be diverted from a commitment to the department.

(D) The department of youth services shall determine the method of distribution of the funds appropriated for grants under this section to community corrections facilities.

(E)(1) The department of youth services shall adopt rules in accordance with Chapter 119. of the Revised Code to establish the minimum occupancy threshold of community corrections facilities.

(2) The department may make referrals for the placement of children in its custody to a community corrections facility ~~if the community corrections facility is not meeting the minimum occupancy threshold established by the department.~~ At least forty-five days prior to the referral of a child or within any shorter period prior to the referral of the child that the committing court may allow, the department shall notify the committing court of its intent to place the child in a community corrections facility. The court shall have thirty days after the receipt of the notice to approve or disapprove the placement. If the court does not respond to the notice of the placement

within that thirty-day period, the department shall proceed with the placement and debit the county in accordance with sections 5139.41 to 5139.43 of the Revised Code. A child placed in a community corrections facility pursuant to this division shall remain in the legal custody of the department of youth services during the period in which the child is in the community corrections facility.

(3) Counties that are not associated with a community corrections facility may refer children to a community corrections facility with the consent of the facility. The department of youth services shall debit the county that makes the referral in accordance with sections 5139.41 to 5139.43 of the Revised Code.

(F) If the board or other governing body of a community corrections facility establishes an advisory board, the board or other governing authority of the community corrections facility shall reimburse the members of the advisory board for their actual and necessary expenses incurred in the performance of their official duties on the advisory board. The members of advisory boards shall serve without compensation.

Sec. 5153.16. (A) Except as provided in section 2151.422 of the Revised Code, in accordance with rules of the department of job and family services, and on behalf of children in the county whom the public children services agency considers to be in need of public care or protective services, the public children services agency shall do all of the following:

(1) Make an investigation concerning any child alleged to be an abused, neglected, or dependent child;

(2) Enter into agreements with the parent, guardian, or other person having legal custody of any child, or with the department of job and family services, department of mental health, department of mental retardation and developmental disabilities, other department, any certified organization within or outside the county, or any agency or institution outside the state, having legal custody of any child, with respect to the custody, care, or placement of any child, or with respect to any matter, in the interests of the child, provided the permanent custody of a child shall not be transferred by a parent to the public children services agency without the consent of the juvenile court;

(3) Accept custody of children committed to the public children services agency by a court exercising juvenile jurisdiction;

(4) Provide such care as the public children services agency considers to be in the best interests of any child adjudicated to be an abused, neglected, or dependent child the agency finds to be in need of public care or service;

(5) Provide social services to any unmarried girl adjudicated to be an

abused, neglected, or dependent child who is pregnant with or has been delivered of a child;

(6) Make available to the bureau for children with medical handicaps of the department of health at its request any information concerning a crippled child found to be in need of treatment under sections 3701.021 to 3701.028 of the Revised Code who is receiving services from the public children services agency;

(7) Provide temporary emergency care for any child considered by the public children services agency to be in need of such care, without agreement or commitment;

(8) Find certified foster homes, within or outside the county, for the care of children, including handicapped children from other counties attending special schools in the county;

(9) Subject to the approval of the board of county commissioners and the state department of job and family services, establish and operate a training school or enter into an agreement with any municipal corporation or other political subdivision of the county respecting the operation, acquisition, or maintenance of any children's home, training school, or other institution for the care of children maintained by such municipal corporation or political subdivision;

(10) Acquire and operate a county children's home, establish, maintain, and operate a receiving home for the temporary care of children, or procure certified foster homes for this purpose;

(11) Enter into an agreement with the trustees of any district children's home, respecting the operation of the district children's home in cooperation with the other county boards in the district;

(12) Cooperate with, make its services available to, and act as the agent of persons, courts, the department of job and family services, the department of health, and other organizations within and outside the state, in matters relating to the welfare of children, except that the public children services agency shall not be required to provide supervision of or other services related to the exercise of parenting time rights granted pursuant to section 3109.051 or 3109.12 of the Revised Code or companionship or visitation rights granted pursuant to section 3109.051, 3109.11, or 3109.12 of the Revised Code unless a juvenile court, pursuant to Chapter 2151. of the Revised Code, or a common pleas court, pursuant to division (E)(6) of section 3113.31 of the Revised Code, requires the provision of supervision or other services related to the exercise of the parenting time rights or companionship or visitation rights;

(13) Make investigations at the request of any superintendent of schools

in the county or the principal of any school concerning the application of any child adjudicated to be an abused, neglected, or dependent child for release from school, where such service is not provided through a school attendance department;

(14) Administer funds provided under Title IV-E of the "Social Security Act," 94 Stat. 501 (1980), 42 U.S.C.A. 671, as amended, in accordance with rules adopted under section 5101.141 of the Revised Code;

(15) In addition to administering Title IV-E adoption assistance funds, enter into agreements to make adoption assistance payments under section 5153.163 of the Revised Code;

(16) Implement a system of risk assessment, in accordance with rules adopted by the director of job and family services, to assist the public children services agency in determining the risk of abuse or neglect to a child;

(17) Enter into a plan of cooperation with the board of county commissioners under section 307.983 of the Revised Code and comply with each fiscal agreement the board enters into under section 307.98 of the Revised Code that include family services duties of public children services agencies and contracts the board enters into under sections 307.981 and 307.982 of the Revised Code that affect the public children services agency;

(18) Make reasonable efforts to prevent the removal of an alleged or adjudicated abused, neglected, or dependent child from the child's home, eliminate the continued removal of the child from the child's home, or make it possible for the child to return home safely, except that reasonable efforts of that nature are not required when a court has made a determination under division (A)(2) of section 2151.419 of the Revised Code;

(19) Make reasonable efforts to place the child in a timely manner in accordance with the permanency plan approved under division (E) of section 2151.417 of the Revised Code and to complete whatever steps are necessary to finalize the permanent placement of the child;

(20) Administer a Title IV-A program identified under division (A)~~(3)~~(4)(c) or ~~(4)~~(f) of section 5101.80 of the Revised Code that the department of job and family services provides for the public children services agency to administer under the department's supervision pursuant to section 5101.801 of the Revised Code;

(21) Administer the kinship permanency incentive program created under section 5101.802 of the Revised Code under the supervision of the director of job and family services;

~~(22)~~ Provide independent living services pursuant to sections 2151.81 to 2151.84 of the Revised Code.

(B) The public children services agency shall use the system implemented pursuant to division (B)(16) of this section in connection with an investigation undertaken pursuant to division (F)(1) of section 2151.421 of the Revised Code and may use the system at any other time the agency is involved with any child when the agency determines that risk assessment is necessary.

(C) Except as provided in section 2151.422 of the Revised Code, in accordance with rules of the director of job and family services, and on behalf of children in the county whom the public children services agency considers to be in need of public care or protective services, the public children services agency may do the following:

(1) Provide or find, with other child serving systems, specialized foster care for the care of children in a specialized foster home, as defined in section 5103.02 of the Revised Code, certified under section 5103.03 of the Revised Code;

(2)(a) Except as limited by divisions (C)(2)(b) and (c) of this section, contract with the following for the purpose of assisting the agency with its duties:

- (i) County departments of job and family services;
- (ii) Boards of alcohol, drug addiction, and mental health services;
- (iii) County boards of mental retardation and developmental disabilities;
- (iv) Regional councils of political subdivisions established under Chapter 167. of the Revised Code;

- (v) Private and government providers of services;

- (vi) Managed care organizations and prepaid health plans.

(b) A public children services agency contract under division (C)(2)(a) of this section regarding the agency's duties under section 2151.421 of the Revised Code may not provide for the entity under contract with the agency to perform any service not authorized by the department's rules.

(c) Only a county children services board appointed under section 5153.03 of the Revised Code that is a public children services agency may contract under division (C)(2)(a) of this section. If an entity specified in division (B) or (C) of section 5153.02 of the Revised Code is the public children services agency for a county, the board of county commissioners may enter into contracts pursuant to section 307.982 of the Revised Code regarding the agency's duties.

Sec. 5502.01. (A) The department of public safety shall administer and enforce the laws relating to the registration, licensing, sale, and operation of motor vehicles and the laws pertaining to the licensing of drivers of motor vehicles.



The department shall compile, analyze, and publish statistics relative to motor vehicle accidents and the causes of them, prepare and conduct educational programs for the purpose of promoting safety in the operation of motor vehicles on the highways, and conduct research and studies for the purpose of promoting safety on the highways of this state.

(B) The department shall administer the laws and rules relative to trauma and emergency medical services specified in Chapter 4765. of the Revised Code.

(C) The department shall administer and enforce the laws contained in Chapters 4301. and 4303. of the Revised Code and enforce the rules and orders of the liquor control commission pertaining to retail liquor permit holders.

(D) The department shall administer the laws governing the state emergency management agency and shall enforce all additional duties and responsibilities as prescribed in the Revised Code related to emergency management services.

(E) The department shall conduct investigations pursuant to Chapter 5101. of the Revised Code in support of the duty of the department of job and family services to administer food stamp programs throughout this state. The department of public safety shall conduct investigations necessary to protect the state's property rights and interests in the food stamp program.

(F) The department of public safety shall enforce compliance with orders and rules of the public utilities commission and applicable laws in accordance with Chapters 4919., 4921., and 4923. of the Revised Code regarding commercial motor vehicle transportation safety, economic, and hazardous materials requirements.

(G) Notwithstanding Chapter 4117. of the Revised Code, the department of public safety may establish requirements for its enforcement personnel, including its enforcement agents described in section 5502.14 of the Revised Code, that include standards of conduct, work rules and procedures, and criteria for eligibility as law enforcement personnel.

(H) The department shall administer, maintain, and operate the Ohio criminal justice network. The Ohio criminal justice network shall be a computer network that supports state and local criminal justice activities. The network shall be an electronic repository for various data, which may include arrest warrants, notices of persons wanted by law enforcement agencies, criminal records, prison inmate records, stolen vehicle records, vehicle operator's licenses, and vehicle registrations and titles.

(I) The department shall coordinate all homeland security activities of all state agencies and shall be a liaison between state agencies and local

entities for those activities and related purposes.

(J) Beginning July 1, 2004, the department shall administer and enforce the laws relative to private investigators and security service providers specified in Chapter 4749. of the Revised Code.

(K) The department shall administer criminal justice services in accordance with sections 5502.61 to 5502.66 of the Revised Code.

Sec. 5502.03. (A) There is hereby created in the department of public safety a division of homeland security. It is the intent of the general assembly that the creation of the division of homeland security of the department of public safety by this amendment does not result in an increase of funding appropriated to the department.

(B)(1) The division shall coordinate all homeland security activities of all state agencies and shall be the liaison between state agencies and local entities for the purposes of communicating homeland security funding and policy initiatives.

(2) The division and the department shall distribute any homeland security funds on a county basis and shall not distribute those funds on a regional basis unless federal law requires distribution on a regional basis.

(C) The director of public safety shall appoint an executive director, who shall be head of the division of homeland security and who regularly shall advise the governor and the director on matters pertaining to homeland security. The executive director shall serve at the pleasure of the director of public safety. To carry out the duties assigned under this section, the executive director, subject to the direction and control of the director of public safety, may appoint and maintain necessary staff and may enter into any necessary agreements.

(D) Except as otherwise provided by law, nothing in this section shall be construed to give the director of public safety or the executive director of the division of homeland security authority over the incident management structure or responsibilities of local emergency response personnel.

Sec. ~~481.54~~ 5502.61. As used in sections ~~481.54~~ 5502.61 to ~~481.56~~ 5502.66 of the Revised Code:

(A) "Federal criminal justice acts" means any federal law that authorizes financial assistance and other forms of assistance to be given by the federal government to the states to be used for the improvement of the criminal and juvenile justice systems of the states.

(B)(1) "Criminal justice system" includes all of the functions of the following:

(a) The state highway patrol, county sheriff offices, municipal and township police departments, and all other law enforcement agencies;

(b) The courts of appeals, courts of common pleas, municipal courts, county courts, and mayor's courts, when dealing with criminal cases;

(c) The prosecuting attorneys, city directors of law, village solicitors, and other prosecuting authorities when prosecuting or otherwise handling criminal cases and the county and joint county public defenders and other public defender agencies or offices;

(d) The department of rehabilitation and correction, probation departments, county and municipal jails and workhouses, and any other department, agency, or facility that is concerned with the rehabilitation or correction of criminal offenders;

(e) Any public or private agency whose purposes include the prevention of crime or the diversion, adjudication, detention, or rehabilitation of criminal offenders;

(f) Any public or private agency, the purposes of which include assistance to crime victims or witnesses.

(2) The inclusion of any public or private agency, the purposes of which include assistance to crime victims or witnesses, as part of the criminal justice system pursuant to division (B)(1) of this section does not limit, and shall not be construed as limiting, the discretion or authority of the attorney general with respect to crime victim assistance and criminal justice programs.

(C) "Juvenile justice system" includes all of the functions of the juvenile courts, the department of youth services, any public or private agency whose purposes include the prevention of delinquency or the diversion, adjudication, detention, or rehabilitation of delinquent children, and any of the functions of the criminal justice system that are applicable to children.

(D) "Comprehensive plan" means a document that coordinates, evaluates, and otherwise assists, on an annual or multi-year basis, any of the functions of the criminal and juvenile justice systems of the state or a specified area of the state, that conforms to the priorities of the state with respect to criminal and juvenile justice systems, and that conforms with the requirements of all federal criminal justice acts. These functions may include, but are not limited to, any of the following:

(1) Crime and delinquency prevention;

(2) Identification, detection, apprehension, and detention of persons charged with criminal offenses or delinquent acts;

(3) Assistance to crime victims or witnesses, except that the comprehensive plan does not include the functions of the attorney general pursuant to sections 109.91 and 109.92 of the Revised Code;

(4) Adjudication or diversion of persons charged with criminal offenses

or delinquent acts;

(5) Custodial treatment of criminal offenders, delinquent children, or both;

(6) Institutional and noninstitutional rehabilitation of criminal offenders, delinquent children, or both.

(E) "Metropolitan county criminal justice services agency" means an agency that is established pursuant to division (A) of section ~~181.54~~ 5502.64 of the Revised Code.

(F) "Administrative planning district" means a district that is established pursuant to division (A) or (B) of section ~~181.56~~ 5502.66 of the Revised Code.

(G) "Criminal justice coordinating council" means a criminal justice services agency that is established pursuant to division (D) of section ~~181.56~~ 5502.66 of the Revised Code.

(H) "Local elected official" means any person who is a member of a board of county commissioners or township trustees or of a city or village council, judge of the court of common pleas, a municipal court, or a county court, sheriff, county coroner, prosecuting attorney, city director of law, village solicitor, or mayor.

(I) "Juvenile justice coordinating council" means a juvenile justice services agency that is established pursuant to division (D) of section ~~181.56~~ 5502.66 of the Revised Code.

Sec. ~~181.52~~ 5502.62. (A) There is hereby created ~~an office in the department of public safety a division~~ of criminal justice services. The ~~governor~~ director of public safety, with the concurrence of the governor, shall appoint a an executive director of the ~~office~~, and the director may appoint, within the office, any professional and technical personnel and other employees that are necessary to enable the office to comply with sections ~~181.51 to 181.56 of the Revised Code~~ division of criminal justice services. The executive director shall be the head of the division. The executive director shall serve at the pleasure of the director of public safety. To carry out the duties assigned under this section and to comply with sections 5502.63 to 5502.66 of the Revised Code, the executive director, subject to the direction and control of the director of public safety, may appoint and maintain any necessary staff and may enter into any necessary contracts and other agreements. The executive director ~~and the assistant director~~ of the ~~office~~ division, and all professional and technical personnel employed within the ~~office~~ division who are not public employees as defined in section 4117.01 of the Revised Code, shall be in the unclassified civil service, and all other persons employed within the ~~office~~ division shall

be in the classified civil service. ~~The director may enter into any contracts, except contracts governed by Chapter 4117, of the Revised Code, that are necessary for the operation of the office.~~

(B) Subject to division (E) of this section and subject to divisions (D) to (F) of section 5120.09 of the Revised Code insofar as those divisions relate to federal criminal justice acts that the governor requires the department of rehabilitation and correction to administer, the ~~office~~ division of criminal justice services shall do all of the following:

(1) Serve as the state criminal justice services agency and perform criminal justice system planning in the state, including any planning that is required by any federal law;

(2) Collect, analyze, and correlate information and data concerning the criminal justice system in the state;

(3) Cooperate with and provide technical assistance to state departments, administrative planning districts, metropolitan county criminal justice services agencies, criminal justice coordinating councils, agencies, offices, and departments of the criminal justice system in the state, and other appropriate organizations and persons;

(4) Encourage and assist agencies, offices, and departments of the criminal justice system in the state and other appropriate organizations and persons to solve problems that relate to the duties of the ~~office~~ division;

(5) Administer within the state any federal criminal justice acts that the governor requires it to administer;

(6) Administer funds received under the "Family Violence Prevention and Services Act," 98 Stat. 1757 (1984), 42 U.S.C.A. 10401, as amended, with all powers necessary for the adequate administration of those funds, including the authority to establish a family violence prevention and services program.

(7) Implement the state comprehensive plans;

(8) Audit grant activities of agencies, offices, organizations, and persons that are financed in whole or in part by funds granted through the ~~office~~ division;

(9) Monitor or evaluate the performance of criminal justice system projects and programs in the state that are financed in whole or in part by funds granted through the ~~office~~ division;

(10) Apply for, allocate, disburse, and account for grants that are made available pursuant to federal criminal justice acts, or made available from other federal, state, or private sources, to improve the criminal justice system in the state. ~~All~~ Except as otherwise provided in this division, all money from such federal grants shall, if the terms under which the money is

received require that the money be deposited into an interest-bearing fund or account, be deposited in the state treasury to the credit of the federal program purposes fund, which is hereby created. All investment earnings of the federal program purposes fund shall be credited to the fund. All money from such federal grants that require that the money be deposited into an interest-bearing fund or account, that are intended to provide funding to local criminal justice programs, and that require that investment earnings be distributed for program purposes shall be deposited in the state treasury to the credit of the federal justice programs fund, which is hereby created. All investment earnings of the federal justice programs fund shall be credited to the fund and distributed in accordance with the terms of the grant under which the money is received.

(11) Contract with federal, state, and local agencies, foundations, corporations, businesses, and persons when necessary to carry out the duties of the ~~office~~ division;

(12) Oversee the activities of metropolitan county criminal justice services agencies, administrative planning districts, and criminal justice coordinating councils in the state;

(13) Advise the director of public safety, general assembly, and governor on legislation and other significant matters that pertain to the improvement and reform of criminal and juvenile justice systems in the state;

(14) Prepare and recommend legislation to the director of public safety, general assembly, and governor for the improvement of the criminal and juvenile justice systems in the state;

(15) Assist, advise, and make any reports that are requested or required by the governor, director of public safety, attorney general, or general assembly;

(16) ~~Adopt~~ Subject to the approval of the director of public safety, adopt rules pursuant to Chapter 119. of the Revised Code.

(C) Upon the request of the director of public safety or governor, the ~~office~~ division of criminal justice services may do any of the following:

(1) Collect, analyze, or correlate information and data concerning the juvenile justice system in the state;

(2) Cooperate with and provide technical assistance to state departments, administrative planning districts, metropolitan county criminal justice service agencies, criminal justice coordinating councils, agency offices, and the departments of the juvenile justice system in the state and other appropriate organizations and persons;

(3) Encourage and assist agencies, offices, and departments of the

juvenile justice system in the state and other appropriate organizations and persons to solve problems that relate to the duties of the ~~office~~ division.

(D) Divisions (B) and (C) of this section do not limit the discretion or authority of the attorney general with respect to crime victim assistance and criminal justice programs.

(E) Nothing in this section is intended to diminish or alter the status of the office of the attorney general as a criminal justice services agency.

Sec. ~~481.251~~ 5502.63. The ~~office~~ division of criminal justice services in the department of public safety shall prepare a poster and a brochure that describe safe firearms practices. The poster and brochure shall contain typeface that is at least one-quarter inch tall. The ~~office~~ division shall furnish copies of the poster and brochure free of charge to each federally licensed firearms dealer in this state.

As used in this section, "federally licensed firearms dealer" means an importer, manufacturer, or dealer having a license to deal in destructive devices or their ammunition, issued and in effect pursuant to the federal "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 923 et seq., and any amendments or additions to that act or reenactments of that act.

Sec. ~~481.54~~ 5502.64. (A) A county may enter into an agreement with the largest city within the county to establish a metropolitan county criminal justice services agency, if the population of the county exceeds five hundred thousand or the population of the city exceeds two hundred fifty thousand.

(B) A metropolitan county criminal justice services agency shall do all of the following:

(1) Accomplish criminal and juvenile justice systems planning within its services area;

(2) Collect, analyze, and correlate information and data concerning the criminal and juvenile justice systems within its services area;

(3) Cooperate with and provide technical assistance to all criminal and juvenile justice agencies and systems and other appropriate organizations and persons within its services area;

(4) Encourage and assist agencies of the criminal and juvenile justice systems and other appropriate organizations and persons to solve problems that relate to its duties;

(5) Administer within its services area any federal criminal justice acts or juvenile justice acts that the ~~office~~ division of criminal justice services pursuant to section 5139.11 of the Revised Code or the department of youth services administers within the state;

(6) Implement the comprehensive plans for its services area;

(7) Monitor or evaluate, within its services area, the performance of the

criminal and juvenile justice systems projects and programs that are financed in whole or in part by funds granted through it;

(8) Apply for, allocate, and disburse grants that are made available pursuant to any federal criminal justice acts, or pursuant to any other federal, state, or private sources for the purpose of improving the criminal and juvenile justice systems;

(9) Contract with federal, state, and local agencies, foundations, corporations, and other businesses or persons to carry out the duties of the agency.

Sec. ~~481.55~~ 5502.65. (A)(1) When funds are available for criminal justice purposes pursuant to section ~~481.54~~ 5502.64 of the Revised Code, the ~~office~~ division of criminal justice services shall provide funds to metropolitan county criminal justice services agencies for the purpose of developing, coordinating, evaluating, and implementing comprehensive plans within their respective counties. The ~~office~~ division of criminal justice services shall provide funds to an agency only if it complies with the conditions of division (B) of this section.

(2) When funds are available for juvenile justice purposes pursuant to section ~~481.54~~ 5502.64 of the Revised Code, the department of youth services shall provide funds to metropolitan county criminal justice services agencies for the purpose of developing, coordinating, evaluating, and implementing comprehensive plans within their respective counties. The department shall provide funds to an agency only if it complies with the conditions of division (B) of this section.

(B) A metropolitan county criminal justice services agency shall do all of the following:

(1) Submit, in a form that is acceptable to the ~~office~~ division of criminal justice services or the department of youth services pursuant to section 5139.01 of the Revised Code, a comprehensive plan for the county;

(2) Establish a metropolitan county criminal justice services supervisory board whose members shall include a majority of the local elected officials in the county and representatives from law enforcement agencies, courts, prosecuting authorities, public defender agencies, rehabilitation and correction agencies, community organizations, juvenile justice services agencies, professionals, and private citizens in the county, and that shall have the authority set forth in division (C) of this section;

(3) Organize in the manner provided in sections 167.01 to 167.03, 302.21 to 302.24, or 713.21 to 713.27 of the Revised Code, unless the board created pursuant to division (B)(2) of this section organizes pursuant to these sections.



(C) A metropolitan county criminal justice services supervisory board shall do all of the following:

(1) Exercise leadership in improving the quality of the criminal and juvenile justice systems in the county;

(2) Review, approve, and maintain general oversight of the comprehensive plans for the county and the implementation of the plans;

(3) Review and comment on the overall needs and accomplishments of the criminal and juvenile justice systems in the county;

(4) Establish, as required to comply with this division, task forces, ad hoc committees, and other committees, whose members shall be appointed by the chairperson of the board;

(5) Establish any rules that the board considers necessary and that are consistent with the federal criminal justice acts and section ~~481.52~~ 5502.62 of the Revised Code.

Sec. ~~481.56~~ 5502.66. (A) In counties in which a metropolitan county criminal justice services agency does not exist, the ~~office~~ division of criminal justice services shall discharge the ~~office's~~ division's duties that the ~~governor~~ director of public safety requires it to administer by establishing administrative planning districts for criminal justice programs. An administrative planning district shall contain a group of contiguous counties in which no county has a metropolitan county criminal justice services agency.

(B) In counties in which a metropolitan county criminal justice services agency does not exist, the department of youth services shall discharge pursuant to section 5139.11 of the Revised Code the department's duty by establishing administrative planning districts for juvenile justice programs.

(C) All administrative planning districts shall contain a group of contiguous counties in which no county has a metropolitan county criminal justice services agency.

(D) Any county or any combination of contiguous counties within an administrative planning district may form a criminal justice coordinating council or a juvenile justice coordinating council for its respective programs, if the county or the group of counties has a total population in excess of two hundred fifty thousand. The council shall comply with the conditions set forth in divisions (B) and (C) of section ~~481.55~~ 5502.65 of the Revised Code, and exercise within its jurisdiction the powers and duties set forth in division (B) of section ~~481.54~~ 5502.64 of the Revised Code.

Sec. 5531.10. (A) As used in this chapter:

(1) "Bond proceedings" means the resolution, order, trust agreement, indenture, lease, lease-purchase agreements, and other agreements,

amendments and supplements to the foregoing, or any one or more or combination thereof, authorizing or providing for the terms and conditions applicable to, or providing for the security or liquidity of, obligations issued pursuant to this section, and the provisions contained in such obligations.

(2) "Bond service charges" means principal, including mandatory sinking fund requirements for retirement of obligations, and interest, and redemption premium, if any, required to be paid by the state on obligations.

(3) "Bond service fund" means the applicable fund and accounts therein created for and pledged to the payment of bond service charges, which may be, or may be part of, the state infrastructure bank revenue bond service fund created by division (R) of this section including all moneys and investments, and earnings from investments, credited and to be credited thereto.

(4) "Issuing authority" means the treasurer of state, or the officer who by law performs the functions of the treasurer of state.

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

(6) "Pledged receipts" means moneys accruing to the state from the lease, lease-purchase, sale, or other disposition, or use, of qualified projects, and from the repayment, including interest, of loans made from proceeds received from the sale of obligations; accrued interest received from the sale of obligations; income from the investment of the special funds; any gifts, grants, donations, and pledges, and receipts therefrom, available for the payment of bond service charges; and any amounts in the state infrastructure bank pledged to the payment of such charges. If the amounts in the state infrastructure bank are insufficient for the payment of such charges, "pledged receipts" also means moneys that are apportioned by the United States secretary of transportation under United States Code, Title XXIII, as amended, or any successor legislation, or under any other federal law relating to aid for highways, and that are to be received as a grant by the state, to the extent the state is not prohibited by state or federal law from using such moneys and the moneys are pledged to the payment of such bond service charges.

(7) "Special funds" or "funds" means, except where the context does not permit, the bond service fund, and any other funds, including reserve funds, created under the bond proceedings, and the state infrastructure bank revenue bond service fund created by division (R) of this section to the extent provided in the bond proceedings, including all moneys and investments, and earnings from investment, credited and to be credited thereto.

(8) "State infrastructure project" means any public transportation project undertaken by the state, including, but not limited to, all components of any such project, as described in division (D) of section ~~5131.09~~ 5531.09 of the Revised Code.

(9) "District obligations" means bonds, notes, or other evidence of obligation including interest coupons pertaining thereto, issued to finance a qualified project by a transportation improvement district created pursuant to section 5540.02 of the Revised Code, of which the principal, including mandatory sinking fund requirements for retirement of such obligations, and interest and redemption premium, if any, are payable by the department of transportation.

(B) The issuing authority, after giving written notice to the director of budget and management and upon the certification by the director of transportation to the issuing authority of the amount of moneys or additional moneys needed either for state infrastructure projects or to provide financial assistance for any of the purposes for which the state infrastructure bank may be used under section 5531.09 of the Revised Code, or needed for capitalized interest, funding reserves, and paying costs and expenses incurred in connection with the issuance, carrying, securing, paying, redeeming, or retirement of the obligations or any obligations refunded thereby, including payment of costs and expenses relating to letters of credit, lines of credit, insurance, put agreements, standby purchase agreements, indexing, marketing, remarketing and administrative arrangements, interest swap or hedging agreements, and any other credit enhancement, liquidity, remarketing, renewal, or refunding arrangements, all of which are authorized by this section, shall issue obligations of the state under this section in the required amount. The proceeds of such obligations, except for the portion to be deposited in special funds, including reserve funds, as may be provided in the bond proceedings, shall as provided in the bond proceedings be credited to the infrastructure bank obligations fund of the state infrastructure bank created by section 5531.09 of the Revised Code and disbursed as provided in the bond proceedings for such obligations. The issuing authority may appoint trustees, paying agents, transfer agents, and authenticating agents, and may retain the services of financial advisors, accounting experts, and attorneys, and retain or contract for the services of marketing, remarketing, indexing, and administrative agents, other consultants, and independent contractors, including printing services, as are necessary in the issuing authority's judgment to carry out this section. The costs of such services are payable from funds of the state infrastructure bank.

(C) Except as otherwise provided in this division, the holders or owners of such obligations shall have no right to have moneys raised by taxation by the state of Ohio obligated or pledged, and moneys so raised shall not be obligated or pledged, for the payment of bond service charges. The municipal corporations and counties may pledge and obligate moneys received pursuant to sections 4501.04, 5709.42, 5709.79, 5735.23, 5735.27, and 5735.291 of the Revised Code to the payment of amounts payable by those municipal corporations and counties to the state infrastructure bank pursuant to section 5531.09 of the Revised Code, and the bond proceedings for obligations may provide that such payments shall constitute pledged receipts, provided such moneys are obligated, pledged, and paid only with respect to obligations issued exclusively for public transportation projects. The right of such holders and owners to the payment of bond service charges is limited to all or that portion of the pledged receipts and those special funds pledged thereto pursuant to the bond proceedings for such obligations in accordance with this section, and each such obligation shall bear on its face a statement to that effect.

(D) Obligations shall be authorized by order of the issuing authority and the bond proceedings shall provide for the purpose thereof and the principal amount or amounts, and shall provide for or authorize the manner or agency for determining the principal maturity or maturities, not exceeding twenty-five years from the date of issuance, the interest rate or rates or the maximum interest rate, the date of the obligations and the dates of payment of interest thereon, their denomination, and the establishment within or without the state of a place or places of payment of bond service charges. Sections 9.98 to 9.983 of the Revised Code are applicable to obligations issued under this section. The purpose of such obligations may be stated in the bond proceedings in terms describing the general purpose or purposes to be served. The bond proceedings also shall provide, subject to the provisions of any other applicable bond proceedings, for the pledge of all, or such part as the issuing authority may determine, of the pledged receipts and the applicable special fund or funds to the payment of bond service charges, which pledges may be made either prior or subordinate to other expenses, claims, or payments, and may be made to secure the obligations on a parity with obligations theretofore or thereafter issued, if and to the extent provided in the bond proceedings. The pledged receipts and special funds so pledged and thereafter received by the state immediately are subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledges is valid and binding against all parties having claims of any kind against the state or any governmental agency of the state,

irrespective of whether such parties have notice thereof, and shall create a perfected security interest for all purposes of Chapter 1309. of the Revised Code, without the necessity for separation or delivery of funds or for the filing or recording of the bond proceedings by which such pledge is created or any certificate, statement, or other document with respect thereto; and the pledge of such pledged receipts and special funds is effective and the money therefrom and thereof may be applied to the purposes for which pledged without necessity for any act of appropriation. Every pledge, and every covenant and agreement made with respect thereto, made in the bond proceedings may therein be extended to the benefit of the owners and holders of obligations authorized by this section, and to any trustee therefor, for the further security of the payment of the bond service charges.

(E) The bond proceedings may contain additional provisions as to:

(1) The redemption of obligations prior to maturity at the option of the issuing authority at such price or prices and under such terms and conditions as are provided in the bond proceedings;

(2) Other terms of the obligations;

(3) Limitations on the issuance of additional obligations;

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

(5) The deposit, investment, and application of special funds, and the safeguarding of moneys on hand or on deposit, without regard to Chapter 131. or 135. of the Revised Code, but subject to any special provisions of this section with respect to particular funds or moneys, provided that any bank or trust company which acts as depository of any moneys in the special funds may furnish such indemnifying bonds or may pledge such securities as required by the issuing authority;

(6) Any or every provision of the bond proceedings being binding upon such officer, board, commission, authority, agency, department, or other person or body as may from time to time have the authority under law to take such actions as may be necessary to perform all or any part of the duty required by such provision;

(7) Any provision that may be made in a trust agreement or indenture;

(8) Any other or additional agreements with the holders of the obligations, or the trustee therefor, relating to the obligations or the security therefor, including the assignment of mortgages or other security relating to financial assistance for qualified projects under section 5531.09 of the Revised Code.

(F) The obligations may have the great seal of the state or a facsimile thereof affixed thereto or printed thereon. The obligations and any coupons

pertaining to obligations shall be signed or bear the facsimile signature of the issuing authority. Any obligations or coupons may be executed by the person who, on the date of execution, is the proper issuing authority although on the date of such bonds or coupons such person was not the issuing authority. In case the issuing authority whose signature or a facsimile of whose signature appears on any such obligation or coupon ceases to be the issuing authority before delivery thereof, such signature or facsimile nevertheless is valid and sufficient for all purposes as if the former issuing authority had remained the issuing authority until such delivery; and in case the seal to be affixed to obligations has been changed after a facsimile of the seal has been imprinted on such obligations, such facsimile seal shall continue to be sufficient as to such obligations and obligations issued in substitution or exchange therefor.

(G) All obligations are negotiable instruments and securities under Chapter 1308. of the Revised Code, subject to the provisions of the bond proceedings as to registration. The obligations may be issued in coupon or in registered form, or both, as the issuing authority determines. Provision may be made for the registration of any obligations with coupons attached thereto as to principal alone or as to both principal and interest, their exchange for obligations so registered, and for the conversion or reconversion into obligations with coupons attached thereto of any obligations registered as to both principal and interest, and for reasonable charges for such registration, exchange, conversion, and reconversion.

(H) Obligations may be sold at public sale or at private sale, as determined in the bond proceedings.

(I) Pending preparation of definitive obligations, the issuing authority may issue interim receipts or certificates which shall be exchanged for such definitive obligations.

(J) In the discretion of the issuing authority, obligations may be secured additionally by a trust agreement or indenture between the issuing authority and a corporate trustee which may be any trust company or bank having its principal place of business within the state. Any such agreement or indenture may contain the order authorizing the issuance of the obligations, any provisions that may be contained in any bond proceedings, and other provisions which are customary or appropriate in an agreement or indenture of such type, including, but not limited to:

(1) Maintenance of each pledge, trust agreement, indenture, or other instrument comprising part of the bond proceedings until the state has fully paid the bond service charges on the obligations secured thereby, or provision therefor has been made;

(2) In the event of default in any payments required to be made by the bond proceedings, or any other agreement of the issuing authority made as a part of the contract under which the obligations were issued, enforcement of such payments or agreement by mandamus, the appointment of a receiver, suit in equity, action at law, or any combination of the foregoing;

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

(4) The replacement of any obligations that become mutilated or are destroyed, lost, or stolen;

(5) Such other provisions as the trustee and the issuing authority agree upon, including limitations, conditions, or qualifications relating to any of the foregoing.

(K) Any holder of obligations or a trustee under the bond proceedings, except to the extent that the holder's or trustee's rights are restricted by the bond proceedings, may by any suitable form of legal proceedings, protect and enforce any rights under the laws of this state or granted by such bond proceedings. Such rights include the right to compel the performance of all duties of the issuing authority and the director of transportation required by the bond proceedings or sections 5531.09 and 5531.10 of the Revised Code; to enjoin unlawful activities; and in the event of default with respect to the payment of any bond service charges on any obligations or in the performance of any covenant or agreement on the part of the issuing authority or the director of transportation in the bond proceedings, to apply to a court having jurisdiction of the cause to appoint a receiver to receive and administer the pledged receipts and special funds, other than those in the custody of the treasurer of state, which are pledged to the payment of the bond service charges on such obligations or which are the subject of the covenant or agreement, with full power to pay, and to provide for payment of bond service charges on, such obligations, and with such powers, subject to the direction of the court, as are accorded receivers in general equity cases, excluding any power to pledge additional revenues or receipts or other income or moneys of the state or local governmental entities, or agencies thereof, to the payment of such principal and interest and excluding the power to take possession of, mortgage, or cause the sale or otherwise dispose of any project facilities.

Each duty of the issuing authority and the issuing authority's officers and employees, and of each state or local governmental agency and its officers, members, or employees, undertaken pursuant to the bond proceedings or any loan, loan guarantee, lease, lease-purchase agreement, or

other agreement made under authority of section 5531.09 of the Revised Code, and in every agreement by or with the issuing authority, is hereby established as a duty of the issuing authority, and of each such officer, member, or employee having authority to perform such duty, specifically enjoined by the law resulting from an office, trust, or station within the meaning of section 2731.01 of the Revised Code.

The person who is at the time the issuing authority, or the issuing authority's officers or employees, are not liable in their personal capacities on any obligations issued by the issuing authority or any agreements of or with the issuing authority.

(L) The issuing authority may authorize and issue obligations for the refunding, including funding and retirement, and advance refunding with or without payment or redemption prior to maturity, of any obligations previously issued by the issuing authority or district obligations. Such refunding obligations may be issued in amounts sufficient for payment of the principal amount of the prior obligations or district obligations, any redemption premiums thereon, principal maturities of any such obligations or district obligations maturing prior to the redemption of the remaining obligations or district obligations on a parity therewith, interest accrued or to accrue to the maturity dates or dates of redemption of such obligations or district obligations, and any expenses incurred or to be incurred in connection with such issuance and such refunding, funding, and retirement. Subject to the bond proceedings therefor, the portion of proceeds of the sale of refunding obligations issued under this division to be applied to bond service charges on the prior obligations or district obligations shall be credited to an appropriate account held by the trustee for such prior or new obligations or to the appropriate account in the bond service fund for such obligations or district obligations. Obligations authorized under this division shall be deemed to be issued for those purposes for which such prior obligations or district obligations were issued and are subject to the provisions of this section pertaining to other obligations, except as otherwise provided in this section. The last maturity of obligations authorized under this division shall not be later than twenty-five years from the date of issuance of the original securities issued for the original purpose.

(M) The authority to issue obligations under this section includes authority to issue obligations in the form of bond anticipation notes and to renew the same from time to time by the issuance of new notes. The holders of such notes or interest coupons pertaining thereto shall have a right to be paid solely from the pledged receipts and special funds that may be pledged to the payment of the bonds anticipated, or from the proceeds of such bonds



or renewal notes, or both, as the issuing authority provides in the order authorizing such notes. Such notes may be additionally secured by covenants of the issuing authority to the effect that the issuing authority and the state will do such or all things necessary for the issuance of such bonds or renewal notes in the appropriate amount, and apply the proceeds thereof to the extent necessary, to make full payment of the principal of and interest on such notes at the time or times contemplated, as provided in such order. For such purpose, the issuing authority may issue bonds or renewal notes in such principal amount and upon such terms as may be necessary to provide funds to pay when required the principal of and interest on such notes, notwithstanding any limitations prescribed by or for purposes of this section. Subject to this division, all provisions for and references to obligations in this section are applicable to notes authorized under this division.

The issuing authority in the bond proceedings authorizing the issuance of bond anticipation notes shall set forth for such bonds an estimated interest rate and a schedule of principal payments for such bonds and the annual maturity dates thereof.

(N) Obligations issued under this section are lawful investments for banks, societies for savings, savings and loan associations, deposit guarantee associations, trust companies, trustees, fiduciaries, insurance companies, including domestic for life and domestic not for life, trustees or other officers having charge of sinking and bond retirement or other special funds of political subdivisions and taxing districts of this state, the commissioners of the sinking fund of the state, the administrator of workers' compensation, the state teachers retirement system, the public employees retirement system, the school employees retirement system, and the Ohio police and fire pension fund, notwithstanding any other provisions of the Revised Code or rules adopted pursuant thereto by any agency of the state with respect to investments by them, and are also acceptable as security for the deposit of public moneys.

(O) Unless otherwise provided in any applicable bond proceedings, moneys to the credit of or in the special funds established by or pursuant to this section may be invested by or on behalf of the issuing authority only in notes, bonds, or other obligations of the United States, or of any agency or instrumentality of the United States, obligations guaranteed as to principal and interest by the United States, obligations of this state or any political subdivision of this state, and certificates of deposit of any national bank located in this state and any bank, as defined in section 1101.01 of the Revised Code, subject to inspection by the superintendent of financial institutions. If the law or the instrument creating a trust pursuant to division

(J) of this section expressly permits investment in direct obligations of the United States or an agency of the United States, unless expressly prohibited by the instrument, such moneys also may be invested in no-front-end-load money market mutual funds consisting exclusively of obligations of the United States or an agency of the United States and in repurchase agreements, including those issued by the fiduciary itself, secured by obligations of the United States or an agency of the United States; and in collective investment funds as defined in division (A) of section 1111.01 of the Revised Code and consisting exclusively of any such securities. The income from such investments shall be credited to such funds as the issuing authority determines, and such investments may be sold at such times as the issuing authority determines or authorizes.

(P) Provision may be made in the applicable bond proceedings for the establishment of separate accounts in the bond service fund and for the application of such accounts only to the specified bond service charges on obligations pertinent to such accounts and bond service fund and for other accounts therein within the general purposes of such fund. Unless otherwise provided in any applicable bond proceedings, moneys to the credit of or in the several special funds established pursuant to this section shall be disbursed on the order of the treasurer of state, provided that no such order is required for the payment from the bond service fund when due of bond service charges on obligations.

(Q)(1) The issuing authority may pledge all, or such portion as the issuing authority determines, of the pledged receipts to the payment of bond service charges on obligations issued under this section, and for the establishment and maintenance of any reserves, as provided in the bond proceedings, and make other provisions therein with respect to pledged receipts as authorized by this chapter, which provisions are controlling notwithstanding any other provisions of law pertaining thereto.

(2) An action taken under division (Q)(2) of this section does not limit the generality of division (Q)(1) of this section, and is subject to division (C) of this section and, if and to the extent otherwise applicable, Section 13 of Article VIII, Ohio Constitution. The bond proceedings may contain a covenant that, in the event the pledged receipts primarily pledged and required to be used for the payment of bond service charges on obligations issued under this section, and for the establishment and maintenance of any reserves, as provided in the bond proceedings, are insufficient to make any such payment in full when due, or to maintain any such reserve, the director of transportation shall so notify the governor, and shall determine to what extent, if any, the payment may be made or moneys may be restored to the

reserves from lawfully available moneys previously appropriated for that purpose to the department of transportation. The covenant also may provide that if the payments are not made or the moneys are not immediately and fully restored to the reserves from such moneys, the director shall promptly submit to the governor and to the director of budget and management a written request for either or both of the following:

(a) That the next biennial budget submitted by the governor to the general assembly include an amount to be appropriated from lawfully available moneys to the department for the purpose of and sufficient for the payment in full of bond service charges previously due and for the full replenishment of the reserves;

(b) That the general assembly be requested to increase appropriations from lawfully available moneys for the department in the current biennium sufficient for the purpose of and for the payment in full of bond service charges previously due and to come due in the biennium and for the full replenishment of the reserves.

The director of transportation shall include with such requests a recommendation that the payment of the bond service charges and the replenishment of the reserves be made in the interest of maximizing the benefits of the state infrastructure bank. Any such covenant shall not obligate or purport to obligate the state to pay the bond service charges on such bonds or notes or to deposit moneys in a reserve established for such payments other than from moneys that may be lawfully available and appropriated for that purpose during the then-current biennium.

(R) There is hereby created the state infrastructure bank revenue bond service fund, which shall be in the custody of the treasurer of state but shall not be a part of the state treasury. All moneys received by or on account of the issuing authority or state agencies and required by the applicable bond proceedings, consistent with this section, to be deposited, transferred, or credited to the bond service fund, and all other moneys transferred or allocated to or received for the purposes of the fund, shall be deposited and credited to such fund and to any separate accounts therein, subject to applicable provisions of the bond proceedings, but without necessity for any act of appropriation. The state infrastructure bank revenue bond service fund is a trust fund and is hereby pledged to the payment of bond service charges to the extent provided in the applicable bond proceedings, and payment thereof from such fund shall be made or provided for by the treasurer of state in accordance with such bond proceedings without necessity for any act of appropriation.

(S) The obligations issued pursuant to this section, the transfer thereof,

and the income therefrom, including any profit made on the sale thereof, shall at all times be free from taxation within this state.

Sec. 5540.01. As used in this chapter:

(A) "Transportation improvement district" or "district" means a transportation improvement district designated pursuant to section 5540.02 of the Revised Code.

(B) "Governmental agency" means a department, division, or other unit of state government; a county, township, or municipal corporation or other political subdivision; a regional transit authority or regional transit commission created pursuant to Chapter 306. of the Revised Code; a port authority created pursuant to Chapter 4582. of the Revised Code; and the United States or any agency thereof.

(C) "Project" means a street, highway, or other transportation project constructed or improved under this chapter and includes all bridges, tunnels, overpasses, underpasses, interchanges, approaches, those portions of connecting streets or highways that serve interchanges and are determined by the district to be necessary for the safe merging of traffic between the project and those streets or highways, service facilities, and administration, storage, and other buildings, property, and facilities, that the district considers necessary for the operation of the project, together with all property and rights that must be acquired by the district for the construction, maintenance, or operation of the project.

(D) "Cost," as applied to the construction of a project, includes the cost of construction, including bridges over or under existing highways and railroads, acquisition of all property acquired by the district for such construction, demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved, site clearance, improvement, and preparation, diverting streets or highways, interchanges with streets or highways, access roads to private property, including the cost of land or easements therefor, all machinery, furnishings, and equipment, communications facilities, financing expenses, interest prior to and during construction and for one year after completion of construction, traffic estimates, indemnity and surety bonds and premiums on insurance, and guarantees, engineering, feasibility studies, and legal expenses, plans, specifications, surveys, estimates of cost and revenues, other expenses necessary or incidental to determining the feasibility or practicability of constructing a project, and such other expense as may be necessary or incident to the construction of the project and the financing of such construction. Any obligation or expense incurred by any governmental

agency or person for surveys, borings, preparation of plans and specifications, and other engineering services, or any other cost described above, in connection with the construction of a project may be regarded as part of the cost of the project and reimbursed from revenues, taxes, or the proceeds of bonds as authorized by this chapter.

(E) "Owner" includes any person having any title or interest in any property authorized to be acquired by a district under this chapter.

(F) "Revenues" means all moneys received by a district with respect to the lease, sublease, or sale, including installment sale, conditional sale, or sale under a lease-purchase agreement, of a project, all moneys received by a district under an agreement pursuant to Section 515.03 of H.B. 66 of the 126th General Assembly, any gift or grant received with respect to a project, tolls, special assessments levied by the district, proceeds of bonds to the extent the use thereof for payment of principal or of premium, if any, or interest on the bonds is authorized by the district, proceeds from any insurance, condemnation, or guaranty pertaining to a project or property mortgaged to secure bonds or pertaining to the financing of a project, and income and profit from the investment of the proceeds of bonds or of any revenues.

(G) "Street or highway" has the same meaning as in section 4511.01 of the Revised Code.

(H) "Financing expenses" means all costs and expenses relating to the authorization, issuance, sale, delivery, authentication, deposit, custody, clearing, registration, transfer, exchange, fractionalization, replacement, payment, and servicing of bonds including, without limitation, costs and expenses for or relating to publication and printing, postage, delivery, preliminary and final official statements, offering circulars, and informational statements, travel and transportation, underwriters, placement agents, investment bankers, paying agents, registrars, authenticating agents, remarketing agents, custodians, clearing agencies or corporations, securities depositories, financial advisory services, certifications, audits, federal or state regulatory agencies, accounting and computation services, legal services and obtaining approving legal opinions and other legal opinions, credit ratings, redemption premiums, and credit enhancement facilities.

(I) "Bond proceedings" means the resolutions, trust agreements, certifications, notices, sale proceedings, leases, lease-purchase agreements, assignments, credit enhancement facility agreements, and other agreements, instruments, and documents, as amended and supplemented, or any one or more of combination thereof, authorizing, or authorizing or providing for the terms and conditions applicable to, or providing for the security or sale

or award or liquidity of, bonds, and includes the provisions set forth or incorporated in those bonds and bond proceedings.

(J) "Bond service charges" means principal, including any mandatory sinking fund or mandatory redemption requirements for retirement of bonds, and interest and any redemption premium payable on bonds, as those payments come due and are payable to the bondholder or to a person making payment under a credit enhancement facility of those bond service charges to a bondholder.

(K) "Bond service fund" means the applicable fund created by the bond proceedings for and pledged to the payment of bond service charges on bonds provided for by those proceedings, including all moneys and investments, and earnings from investments, credited and to be credited to that fund as provided in the bond proceedings.

(L) "Bonds" means bonds, notes, including notes anticipating bonds or other notes, commercial paper, certificates of participation, or other evidences of obligation, including any interest coupons pertaining thereto, issued pursuant to this chapter.

(M) "Net revenues" means revenues lawfully available to pay both current operating expenses of a district and bond service charges in any fiscal year or other specified period, less current operating expenses of the district and any amount necessary to maintain a working capital reserve for that period.

(N) "Pledged revenues" means net revenues, moneys and investments, and earnings on those investments, in the applicable bond service fund and any other special funds, and the proceeds of any bonds issued for the purpose of refunding prior bonds, all as lawfully available and by resolution of the district committed for application as pledged revenues to the payment of bond service charges on particular issues of bonds.

(O) "Special funds" means the applicable bond service fund and any accounts and subaccounts in that fund, any other funds or accounts permitted by and established under, and identified as a special fund or special account in, the bond proceedings, including any special fund or account established for purposes of rebate or other requirements under federal income tax laws.

(P) "Credit enhancement facilities" means letters of credit, lines of credit, standby, contingent, or firm securities purchase agreements, insurance, or surety arrangements, guarantees, and other arrangements that provide for direct or contingent payment of bond service charges, for security or additional security in the event of nonpayment or default in respect of bonds, or for making payment of bond service charges and at the

option and on demand of bondholders or at the option of the district or upon certain conditions occurring under put or similar arrangements, or for otherwise supporting the credit or liquidity of the bonds, and includes credit, reimbursement, marketing, remarketing, indexing, carrying, interest rate hedge, and subrogation agreements, and other agreements and arrangements for payment and reimbursement of the person providing the credit enhancement facility and the security for that payment and reimbursement.

(Q) "Refund" means to fund and retire outstanding bonds, including advance refunding with or without payment or redemption prior to stated maturity.

(R) "Property" includes interests in property.

(S) "Administrative agent," "agent," "commercial paper," "floating rate interest structure," "indexing agent," "interest rate hedge," "interest rate period," "put arrangement," and "remarketing agent" have the same meanings as in section 9.98 of the Revised Code.

(T) "Outstanding" as applied to bonds means outstanding in accordance with the terms of the bonds and the applicable bond proceedings.

(U) "Interstate system" has the same meaning as in section 5516.01 of the Revised Code.

Sec. 5540.09. (A) The bonds do not constitute a debt, or a pledge of the faith and credit, of the state or of any political subdivision of the state. Bond service charges on outstanding bonds are payable solely from the pledged revenues pledged for their payment as authorized by this chapter and as provided in the bond proceedings. All bonds shall contain on their face a statement to that effect.

(B) All expenses incurred in carrying out this chapter shall be payable solely from revenues provided under this chapter. This Except as provided in Section 515.03 of H.B. 66 of the 126th General Assembly, this chapter does not authorize the board of trustees of a district to incur indebtedness or liability on behalf of or payable by the state or any political subdivision of the state.

Sec. 5549.01. The board of county commissioners may purchase such machinery, tools, or other equipment, including special wearing apparel, for the construction, improvement, maintenance, or repair of the highways, bridges, and culverts under its jurisdiction as it deems necessary. The board may also purchase, hire, or lease automobiles, motorcycles, or other conveyances and maintain them for the use of the county engineer and his the engineer's assistants when on official business. All such machinery, tools, and equipment, including special wearing apparel, and conveyances belonging to the county shall be under the care and custody of the engineer,

and shall be plainly and conspicuously marked as the property of the county.

The engineer ~~shall annually, on the fifteenth day of November, make a written inventory of all such items, indicating each article, stating the value thereof, and the estimated cost of all necessary repairs thereto, and deliver such inventory to the board, which shall cause it to be placed on file. At the same time he shall file with the board his written recommendations as to what machinery, tools, and equipment, including special wearing apparel, and conveyances should be purchased for the use of the county during the ensuing year and the probable cost thereof.~~

The board shall provide a suitable place for housing and storing machinery, tools, and equipment, including special wearing apparel, materials, and conveyances owned by the county, and may purchase the necessary material and construct, or enter into an agreement with a railroad company to construct, one switch or spur track from the right of way of such railroad company to land or storage house owned by the county. All expenditures authorized by this section shall be paid out of any available road funds of the county.

Purchases, hiring, or leasing made by the board pursuant to this section shall be governed by sections 307.86 to 307.92, ~~inclusive~~, of the Revised Code.

Sec. 5552.01. As used in this chapter:

(A) "Metropolitan planning organization" ~~has the same meaning as in division (A)(7) of section 3704.14 of the Revised Code~~ means a metropolitan planning organization designated under section 9(a) of the "Federal-Aid Highway Act of 1962," 76 Stat. 1148, 23 U.S.C. 134, as amended.

(B) "Urban township" means a township that has a population in the unincorporated area of the township of fifteen thousand or more and that has adopted a limited home rule government under section 504.02 of the Revised Code.

Sec. 5573.13. The proportion of the compensation, damages, and costs of any road improvement to be paid by the township shall be paid out of any road improvement fund available therefor. For the purpose of providing by taxation a fund for the payment of the township's proportion of the compensation, damages, and costs of constructing, reconstructing, resurfacing, or improving roads under sections 5571.01, 5571.06, 5571.07, 5571.15, 5573.01 to 5573.15, ~~inclusive~~, and 5575.02 to 5575.09, ~~inclusive~~, of the Revised Code, and for the purpose of maintaining, repairing, or dragging any public road or part thereof under their jurisdiction, in the manner provided in sections 5571.02 to 5571.05, ~~inclusive~~, 5571.08,



5571.12, ~~5571.13~~, and 5575.01 of the Revised Code, the board of trustees may levy, annually, a tax not exceeding three mills upon each dollar of the taxable property of said township. Such levy shall be in addition to all other levies authorized for township purposes, and subject only to the limitation on the combined maximum rate for all taxes now in force. The taxes so authorized shall be placed by the county auditor upon the tax duplicate, against the taxable property of the township, and collected by the county treasurer as other taxes. When collected, such taxes shall be paid to the township clerk of the township from which they are collected, and the money so received shall be under the control of the board for the purposes for which the taxes were levied.

Sec. 5703.052. (A) There is hereby created in the state treasury the tax refund fund, from which refunds shall be paid for taxes illegally or erroneously assessed or collected, or for any other reason overpaid, that are levied by Chapter 4301., 4305., 5728., 5729., 5733., 5735., 5739., 5741., 5743., 5747., 5748., 5749., or ~~5753.~~ 5751., and sections 3737.71, 3905.35, 3905.36, 4303.33, 5707.03, 5725.18, 5727.28, 5727.38, 5727.81, and 5727.811 of the Revised Code. Refunds for fees illegally or erroneously assessed or collected, or for any other reason overpaid, that are levied by sections 3734.90 to 3734.9014 of the Revised Code also shall be paid from the fund. However, refunds for taxes levied under section 5739.101 of the Revised Code shall not be paid from the tax refund fund, but shall be paid as provided in section 5739.104 of the Revised Code.

(B)(1) Upon certification by the tax commissioner to the treasurer of state of a tax refund or fee refund, or by the superintendent of insurance of a domestic or foreign insurance tax refund, the treasurer of state shall place the amount certified to the credit of the fund. The certified amount transferred shall be derived from current receipts of the same tax or the fee from which the refund arose. If current receipts from the tax or fee from which the refund arose are inadequate to make the transfer of the amount so certified, the treasurer of state shall transfer such certified amount from current receipts of the sales tax levied by section 5739.02 of the Revised Code.

(2) When the treasurer of state provides for the payment of a refund of a tax or fee from the current receipts of the sales tax, and the refund is for a tax or fee that is not levied by the state, the tax commissioner shall recover the amount of that refund from the next distribution of that tax or fee that otherwise would be made to the taxing jurisdiction. If the amount to be recovered would exceed twenty-five per cent of the next distribution of that tax or fee, the commissioner may spread the recovery over more than one

future distribution, taking into account the amount to be recovered and the amount of the anticipated future distributions. In no event may the commissioner spread the recovery over a period to exceed twenty-four months.

Sec. 5703.053. As used in this section, "postal service" means the United States postal service.

An application to the tax commissioner for a tax refund under section 4307.05, 4307.07, 5727.28, 5727.91, 5728.061, 5735.122, 5735.13, 5735.14, 5735.141, 5735.142, 5739.07, 5741.10, 5743.05, 5743.53, 5745.11, 5749.08, or ~~5753.06~~ 5751.08 of the Revised Code or division (B) of section 5703.05 of the Revised Code, or a fee refunded under section 3734.905 of the Revised Code, that is received after the last day for filing under such section shall be considered to have been filed in a timely manner if:

(A) The application is delivered by the postal service and the earliest postal service postmark on the cover in which the application is enclosed is not later than the last day for filing the application;

(B) The application is delivered by the postal service, the only postmark on the cover in which the application is enclosed was affixed by a private postal meter, the date of that postmark is not later than the last day for filing the application, and the application is received within seven days of such last day; or

(C) The application is delivered by the postal service, no postmark date was affixed to the cover in which the application is enclosed or the date of the postmark so affixed is not legible, and the application is received within seven days of the last day for making the application.

Sec. 5703.057. (A) For the efficient administration of the taxes and fees administered by the tax commissioner, the commissioner may require that any person filing a tax document with the department of taxation provide identifying information, which may include the person's social security number, federal employer identification number, or other identification number requested by the commissioner. A person required by the commissioner to provide identifying information who has experienced any change with respect to that information shall notify the commissioner of the change prior to, or upon, filing the next tax document requiring such identifying information.

(B) When transmitting or otherwise making use of a tax document that contains a person's social security number, the commissioner shall take all reasonable measures necessary to ensure that the number is not capable of being viewed by the general public, including, when necessary, masking the number so that it is not readily discernible by the general public.

(C)(1) If the commissioner makes a request for identifying information and the commissioner does not receive valid identifying information within thirty days of making the request, the commissioner may impose a penalty upon the person to whom the request was directed of up to one hundred dollars. If, after the expiration of this thirty day period, the commissioner makes one or more subsequent requests for identifying information and the person to whom the subsequent request is directed fails to provide valid identifying information within thirty days of the commissioner's subsequent request, the commissioner may impose an additional penalty of up to two hundred dollars for each subsequent request not complied with in a timely fashion.

(2) If a person required by the commissioner to provide identifying information does not notify the commissioner of a change with respect to that information as required under division (A) of this section within thirty days after filing the next tax document requiring such identifying information, the commissioner may impose a penalty of up to fifty dollars.

(3) The penalties provided for under divisions (C)(1) and (2) of this section may be billed and assessed in the same manner as the tax or fee with respect to which the identifying information is sought and are in addition to any applicable criminal penalties described in division (D) of this section and any other penalties that may be imposed by the commissioner by law.

(D) Section 5703.26 of the Revised Code applies with respect to false or fraudulent identifying information provided by a person to the commissioner under this section.

Sec. 5703.47. (A) As used in this section, "federal short-term rate" means the rate of the average market yield on outstanding marketable obligations of the United States with remaining periods to maturity of three years or less, as determined under section 1274 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1274, for July of the current year.

(B) On the fifteenth day of October of each year, the tax commissioner shall determine the federal short-term rate. For purposes of any section of the Revised Code requiring interest to be computed at the rate per annum required by this section, the rate determined by the commissioner under this section, rounded to the nearest whole number per cent, plus three per cent, shall be the interest rate per annum used in making the computation for interest that accrues during the following calendar year. For the purposes of sections 5719.041 and 5731.23 of the Revised Code, references to the "federal short-term rate" are references to the federal short-term rate as determined by the tax commissioner under this section rounded to the

nearest whole number per cent.

(C) Within ten days after the interest rate per annum is determined under this section, the tax commissioner shall notify the auditor of each county in writing of that rate of interest.

Sec. 5703.50. As used in sections 5703.50 to 5703.53 of the Revised Code:

(A) "Tax" includes only those taxes imposed on tangible personal property listed in accordance with Chapter 5711. of the Revised Code and taxes imposed under Chapters 5733., 5739., 5741., ~~and 5747.~~ and 5751. of the Revised Code.

(B) "Taxpayer" means a person subject to or potentially subject to a tax including an employer required to deduct and withhold any amount under section 5747.06 of the Revised Code.

(C) "Audit" means the examination of a taxpayer or the inspection of the books, records, memoranda, or accounts of a taxpayer for the purpose of determining liability for a tax.

(D) "Assessment" means a notice of underpayment or nonpayment of a tax issued pursuant to section 5711.26, 5711.32, 5733.11, 5739.13, 5741.11, 5741.13, ~~or 5747.13,~~ or 5751.09 of the Revised Code.

(E) "County auditor" means the auditor of the county in which the tangible personal property subject to a tax is located.

Sec. 5703.70. (A) On the filing of an application for refund under section 3734.905, 4307.05, 4307.07, 5727.28, 5727.91, 5728.061, 5733.12, 5735.122, 5735.13, 5735.14, 5735.141, 5735.142, 5735.18, 5739.07, 5739.071, 5739.104, 5741.10, 5743.05, 5743.53, ~~or 5749.08,~~ or 5751.08 of the Revised Code, or an application for compensation under section 5739.123 of the Revised Code, if the tax commissioner determines that the amount of the refund or compensation to which the applicant is entitled is less than the amount claimed in the application, the commissioner shall give the applicant written notice by ordinary mail of the amount. The notice shall be sent to the address shown on the application unless the applicant notifies the commissioner of a different address. The applicant shall have sixty days from the date the commissioner mails the notice to provide additional information to the commissioner or request a hearing, or both.

(B) If the applicant neither requests a hearing nor provides additional information to the tax commissioner within the time prescribed by division (A) of this section, the commissioner shall take no further action, and the refund amount or compensation amount denied becomes final.

(C)(1) If the applicant requests a hearing within the time prescribed by division (A) of this section, the tax commissioner shall assign a time and

place for the hearing and notify the applicant of such time and place, but the commissioner may continue the hearing from time to time as necessary. After the hearing, the commissioner may make such adjustments to the refund or compensation as the commissioner finds proper, and shall issue a final determination thereon.

(2) If the applicant does not request a hearing, but provides additional information, within the time prescribed by division (A) of this section, the commissioner shall review the information, make such adjustments to the refund or compensation as the commissioner finds proper, and issue a final determination thereon.

(3) The commissioner shall serve a copy of the final determination made under division (C)(1) or (2) of this section on the applicant in the manner provided in section 5703.37 of the Revised Code, and the decision is final, subject to appeal under section 5717.02 of the Revised Code.

(D) The tax commissioner shall certify to the director of budget and management and treasurer of state for payment from the tax refund fund created by section 5703.052 of the Revised Code, the amount of the refund to be refunded under division (B) or (C) of this section. The commissioner also shall certify to the director and treasurer of state for payment from the general revenue fund the amount of compensation to be paid under division (B) or (C) of this section.

Sec. 5703.80. There is hereby created in the state treasury the property tax administration fund. All money to the credit of the fund shall be used to defray the costs incurred by the department of taxation in administering the taxation of property and the equalization of real property valuation.

Each fiscal year between the first and fifteenth days of July, the tax commissioner shall compute the following amounts for the property in each taxing district in each county, and certify to the director of budget and management the sum of those amounts for all taxing districts in all counties:

(A) ~~Three-tenths~~ For fiscal year 2006, thirty-three hundredths of one per cent of the total amount by which taxes charged against real property on the general tax list of real and public utility property were reduced under section 319.302 of the Revised Code for the preceding tax year;

(B) ~~Fifteen-hundredths~~ For fiscal year 2007 and thereafter, thirty-five hundredths of one per cent of the total amount by which taxes charged against real property on the general tax list of real and public utility property were reduced under section 319.302 of the Revised Code for the preceding tax year;

(C) For fiscal year 2006, one-half of one per cent of the total amount of taxes charged and payable against public utility personal property on the

general tax list of real and public utility property for the preceding tax year and of the total amount of taxes charged and payable against tangible personal property on the general tax list of personal property of the preceding tax year and for which returns were filed with the tax commissioner under section 5711.13 of the Revised Code;

~~(C) Seventy-five~~ (D) For fiscal year 2007, fifty-six hundredths of one per cent of the total amount of taxes charged and payable against public utility personal property on the general tax list of real and public utility property for the preceding tax year and of the total amount of taxes charged and payable against tangible personal property on the general tax list of personal property of the preceding tax year and for which returns were filed with the tax commissioner under section 5711.13 of the Revised Code;

(E) For fiscal year 2008 and thereafter, six-tenths of one per cent of the total amount of taxes charged and payable against public utility personal property on the general tax list of real and public utility property for the preceding tax year and of the total amount of taxes charged and payable against tangible personal property on the general tax list of personal property of the preceding tax year and for which returns were filed with the tax commissioner under section 5711.13 of the Revised Code.

After receiving the tax commissioner's certification, the director of budget and management shall transfer from the general revenue fund to the property tax administration fund one-fourth of the amount certified on or before each of the following days: the first days of August, November, February, and May.

On or before the thirtieth day of June of the fiscal year, the tax commissioner shall certify to the director of budget and management the sum of the amounts by which the amounts computed for a taxing district under ~~divisions (A), (B), and (C)~~ of this section exceeded the distributions to the taxing district under division (F) of section 321.24 of the Revised Code, and the director shall transfer that sum from the property tax administration fund to the general revenue fund.

Sec. 5705.091. The board of county commissioners of each county shall establish a county mental retardation and developmental disabilities general fund. Notwithstanding sections 5705.09 and 5705.10 of the Revised Code, proceeds from levies under section 5705.222 and division (L) of section 5705.19 of the Revised Code shall be deposited to the credit of the county mental retardation and developmental disabilities general fund. Accounts shall be established within the county mental retardation and developmental disabilities general fund for each of the several particular purposes of the levies as specified in the resolutions under which the levies were approved,

and proceeds from different levies that were approved for the same particular purpose shall be credited to accounts for that purpose. Other money received by the county for the purposes of Chapters 3323. and 5126. of the Revised Code and not required by state or federal law to be deposited to the credit of a different fund shall also be deposited to the credit of the county mental retardation and developmental disabilities general fund, in an account appropriate to the particular purpose for which the money was received. Unless otherwise provided by law, an unexpended balance at the end of a fiscal year in any account in the county mental retardation and developmental disabilities general fund shall be appropriated the next fiscal year to the same fund.

A county board of mental retardation and developmental disabilities may request, by resolution, that the board of county commissioners establish a county mental retardation and developmental disabilities capital fund for money to be used for acquisition, construction, or improvement of capital facilities or acquisition of capital equipment used in providing services to mentally retarded and developmentally disabled persons. The county board of mental retardation and developmental disabilities shall transmit a certified copy of the resolution to the board of county commissioners. Upon receiving the resolution, the board of county commissioners shall establish a county mental retardation and developmental disabilities capital fund.

A county board shall request, by resolution, that the board of county commissioners establish a county MR/DD medicaid reserve fund. On receipt of the resolution, the board of county commissioners shall establish a county MR/DD medicaid reserve fund. The portion of federal revenue funds that the county board earns for providing ~~habilitation center services,~~ medicaid case management services, and home and community-based services that is needed for the county board to pay for extraordinary costs, including extraordinary costs for services to individuals with mental retardation or other developmental disability, and ensure the availability of adequate funds in the event a county property tax levy for services for individuals with mental retardation or other developmental disability fails shall be deposited into the fund. The county board shall use money in the fund for those purposes in accordance with rules adopted under section 5123.0413 of the Revised Code.

Sec. 5705.211. (A) As used in this section:

(1) "Adjusted charge-off amount" for a fiscal year means two and three-tenths per cent of a school district's recognized valuation, as defined in section 3317.02 of the Revised Code, for the fiscal year.

(2) "Charge-off increase" for a tax year means the dollar amount, if any,

by which the adjusted charge-off amount for the fiscal year ending in the preceding tax year exceeds the adjusted charge-off amount for the fiscal year ending in the current tax year.

(3) "Levies for current expenses" means any tax levied in excess of the ten-mill limitation for the current operating expenses of the district and any tax levied under sections 5705.194 to 5709.197 of the Revised Code.

(4) "Taxes charged and payable" means the taxes charged and payable from a tax levy extended on the real and public utility property tax list and the general list of personal property after any reduction under section 319.301 of the Revised Code but before any reduction under section 319.302, 323.152, or 323.158 of the Revised Code.

(B) The board of education of a city, local, or exempted village school district may adopt a resolution proposing the levy of a tax in excess of the ten-mill limitation for the purpose of paying the current operating expenses of the district. If the resolution is approved as provided in division (D) of this section, the tax may be levied at such a rate each year that the total taxes charged and payable from the levy equals the charge-off increase for the fiscal year or equals a lesser amount as prescribed under division (C) of this section. The tax may be levied for a continuing period of time or for a specific number of years, but not fewer than five years, as provided in the resolution. The tax may not be placed on the tax list for a tax year beginning before the first day of January following adoption of the resolution. A board of education may not adopt a resolution under this section proposing to levy a tax under this section concurrently with any other tax levied by the board under this section.

(C) After the first year a tax is levied under this section, the rate of the tax in any year shall not exceed the rate, estimated by the county auditor, that would cause the total taxes charged and payable from all the school district's property tax levies for current expenses, including the tax levied under this section, to exceed, if levied upon the total taxable value of real and personal property listed and assessed for taxation in the preceding year, one hundred four per cent of the taxes charged and payable from the same levies imposed in the preceding year. A board of education imposing a tax under this section may specify in the resolution imposing the tax that the percentage shall be less than one hundred four per cent, but the percentage shall not be less than one hundred per cent. At any time after a resolution adopted under this section is approved by a majority of electors as provided in division (D) of this section, the board of education, by resolution, may decrease the percentage specified in the resolution levying the tax.

For the purposes of this division, a renewal of a levy that was imposed



in the preceding year is the same as the levy being renewed to the extent the rate of the renewal levy does not exceed the rate of the levy being renewed. A replacement of a levy that was imposed in the preceding year is the same as the replaced levy to the extent the effective rate of the replacement levy does not exceed the effective rate of the replaced levy in the last year the replaced levy was imposed. For the purposes of this division, "effective rate" of a levy equals the total of the taxes charged and payable from the levy divided by the taxable value of all real and tangible personal property subject to the levy.

(D) A resolution adopted under this section shall state that the purpose of the tax is to pay current operating expenses of the district, and shall specify the first year in which the tax is to be levied, the number of years the tax will be levied or that it will be levied for a continuing period of time, and the election at which the question of the tax is to appear on the ballot, which shall be a general or special election consistent with the requirements of section 3501.01 of the Revised Code. If the board of education specifies a percentage less than one hundred four per cent pursuant to division (C) of this section, the percentage shall be specified in the resolution.

Upon adoption of the resolution, the board of education may certify a copy of the resolution to the proper county board of elections. The copy of the resolution shall be certified to the board of elections not later than seventy-five days before the day of the election at which the question of the tax is to appear on the ballot. Upon receiving a timely certified copy of such a resolution, the board of elections shall make the necessary arrangements for the submission of the question to the electors of the school district, and the election shall be conducted, canvassed, and certified in the same manner as regular elections in the school district for the election of members of the board of education. Notice of the election shall be published in one or more newspapers of general circulation in the school district once per week for four consecutive weeks. The notice shall state that the purpose of the tax is for the current operating expenses of the school district, the first year the tax is to be levied, the number of years the tax is to be levied or that it is to be levied for a continuing period of time, that the tax is to be levied each year in an amount estimated to offset decreases in state base cost funding caused by increases in the district's taxable property valuation, and that the estimated additional tax in any year of the levy shall not cause the taxes charged and payable for school operating expenses to exceed the previous year's by more than one hundred four per cent, or a lesser percentage specified in the resolution levying the tax, except for increases caused by the addition of new taxable property.

The question shall be submitted as a separate proposition but may be printed on the same ballot with any other proposition submitted at the same election other than the election of officers.

The form of the ballot shall be substantially as follows:

"An additional tax for the benefit of (name of school district) for the purpose of paying the current operating expenses of the district, for ..... (number of years or for continuing period of time), at a rate sufficient to offset any reduction in basic state funding caused by increases in the district's taxable property valuation, but limited to prevent total revenue for the district's operating expenses from increasing by more than ..... per cent per year?"

	<u>For the tax levy</u>	"
	<u>Against the tax levy</u>	

If a majority of the electors of the school district voting on the question vote in favor of the question, the board of elections shall certify the results of the election to the board of education and to the tax commissioner immediately after the canvass.

(E) When preparing any estimate of the contemplated receipts from a tax levied pursuant to this section for the purposes of sections 5705.28 to 5705.40 of the Revised Code, and in preparing to certify the tax under section 5705.34 of the Revised Code, a board of education authorized to levy such a tax shall use information supplied by the department of education to determine the charge-off increase for the tax year for which that certification is made. If the board levied a tax under this section in the preceding tax year, the sum to be certified for collection from the tax shall not exceed the sum that would exceed the limitation imposed under division (C) of this section. At the request of the board of education or the treasurer of the school district, the county auditor shall assist the board of education in determining the rate or sum that may be levied under this section.

The board of education shall certify the sum authorized to be levied to the county auditor, and, for the purpose of the county auditor determining the rate at which the tax is to be levied in the tax year, the sum so certified shall be the sum to be raised by the tax unless the sum exceeds the limitation imposed by division (C) of this section. A tax levied pursuant to this section shall not be levied at a rate in excess of the rate estimated by the county auditor to produce the sum certified by the board of education after the reduction required under section 319.301 of the Revised Code but before the reductions under sections 319.302, 323.152, and 323.158 of the Revised

Code. Notwithstanding section 5705.34 of the Revised Code, a board of education authorized to levy a tax under this section shall certify the tax to the county auditor before the first day of October of the tax year in which the tax is to be levied, or at a later date as approved by the tax commissioner.

Sec. 5705.391. ~~(A) A board of education shall adopt as part of its annual appropriation measure a spending plan or in the case of an amendment or supplement to an appropriation measure, an amended spending plan, setting forth a schedule of expenses and expenditures of all appropriated funds by the school district for the fiscal year. A copy of the annual appropriation measure and any amendment or supplement to it and the spending plan or amended plan shall be submitted to the superintendent of public instruction and shall set forth all revenues available for appropriation by the district during the fiscal year and their sources; the nature and amount of expenses to be incurred by the district during such year, the outstanding and unpaid expenses on the date the appropriation measure, amendment, or supplement is adopted; the date or dates by which such expenses must be paid; and such other information as the superintendent requires to enable the superintendent to determine whether during such year the district will incur any expenses that will impair its ability to operate its schools with the revenue available to it from existing revenue sources. The plan or amended plan shall be presented in such detail and form as the superintendent prescribes.~~

~~(B)~~(A) No later than July 1, 1998, the department of education and the auditor of state shall jointly adopt rules requiring ~~school districts to include boards of education to submit~~ five-year projections of operational revenues and expenditures ~~in the spending plan required by this section~~. The rules shall provide for the auditor of state or the department to examine the five-year projections and to determine whether any further fiscal analysis is needed to ascertain whether a district has the potential to incur a deficit during the first three years of the five-year period.

The auditor of state or the department may conduct any further audits or analyses necessary to assess any district's fiscal condition. If further audits or analyses are conducted by the auditor of state, the auditor of state shall notify the department of the district's fiscal condition, and the department shall immediately notify the district of any potential to incur a deficit in the current fiscal year or of any strong indications that a deficit will be incurred in either of the ensuing two years. If such audits or analyses are conducted by the department, the department shall immediately notify the district and the auditor of state of such potential deficit or strong indications thereof.

A district notified under this section shall take immediate steps to

eliminate any deficit in the current fiscal year and shall begin to plan to avoid the projected future deficits.

~~(C)~~(B) The state board of education, in accordance with sections 3319.31 and 3319.311 of the Revised Code, may limit, suspend, or revoke a license as defined under section 3319.31 of the Revised Code that has been issued to any school employee found to have willfully contributed erroneous, inaccurate, or incomplete data required for the submission of the ~~appropriation measure and spending plan~~ five-year projection required by this section.

Sec. 5705.40. Any appropriation ordinance or measure may be amended or supplemented, provided that such amendment or supplement shall comply with all provisions of law governing the taxing authority in making an original appropriation and that no appropriation for any purpose shall be reduced below an amount sufficient to cover all unliquidated and outstanding contracts or obligations certified from or against the appropriation. Transfers may be made by resolution or ordinance from one appropriation item to another, except that a board of county commissioners shall, at the request of the county board of elections, adopt a resolution to transfer funds from one appropriation item of the board of elections to another appropriation item of the board of elections unless the board of county commissioners determines that the transfer is sought for the purpose of providing employee bonuses or salary increases other than increases necessary to reimburse employees for overtime worked. At the close of each fiscal year, the unencumbered balance of each appropriation shall revert to the respective fund from which it was appropriated and shall be subject to future appropriations, provided that funds unexpended at the end of such fiscal year previously appropriated for the payment of obligations unliquidated and outstanding, or previously appropriated pursuant to section 321.261 of the Revised Code for the collection of delinquent taxes, need not be reappropriated, but such unexpended funds shall not be included by any budget-making body or board or any county budget commission in estimating the balance available for the purposes of the next or any succeeding fiscal year.

The annual appropriation measure, or an amendment or supplement thereto, may contain an appropriation for contingencies not to exceed the amount authorized by section 5705.29 of the Revised Code and in the case of a school district may also include a voluntary contingency reserve balance in the amount authorized by such section. By a two-thirds vote of all members of the taxing authority of a subdivision or taxing unit, expenditures may be authorized in pursuance of such contingency appropriation or

voluntary contingency reserve balance for any lawful purpose for which public funds may be expended, if such purpose could not have reasonably been foreseen at the time of the adoption of the appropriation measure or, in the case of a voluntary contingency reserve balance, if the board of education requests payment of any portion of such balance.

Sec. 5707.031. (A) As used in this section:

(1) "Qualifying dealer in intangibles" has the same meaning as "qualifying dealer" in section 5725.24 of the Revised Code;

(2) "Tax otherwise due" means the tax imposed on a qualifying dealer in intangibles under section 5707.03 and Chapter 5725. of the Revised Code reduced by the total amount of all other nonrefundable credits, if any, that the qualifying dealer in intangibles is entitled to claim.

(B) Upon the issuance of a tax credit certificate by the Ohio venture capital authority under section 150.07 of the Revised Code, a credit may be claimed against the tax imposed on a qualifying dealer in intangibles under section 5707.03 and Chapter 5725. of the Revised Code. The credit shall be claimed on a return due under section 5725.14 of the Revised Code after the certificate is issued by the authority.

(C) If the qualifying dealer in intangibles elected a refundable credit under section 150.07 of the Revised Code and if the amount of the credit shown on the certificate does not exceed the tax otherwise due, then for the calendar year the qualifying dealer in intangibles shall claim a refundable credit equal to the amount of the credit shown on the certificate.

(D) If the qualifying dealer in intangibles elected a refundable credit under section 150.07 of the Revised Code, and if the amount of the refundable credit shown on the certificate exceeds the tax otherwise due, then for the calendar year the qualifying dealer in intangibles shall claim a refundable credit equal to the sum of the following:

(1) The amount, if any, of the tax otherwise due;

(2) Seventy-five per cent of the difference between the amount of the refundable credit shown on the certificate and the tax otherwise due.

(E) If the qualifying dealer in intangibles elected a nonrefundable credit under section 150.07 of the Revised Code and if the nonrefundable credit to which the qualifying dealer in intangibles would otherwise be entitled under this section for any calendar year is greater than the tax otherwise due, the excess shall be allowed as a nonrefundable credit in each of the ensuing ten calendar years, but the amount of any excess nonrefundable credit allowed in the ensuing calendar year shall be deducted from the balance carried forward to the next calendar year.

Sec. 5709.07. (A) The following property shall be exempt from

taxation:

(1) Public schoolhouses, the books and furniture in them, and the ground attached to them necessary for the proper occupancy, use, and enjoyment of the schoolhouses, and not leased or otherwise used with a view to profit;

(2) Houses used exclusively for public worship, the books and furniture in them, and the ground attached to them that is not leased or otherwise used with a view to profit and that is necessary for their proper occupancy, use, and enjoyment;

(3) Real property owned and operated by a church that is used primarily for church retreats or church camping, and that is not used as a permanent residence. Real property exempted under division (A)(3) of this section may be made available by the church on a limited basis to charitable and educational institutions if the property is not leased or otherwise made available with a view to profit.

(4) Public colleges and academies and all buildings connected with them, and all lands connected with public institutions of learning, not used with a view to profit, including those buildings and lands that satisfy all of the following:

(a) The buildings are used for housing for full-time students or housing-related facilities for students, faculty, or employees of a state university, or for other purposes related to the state university's educational purpose, and the lands are underneath the buildings or are used for common space, walkways, and green spaces for the state university's students, faculty, or employees. As used in this division, "housing-related facilities" includes both parking facilities related to the buildings and common buildings made available to students, faculty, or employees of a state university. The leasing of space in housing-related facilities shall not be considered an activity with a view to profit for purposes of division (A)(4) of this section.

(b) The buildings and lands are supervised or otherwise under the control, directly or indirectly, of an organization that is exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended, and the state university has entered into a qualifying joint use agreement with the organization that entitles the students, faculty, or employees of the state university to use the lands or buildings;

(c) The state university has agreed, under the terms of the qualifying joint use agreement with the organization described in division (A)(4)(b) of this section, that the state university, to the extent applicable under the

agreement, will make payments to the organization in amounts sufficient to maintain agreed-upon debt service coverage ratios on bonds related to the lands or buildings.

(B) This section shall not extend to leasehold estates or real property held under the authority of a college or university of learning in this state; but leaseholds, or other estates or property, real or personal, the rents, issues, profits, and income of which is given to a municipal corporation, school district, or subdistrict in this state exclusively for the use, endowment, or support of schools for the free education of youth without charge shall be exempt from taxation as long as such property, or the rents, issues, profits, or income of the property is used and exclusively applied for the support of free education by such municipal corporation, district, or subdistrict. Division (B) of this section shall not apply with respect to buildings and lands that satisfy all of the requirements specified in divisions (A)(4)(a) to (c) of this section.

(C) For purposes of this section, if the requirements specified in divisions (A)(4)(a) to (c) of this section are satisfied, the buildings and lands with respect to which exemption is claimed under division (A)(4) of this section shall be deemed to be used with reasonable certainty in furthering or carrying out the necessary objects and purposes of a state university.

(D) As used in this section, ~~"church"~~:

(1) "Church" means a fellowship of believers, congregation, society, corporation, convention, or association that is formed primarily or exclusively for religious purposes and that is not formed for the private profit of any person.

(2) "State university" has the same meaning as in section 3345.011 of the Revised Code.

(3) "Qualifying joint use agreement" means an agreement that satisfies all of the following:

(a) The agreement was entered into before June 30, 2004;

(b) The agreement is between a state university and an organization that is exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended; and

(c) The state university that is a party to the agreement reported to the Ohio board of regents that the university maintained a headcount of at least twenty-five thousand students on its main campus during the academic school year that began in calendar year 2003 and ended in calendar year 2004.

Sec. 5709.112. For tax year 2006 and each tax year thereafter, all

tangible personal property used in the recovery of oil or gas, when installed and located on the premises or leased premises of the owner, shall be exempt from taxation. Such tangible personal property shall be subject to taxation if it is not installed on the premises or leased premises of the owner, or if it is used for the transmission, transportation, or distribution of oil or gas, as provided in section 5711.22 of the Revised Code. The tax commissioner may adopt rules governing the administration of the exemption provided by this section.

This section does not apply to any taxpayer that is required to file a report under section 5727.08 of the Revised Code.

Sec. 5709.12. (A) As used in this section, "independent living facilities" means any residential housing facilities and related property that are not a nursing home, residential care facility, or adult care facility as defined in division (A) of section 5701.13 of the Revised Code.

(B) Lands, houses, and other buildings belonging to a county, township, or municipal corporation and used exclusively for the accommodation or support of the poor, or leased to the state or any political subdivision for public purposes shall be exempt from taxation. Real and tangible personal property belonging to institutions that is used exclusively for charitable purposes shall be exempt from taxation, including real property belonging to an institution that is a nonprofit corporation that receives a grant under the Thomas Alva Edison grant program authorized by division (C) of section 122.33 of the Revised Code at any time during the tax year and being held for leasing or resale to others. If, at any time during a tax year for which such property is exempted from taxation, the corporation ceases to qualify for such a grant, the director of development shall notify the tax commissioner, and the tax commissioner shall cause the property to be restored to the tax list beginning with the following tax year. All property owned and used by a nonprofit organization exclusively for a home for the aged, as defined in section 5701.13 of the Revised Code, also shall be exempt from taxation.

(C)(1) If a home for the aged described in division (B)(1) of section 5701.13 of the Revised Code is operated in conjunction with or at the same site as independent living facilities, the exemption granted in division (B) of this section shall include kitchen, dining room, clinic, entry ways, maintenance and storage areas, and land necessary for access commonly used by both residents of the home for the aged and residents of the independent living facilities. Other facilities commonly used by both residents of the home for the aged and residents of independent living units shall be exempt from taxation only if the other facilities are used primarily



by the residents of the home for the aged. Vacant land currently unused by the home, and independent living facilities and the lands connected with them are not exempt from taxation. Except as provided in division (A)(1) of section 5709.121 of the Revised Code, property of a home leased for nonresidential purposes is not exempt from taxation.

(2) Independent living facilities are exempt from taxation if they are operated in conjunction with or at the same site as a home for the aged described in division (B)(2) of section 5701.13 of the Revised Code; operated by a corporation, association, or trust described in division (B)(1)(b) of that section; operated exclusively for the benefit of members of the corporation, association, or trust who are retired, aged, or infirm; and provided to those members without charge in consideration of their service, without compensation, to a charitable, religious, fraternal, or educational institution. For the purposes of division (C)(2) of this section, "compensation" does not include furnishing room and board, clothing, health care, or other necessities, or stipends or other de minimis payments to defray the cost thereof.

(D)(1) A private corporation established under federal law, defined in 36 U.S.C. 1101, Pub. L. No. 102-199, 105 Stat. 1629, as amended, the objects of which include encouraging the advancement of science generally, or of a particular branch of science, the promotion of scientific research, the improvement of the qualifications and usefulness of scientists, or the increase and diffusion of scientific knowledge is conclusively presumed to be a charitable or educational institution. A private corporation established as a nonprofit corporation under the laws of a state, that is exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C.A. 1, as amended, and has as its principal purpose one or more of the foregoing objects, also is conclusively presumed to be a charitable or educational institution.

The fact that an organization described in this division operates in a manner that results in an excess of revenues over expenses shall not be used to deny the exemption granted by this section, provided such excess is used, or is held for use, for exempt purposes or to establish a reserve against future contingencies; and, provided further, that such excess may not be distributed to individual persons or to entities that would not be entitled to the tax exemptions provided by this chapter. Nor shall the fact that any scientific information diffused by the organization is of particular interest or benefit to any of its individual members be used to deny the exemption granted by this section, provided that such scientific information is available to the public for purchase or otherwise.

(2) Division (D)(2) of this section does not apply to real property exempted from taxation under this section and division ~~(C)(A)(3)~~ of section 5709.121 of the Revised Code and belonging to a nonprofit corporation described in division (D)(1) of this section that has received a grant under the Thomas Alva Edison grant program authorized by division (C) of section 122.33 of the Revised Code during any of the tax years the property was exempted from taxation.

When a private corporation described in division (D)(1) of this section sells all or any portion of a tract, lot, or parcel of real estate that has been exempt from taxation under this section and section 5709.121 of the Revised Code, the portion sold shall be restored to the tax list for the year following the year of the sale and a charge shall be levied against the sold property in an amount equal to the tax savings on such property during the four tax years preceding the year the property is placed on the tax list. The tax savings equals the amount of the additional taxes that would have been levied if such property had not been exempt from taxation.

The charge constitutes a lien of the state upon such property as of the first day of January of the tax year in which the charge is levied and continues until discharged as provided by law. The charge may also be remitted for all or any portion of such property that the tax commissioner determines is entitled to exemption from real property taxation for the year such property is restored to the tax list under any provision of the Revised Code, other than sections 725.02, 1728.10, 3735.67, 5709.40, 5709.41, 5709.62, 5709.63, 5709.71, 5709.73, 5709.78, and 5709.84, upon an application for exemption covering the year such property is restored to the tax list filed under section 5715.27 of the Revised Code.

(E) Real property held by an organization organized and operated exclusively for charitable purposes as described under section 501(c)(3) of the Internal Revenue Code and exempt from federal taxation under section 501(a) of the Internal Revenue Code, 26 U.S.C.A. 501(a) and (c)(3), as amended, for the purpose of constructing or rehabilitating residences for eventual transfer to qualified low-income families through sale, lease, or land installment contract, shall be exempt from taxation.

The exemption shall commence on the day title to the property is transferred to the organization and shall continue to the end of the tax year in which the organization transfers title to the property to a qualified low-income family. In no case shall the exemption extend beyond the second succeeding tax year following the year in which the title was transferred to the organization. If the title is transferred to the organization and from the organization to a qualified low-income family in the same tax

year, the exemption shall continue to the end of that tax year. The proportionate amount of taxes that are a lien but not yet determined, assessed, and levied for the tax year in which title is transferred to the organization shall be remitted by the county auditor for each day of the year that title is held by the organization.

Upon transferring the title to another person, the organization shall file with the county auditor an affidavit affirming that the title was transferred to a qualified low-income family or that the title was not transferred to a qualified low-income family, as the case may be; if the title was transferred to a qualified low-income family, the affidavit shall identify the transferee by name. If the organization transfers title to the property to anyone other than a qualified low-income family, the exemption, if it has not previously expired, shall terminate, and the property shall be restored to the tax list for the year following the year of the transfer and a charge shall be levied against the property in an amount equal to the amount of additional taxes that would have been levied if such property had not been exempt from taxation. The charge constitutes a lien of the state upon such property as of the first day of January of the tax year in which the charge is levied and continues until discharged as provided by law.

The application for exemption shall be filed as otherwise required under section 5715.27 of the Revised Code, except that the organization holding the property shall file with its application documentation substantiating its status as an organization organized and operated exclusively for charitable purposes under section 501(c)(3) of the Internal Revenue Code and its qualification for exemption from federal taxation under section 501(a) of the Internal Revenue Code, and affirming its intention to construct or rehabilitate the property for the eventual transfer to qualified low-income families.

As used in this division, "qualified low-income family" means a family whose income does not exceed two hundred per cent of the official federal poverty guidelines as revised annually in accordance with section 673(2) of the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C.A. 9902, as amended, for a family size equal to the size of the family whose income is being determined.

Sec. 5709.121. (A) Real property and tangible personal property belonging to a charitable or educational institution or to the state or a political subdivision, shall be considered as used exclusively for charitable or public purposes by such institution, the state, or political subdivision, if it meets one of the following requirements:

~~(A)~~(1) It is used by such institution, the state, or political subdivision, or

by one or more other such institutions, the state, or political subdivisions under a lease, sublease, or other contractual arrangement:

~~(1)(a)~~ As a community or area center in which presentations in music, dramatics, the arts, and related fields are made in order to foster public interest and education therein;

~~(2)(b)~~ For other charitable, educational, or public purposes;

~~(B)(2)~~ It is made available under the direction or control of such institution, the state, or political subdivision for use in furtherance of or incidental to its charitable, educational, or public purposes and not with the view to profit.

~~(C)(3)~~ It is used by an organization described in division (D) of section 5709.12 of the Revised Code. If the organization is a corporation that receives a grant under the Thomas Alva Edison grant program authorized by division (C) of section 122.33 of the Revised Code at any time during the tax year, "used," for the purposes of this division, includes holding property for lease or resale to others.

(B)(1) Property described in division (A)(1)(a) of this section shall continue to be considered as used exclusively for charitable or public purposes even if the property is conveyed through one conveyance or a series of conveyances to an entity that is not a charitable or educational institution and is not the state or a political subdivision, provided that all of the following conditions apply with respect to that property:

(a) The property has been listed as exempt on the county auditor's tax list and duplicate for the county in which it is located for the ten tax years immediately preceding the year in which the property is conveyed through one conveyance or a series of conveyances;

(b) The owner to which the property is conveyed through one conveyance or a series of conveyances leases the property through one lease or a series of leases to the entity that owned or occupied the property for the ten tax years immediately preceding the year in which the property is conveyed or an affiliate of such prior owner or occupant;

(c) The property includes improvements that are at least fifty years old;

(d) The property is being renovated in connection with a claim for historic preservation tax credits available under federal law;

(e) The property continues to be used for the purposes described in division (A)(1)(a) of this section after its conveyance; and

(f) The property is certified by the United States secretary of the interior as a "certified historic structure" or certified as part of a certified historic structure.

(2) Notwithstanding section 5715.27 of the Revised Code, an

application for exemption from taxation of property described in division (B)(1) of this section may be filed by either the owner of the property or its occupant.

Sec. 5709.40. (A) As used in this section:

(1) "Blighted area" and "impacted city" have the same meanings as in section 1728.01 of the Revised Code.

(2) "Business day" means a day of the week excluding Saturday, Sunday, and a legal holiday as defined under section 1.14 of the Revised Code.

(3) "Housing renovation" means a project carried out for residential purposes.

(4) "Improvement" means the increase in the assessed value of any real property that would first appear on the tax list and duplicate of real and public utility property after the effective date of an ordinance adopted under this section were it not for the exemption granted by that ordinance. ~~"Improvement" does not include a public infrastructure improvement.~~

(5) "Incentive district" means an area not more than three hundred acres in size enclosed by a continuous boundary in which a project is being, or will be, undertaken and having one or more of the following distress characteristics:

(a) At least fifty-one per cent of the residents of the district have incomes of less than eighty per cent of the median income of residents of the political subdivision in which the district is located, as determined in the same manner specified under section 119(b) of the "Housing and Community Development Act of 1974," 88 Stat. 633, 42 U.S.C. 5318, as amended;

(b) The average rate of unemployment in the district during the most recent twelve-month period for which data are available is equal to at least one hundred fifty per cent of the average rate of unemployment for this state for the same period.

(c) At least twenty per cent of the people residing in the district live at or below the poverty level as defined in the federal Housing and Community Development Act of 1974, 42 U.S.C. 5301, as amended, and regulations adopted pursuant to that act.

(d) The district is a blighted area.

(e) The district is in a situational distress area as designated by the director of development under division (F) of section 122.23 of the Revised Code.

(f) As certified by the engineer for the political subdivision, the public infrastructure serving the district is inadequate to meet the development

needs of the district as evidenced by a written economic development plan or urban renewal plan for the district that has been adopted by the legislative authority of the subdivision.

(g) The district is comprised entirely of unimproved land that is located in a distressed area as defined in section 122.23 of the Revised Code.

(6) "Project" means development activities undertaken on one or more parcels, including, but not limited to, construction, expansion, and alteration of buildings or structures, demolition, remediation, and site development, and any building or structure that results from those activities.

(7) "Public infrastructure improvement" includes, but is not limited to, public roads and highways; water and sewer lines; environmental remediation; land acquisition, including acquisition in aid of industry, commerce, distribution, or research; demolition, including demolition on private property when determined to be necessary for economic development purposes; stormwater and flood remediation projects, including such projects on private property when determined to be necessary for public health, safety, and welfare; the provision of gas, electric, and communications service facilities; and the enhancement of public waterways through improvements that allow for greater public access. "Public infrastructure improvement" does not include police or fire equipment.

(B) The legislative authority of a municipal corporation, by ordinance, may declare improvements to certain parcels of real property located in the municipal corporation to be a public purpose. Improvements with respect to a parcel that is used or to be used for residential purposes may be declared a public purpose under this division only if the parcel is located in a blighted area of an impacted city. Except as otherwise provided in division (D) of this section, not more than seventy-five per cent of an improvement thus declared to be a public purpose may be exempted from real property taxation; ~~the percentage exempted shall not, except as otherwise provided in that division, exceed the estimated percentage of the incremental demand placed on the public infrastructure improvements that is directly attributable to the exempted improvement.~~ The ordinance shall specify the percentage of the improvement to be exempted from taxation.

An ordinance adopted or amended under this division shall designate the specific public infrastructure improvements made, to be made, or in the process of being made by the municipal corporation that directly benefit, or that once made will directly benefit, the parcels for which improvements are declared to be a public purpose. ~~For the purposes of this division, a public infrastructure improvement directly benefits such a parcel only if a project on the parcel places direct, additional demand on the public infrastructure~~

~~improvement or, if the public infrastructure improvement has not yet been completed, will place direct, additional demand on the public infrastructure improvement once it is completed.~~ The service payments provided for in section 5709.42 of the Revised Code shall be used to finance the public infrastructure improvements designated in the ordinance or for the purpose described in division (D)(1) of this section.

(C)(1) The legislative authority of a municipal corporation may adopt an ordinance creating an incentive district and declaring improvements to parcels within the district to be a public purpose and, except as provided in division (F) of this section, exempt from taxation as provided in this section, but no legislative authority of a municipal corporation that has a population that exceeds twenty-five thousand, as shown by the most recent federal decennial census, shall adopt an ordinance that creates an incentive district if, as a result of adopting the ordinance, more than twenty-five per cent of the municipal corporation's taxable value, as of the first day of January of the year in which the ordinance takes effect, is subject to an exemption because of an incentive district. The twenty-five per cent limitation does not apply to an incentive district that was created by an ordinance adopted prior to January 1, 2006, unless the legislative authority creates an additional incentive district after that date. The ordinance shall delineate the boundary of the district and specifically identify each parcel within the district. A district may not include any parcel that is or has been exempted from taxation under division (B) of this section or that is or has been within another district created under this division. An ordinance may create more than one such district, and more than one ordinance may be adopted under ~~this division (C)(1) of this section.~~

(2) Not later than thirty days prior to adopting an ordinance under ~~this division (C)(1) of this section,~~ if the municipal corporation intends to apply for exemptions from taxation under section 5709.911 of the Revised Code on behalf of owners of real property located within the proposed incentive district, the legislative authority of a municipal corporation shall conduct a public hearing on the proposed ordinance. Not later than thirty days prior to the public hearing, the legislative authority shall give notice of the public hearing and the proposed ordinance by first class mail to every real property owner whose property is located within the boundaries of the proposed incentive district that is the subject of the proposed ordinance.

(3)(a) An ordinance adopted under ~~this division (C)(1) of this section~~ shall specify the life of the district and the percentage of the improvements to be exempted ~~and,~~ shall designate the public infrastructure improvements made ~~or,~~ to be made, or in the process of being made, that benefit or serve,

or, once made, will benefit or serve parcels in the district. The ordinance also shall identify one or more specific projects being, or to be, undertaken in the district that place additional demand on the public infrastructure improvements designated in the ordinance. The project identified may, but need not be, the project under division (C)(3)(b) of this section that places real property in use for commercial or industrial purposes. Except as otherwise permitted under that division, the service payments provided for in section 5709.42 of the Revised Code shall be used to finance the designated public infrastructure improvements or for the purpose described in division (D)(1) of this section.

(b) An ordinance adopted under ~~this~~ division (C)(1) of this section may authorize the use of service payments provided for in section 5709.42 of the Revised Code for the purpose of housing renovations within the district, provided that the ordinance also designates public infrastructure improvements that benefit or serve the district, and that a project within the district places real property in use for commercial or industrial purposes. Service payments may be used to finance or support loans, deferred loans, and grants to persons for the purpose of housing renovations within the district. The ordinance shall designate the parcels within the district that are eligible for housing renovation. The ordinance shall state separately the amounts or the percentages of the expected aggregate service payments that are designated for each public infrastructure improvement and for the general purpose of housing renovations.

(4) Except with the approval of the board of education of each city, local, or exempted village school district within the territory of which the district is or will be located, and subject to division (E) of this section, the life of ~~a~~ an incentive district shall not exceed ten years, and the percentage of improvements to be exempted shall not exceed seventy-five per cent. With ~~such~~ approval of the board of education, the life of a district may be not more than thirty years, and the percentage of improvements to be exempted may be not more than one hundred per cent.

(5) Approval of a board of education shall be obtained in the manner provided in division (D) of this section for exemptions under division (B) of this section, except that the notice to the board of education shall delineate the boundaries of the district, specifically identify each parcel within the district, identify each anticipated improvement in the district, provide an estimate of the true value in money of each such improvement, specify the life of the district and the percentage of improvements that would be exempted, and indicate the date on which the legislative authority intends to adopt the ordinance.



~~A municipal corporation shall not adopt an ordinance under this division after June 30, 2007.~~

(D)(1) If the ordinance declaring improvements to a parcel to be a public purpose or creating an incentive district specifies that payments in lieu of taxes provided for in section 5709.42 of the Revised Code shall be paid to the city, local, or exempted village school district in which the parcel is located in the amount of the taxes that would have been payable to the school district if the improvements had not been exempted from taxation, the percentage of the improvement that may be exempted from taxation may exceed seventy-five per cent, and the exemption may be granted for up to thirty years, without the approval of the board of education as otherwise required under division (D)(2) of this section.

(2) Improvements with respect to a parcel may be exempted from taxation under division (B) of this section for up to ten years or, with the approval under this paragraph of the board of education of the city, local, or exempted village school district within which the parcel is located, for up to thirty years. The percentage of the improvement exempted from taxation may, with such approval, exceed seventy-five per cent, but shall not exceed one hundred per cent. Not later than forty-five business days prior to adopting an ordinance under this section declaring improvements to be a public purpose that is subject to approval by a board of education under this division, the legislative authority shall deliver to the board of education a notice stating its intent to adopt an ordinance making that declaration. The notice shall identify the parcels for which improvements are to be exempted from taxation, provide an estimate of the true value in money of the improvements, specify the period for which the improvements would be exempted from taxation and the percentage of the improvement that would be exempted, and indicate the date on which the legislative authority intends to adopt the ordinance. The board of education, by resolution adopted by a majority of the board, may approve the exemption for the period or for the exemption percentage specified in the notice, may disapprove the exemption for the number of years in excess of ten, may disapprove the exemption for the percentage of the improvement to be exempted in excess of seventy-five per cent, or both, or may approve the exemption on the condition that the legislative authority and the board negotiate an agreement providing for compensation to the school district equal in value to a percentage of the amount of taxes exempted in the eleventh and subsequent years of the exemption period or, in the case of exemption percentages in excess of seventy-five per cent, compensation equal in value to a percentage of the taxes that would be payable on the portion of the improvement in excess of

seventy-five per cent were that portion to be subject to taxation, or other mutually agreeable compensation. The board of education shall certify its resolution to the legislative authority not later than fourteen days prior to the date the legislative authority intends to adopt the ordinance as indicated in the notice. ~~If the board of education approves the exemption on the condition that a compensation agreement be negotiated, the board in its resolution shall propose a compensation percentage.~~ If the board of education and the legislative authority negotiate a mutually acceptable compensation agreement, the ordinance may declare the improvements a public purpose for the number of years specified in the ordinance or, in the case of exemption percentages in excess of seventy-five per cent, for the exemption percentage specified in the ordinance. In either case, if the board and the legislative authority fail to negotiate a mutually acceptable compensation agreement, the ordinance may declare the improvements a public purpose for not more than ten years, but shall not exempt more than seventy-five per cent of the improvements from taxation, ~~or, in the case of an ordinance adopted under division (B) of this section, not more than the estimated percentage of the incremental demand as otherwise prescribed by division (B) of this section if that percentage is less than seventy-five per cent.~~ If the board fails to certify a resolution to the legislative authority within the time prescribed by this division, the legislative authority thereupon may adopt the ordinance and may declare the improvements a public purpose for up to thirty years, or, in the case of exemption percentages proposed in excess of seventy-five per cent, for the exemption percentage specified in the ordinance. The legislative authority may adopt the ordinance at any time after the board of education certifies its resolution approving the exemption to the legislative authority, or, if the board approves the exemption on the condition that a mutually acceptable compensation agreement be negotiated, at any time after the compensation agreement is agreed to by the board and the legislative authority.

(3) If a board of education has adopted a resolution waiving its right to approve exemptions from taxation and the resolution remains in effect, approval of exemptions by the board is not required under this division. If a board of education has adopted a resolution allowing a legislative authority to deliver the notice required under ~~this division~~ (D)(2) of this section fewer than forty-five business days prior to the legislative authority's adoption of the ordinance, the legislative authority shall deliver the notice to the board not later than the number of days prior to such adoption as prescribed by the board in its resolution. If a board of education adopts a resolution waiving its right to approve agreements or shortening the notification period, the

board shall certify a copy of the resolution to the legislative authority. If the board of education rescinds such a resolution, it shall certify notice of the rescission to the legislative authority.

(4) If the legislative authority is not required by division (D)(1), (2), or (3) of this section to notify the board of education of the legislative authority's intent to declare improvements to be a public purpose, the legislative authority shall comply with the notice requirements imposed under section 5709.83 of the Revised Code, unless the board has adopted a resolution under that section waiving its right to receive such a notice.

(E)(1) If a proposed ordinance under division (C)(1) of this section exempts improvements with respect to a parcel for more than ten years, or the percentage of the improvement exempted from taxation exceeds seventy-five per cent, not later than forty-five business days prior to adopting the ordinance the legislative authority of the municipal corporation shall deliver to the board of county commissioners of the county within which the incentive district is or will be located a notice that states its intent to adopt an ordinance creating an incentive district. The notice shall include a copy of the proposed ordinance.

(2) The board of county commissioners, by resolution adopted by a majority of the board, may object to the exemption for the number of years in excess of ten, may object to the exemption for the percentage of the improvement to be exempted in excess of seventy-five per cent, or both, or may accept either or both exemptions. If the board of county commissioners objects, the board may negotiate an agreement with the legislative authority that provides to the board in the eleventh and subsequent years of the exemption period compensation equal in value to not more than fifty per cent of the taxes that would be payable to the county on the portion of the improvement in excess of seventy-five per cent, were that portion to be subject to taxation. The board of county commissioners shall certify its resolution to the legislative authority not later than thirty days after receipt of the notice.

(3) If the board of county commissioners does not object or fails to certify its resolution objecting to an exemption within thirty days after receipt of the notice, the legislative authority may adopt the ordinance, and no compensation shall be provided to the board of county commissioners. If the board timely certifies its resolution objecting to the ordinance, the legislative authority may adopt the ordinance at any time after the compensation agreement is agreed to by the board and the legislative authority, or, if no compensation agreement is negotiated, at any time after the legislative authority agrees to provide compensation to the board of fifty

per cent of the taxes that would be payable to the county in the eleventh and subsequent years of the exemption period on the portion of the improvement in excess of seventy-five per cent, were that portion to be subject to taxation.

(F) Any of the following property tax levies that are enacted on or after January 1, 2006, and after the date an ordinance creating an incentive district is adopted on or after January 1, 2006, under division (C)(1) of this section shall be levied on property that was exempted from taxation under division (C) of this section, and revenues collected from such levies shall not be used to provide service payments under this section:

(1) A tax levied under division (L) of section 5705.19 of the Revised Code for community mental retardation and developmental disabilities programs and services pursuant to Chapter 5126. of the Revised Code;

(2) A tax levied under division (Y) of section 5705.19 of the Revised Code for providing or maintaining senior citizens services or facilities;

(3) A tax levied under section 5705.22 of the Revised Code for county hospitals;

(4) A tax levied under section 5705.221 of the Revised Code for alcohol, drug addiction, and mental health services;

(5) A tax levied under section 5705.23 of the Revised Code for library purposes;

(6) A tax levied under section 5705.24 of the Revised Code for the support of children services and the placement and care of children.

(G) An exemption from taxation granted under this section commences with the tax year in which an improvement first appears on the tax list and duplicate of real and public utility property and that begins after the effective date of specified in the ordinance. Except as otherwise provided in this division, the exemption ends on the date specified in the ordinance as the date the improvement ceases to be a public purpose or the incentive district expires, or ends on the date on which the public infrastructure improvements and housing renovations are paid in full from the municipal public improvement tax increment equivalent fund established under division (A) of section 5709.43 of the Revised Code, whichever occurs first. The exemption of an improvement with respect to a parcel may end on a later date, as specified in the ordinance, if the legislative authority and the board of education of the city, local, or exempted village school district within which the parcel is located have entered into a compensation agreement under section 5709.82 of the Revised Code with respect to the improvement or district and the board of education has approved the term of the exemption under division (D)(2) of this section, but in no case shall the improvement be exempted from taxation for more than thirty years.

Exemptions shall be claimed and allowed in the same manner as in the case of other real property exemptions. If an exemption status changes during a year, the procedure for the apportionment of the taxes for that year is the same as in the case of other changes in tax exemption status during the year.

~~(F)~~(H) Additional municipal financing of public infrastructure improvements and housing renovations may be provided by any methods that the municipal corporation may otherwise use for financing such improvements. If the municipal corporation issues bonds or notes to finance the public infrastructure improvements and housing renovations and pledges money from the municipal public improvement tax increment equivalent fund to pay the interest on and principal of the bonds or notes, the bonds or notes are not subject to Chapter 133. of the Revised Code.

~~(G)~~(I) The municipal corporation, not later than fifteen days after the adoption of an ordinance under this section, shall submit to the director of development a copy of the ordinance. On or before the thirty-first day of March of each year, the municipal corporation shall submit a status report to the director of development. The report shall indicate, in the manner prescribed by the director, the progress of the project during each year that an exemption remains in effect, including a summary of the receipts from service payments in lieu of taxes; expenditures of money from the funds created under section 5709.43 of the Revised Code; a description of the public infrastructure improvements and housing renovations financed with such expenditures; and a quantitative summary of changes in employment and private investment resulting from each project.

~~(H)~~(J) Nothing in this section shall be construed to prohibit a legislative authority from declaring to be a public purpose improvements with respect to more than one parcel.

Sec. 5709.73. (A) As used in this section and section 5709.74 of the Revised Code:

(1) "Business day" means a day of the week excluding Saturday, Sunday, and a legal holiday as defined in section 1.14 of the Revised Code.

(2) "Further improvements" or "improvements" means the increase in the ~~true~~ assessed value of real property that would first appear on the tax list and duplicate of real and public utility property after the effective date of a resolution adopted under this section were it not for the exemption granted by that resolution. For purposes of division (B) of this section, "improvements" do not include any property used or to be used for residential purposes.

(3) "Housing renovation" means a project carried out for residential purposes.

(4) "Incentive district" has the same meaning as in section 5709.40 of the Revised Code, except that a blighted area is in the unincorporated area of a township.

(5) "Project" and "public infrastructure improvement" have the same meanings as in section 5709.40 of the Revised Code.

(B) A board of township trustees may, by unanimous vote, adopt a resolution that declares to be a public purpose any public infrastructure improvements made that are necessary for the development of certain parcels of land located in the unincorporated area of the township. Except as otherwise provided in division (D) of this section, the resolution may exempt from real property taxation not more than seventy-five per cent of further improvements to a parcel of land ~~which that~~ directly benefits from such public infrastructure improvements; ~~the percentage exempted shall not, except as otherwise provided in division (D) of this section, exceed the estimated percentage of the incremental demand placed on the public infrastructure improvements that is directly attributable to the exempted improvement. For the purposes of this division, a public infrastructure improvement directly benefits a parcel of land only if a project on the parcel places direct, additional demand on the public infrastructure improvement, or, if the public infrastructure improvement has not yet been constructed, will place direct, additional demand on the public infrastructure improvement when completed.~~ The resolution shall specify the percentage of the further improvements to be exempted.

(C)(1) A board of township trustees may adopt, by unanimous vote, a resolution creating an incentive district and declaring improvements to parcels within the district to be a public purpose and, except as provided in division (F) of this section, exempt from taxation as provided in this section, but no board of township trustees of a township that has a population that exceeds twenty-five thousand, as shown by the most recent federal decennial census, shall adopt a resolution that creates an incentive district if, as a result of adopting the resolution, more than twenty-five per cent of the township's taxable value, as of the first day of January of the year in which the resolution takes effect, is subject to exemption because of an incentive district. The twenty-five per cent limitation does not apply to an incentive district that was created by a resolution adopted prior to January 1, 2006, unless the board creates an additional incentive district after that date. The district shall be located within the unincorporated area of the township and shall not include any territory that is included within a district created under division (B) of section 5709.78 of the Revised Code. The resolution shall delineate the boundary of the district and specifically identify each parcel

within the district. A district may not include any parcel that is or has been exempted from taxation under division (B) of this section or that is or has been within another district created under this division. A resolution may create more than one such district, and more than one resolution may be adopted under ~~this~~ division (C)(1) of this section.

(2) Not later than thirty days prior to adopting a resolution under ~~this~~ division (C)(1) of this section, if the township intends to apply for exemptions from taxation under section 5709.911 of the Revised Code on behalf of owners of real property located within the proposed incentive district, the board shall conduct a public hearing on the proposed resolution. Not later than thirty days prior to the public hearing, the board shall give notice of the public hearing and the proposed resolution by first class mail to every real property owner whose property is located within the boundaries of the proposed incentive district that is the subject of the proposed resolution.

(3)(a) A resolution under ~~this~~ division (C)(1) of this section shall specify the life of the district and the percentage of the improvements to be exempted ~~and~~, shall designate the public infrastructure improvements made ~~or~~, to be made, or in the process of being made, that benefit or serve, or, once made, will benefit or serve parcels in the district. The resolution also shall identify one or more specific projects being, or to be, undertaken in the district that place additional demand on the public infrastructure improvements designated in the resolution. The project identified may, but need not be, the project under division (C)(3)(b) of this section that places real property in use for commercial or industrial purposes.

(b) A resolution adopted under ~~this~~ division (C)(1) of this section may authorize the use of service payments provided for in section 5709.74 of the Revised Code for the purpose of housing renovations within the district, provided that the resolution also designates public infrastructure improvements that benefit or serve the district, and that a project within the district places real property in use for commercial or industrial purposes. Service payments may be used to finance or support loans, deferred loans, and grants to persons for the purpose of housing renovations within the district. The resolution shall designate the parcels within the district that are eligible for housing renovations. The resolution shall state separately the amount or the percentages of the expected aggregate service payments that are designated for each public infrastructure improvement and for the purpose of housing renovations.

(4) Except with the approval of the board of education of each city, local, or exempted village school district within the territory of which the

district is or will be located, and subject to division (E) of this section, the life of a an incentive district shall not exceed ten years, and the percentage of improvements to be exempted shall not exceed seventy-five per cent. With ~~such~~ approval of the board of education, the life of a district may be not more than thirty years, and the percentage of improvements to be exempted may be not more than one hundred per cent.

(5) Approval of a board of education shall be obtained in the manner provided in division (D) of this section for exemptions under division (B) of this section, except that the notice to the board of education shall delineate the boundaries of the district, specifically identify each parcel within the district, identify each anticipated improvement in the district, provide an estimate of the true value in money of each such improvement, specify the life of the district and the percentage of improvements that would be exempted, and indicate the date on which the board of township trustees intends to adopt the resolution.

~~A board of township trustees shall not adopt a resolution under this division after June 30, 2007.~~

(D) Improvements with respect to a parcel may be exempted from taxation under division (B) of this section for up to ten years or, with the approval of the board of education of the city, local, or exempted village school district within which the parcel is located, for up to thirty years. The percentage of the improvements exempted from taxation may, with such approval, exceed seventy-five per cent, but shall not exceed one hundred per cent. Not later than forty-five business days prior to adopting a resolution under this section declaring improvements to be a public purpose that is subject to approval by a board of education under this division, the board of trustees shall deliver to the board of education a notice stating its intent to adopt a resolution making that declaration. The notice shall identify the parcels for which improvements are to be exempted from taxation, provide an estimate of the true value in money of the improvements, specify the period for which the improvements would be exempted from taxation and the percentage of the improvements that would be exempted, and indicate the date on which the board of trustees intends to adopt the resolution. The board of education, by resolution adopted by a majority of the board, may approve the exemption for the period or for the exemption percentage specified in the notice, may disapprove the exemption for the number of years in excess of ten, may disapprove the exemption for the percentage of the improvements to be exempted in excess of seventy-five per cent, or both, or may approve the exemption on the condition that the board of trustees and the board of education negotiate an agreement providing for



compensation to the school district equal in value to a percentage of the amount of taxes exempted in the eleventh and subsequent years of the exemption period or, in the case of exemption percentages in excess of seventy-five per cent, compensation equal in value to a percentage of the taxes that would be payable on the portion of the improvements in excess of seventy-five per cent were that portion to be subject to taxation, or other mutually agreeable compensation. The board of education shall certify its resolution to the board of trustees not later than fourteen days prior to the date the board of trustees intends to adopt the resolution as indicated in the notice. ~~If the board of education approves the exemption on the condition that a compensation agreement be negotiated, the board of education in its resolution shall propose a compensation percentage.~~ If the board of education and the board of trustees negotiate a mutually acceptable compensation agreement, the resolution may declare the improvements a public purpose for the number of years specified in the resolution or, in the case of exemption percentages in excess of seventy-five per cent, for the exemption percentage specified in the resolution. In either case, if the board of education and the board of trustees fail to negotiate a mutually acceptable compensation agreement, the resolution may declare the improvements a public purpose for not more than ten years, but shall not exempt more than seventy-five per cent of the improvements from taxation, ~~or, in the case of a resolution adopted under division (B) of this section, not more than the estimated percentage of the incremental demand as otherwise prescribed by division (B) of this section if that percentage is less than seventy-five per cent.~~ If the board of education fails to certify a resolution to the board of trustees within the time prescribed by this section, the board of trustees thereupon may adopt the resolution and may declare the improvements a public purpose for up to thirty years or, in the case of exemption percentages proposed in excess of seventy-five per cent, for the exemption percentage specified in the resolution. The board of township trustees may adopt the resolution at any time after the board of education certifies its resolution approving the exemption to the board of township trustees, or, if the board of education approves the exemption on the condition that a mutually acceptable compensation agreement be negotiated, at any time after the compensation agreement is agreed to by the board of education and the board of township trustees.

If a board of education has adopted a resolution waiving its right to approve exemptions from taxation and the resolution remains in effect, approval of such exemptions by the board of education is not required under this division. If a board of education has adopted a resolution allowing a

board of township trustees to deliver the notice required under this division fewer than forty-five business days prior to adoption of the resolution by the board of township trustees, the board of township trustees shall deliver the notice to the board of education not later than the number of days prior to such adoption as prescribed by the board of education in its resolution. If a board of education adopts a resolution waiving its right to approve exemptions or shortening the notification period, the board of education shall certify a copy of the resolution to the board of township trustees. If the board of education rescinds such a resolution, it shall certify notice of the rescission to the board of township trustees.

If the board of trustees is not required by this division to notify the board of education of the board of trustees' intent to declare improvements to be a public purpose, the board of trustees shall comply with the notice requirements imposed under section 5709.83 of the Revised Code before taking formal action to adopt the resolution making that declaration, unless the board of education has adopted a resolution under that section waiving its right to receive such a notice.

(E)(1) If a proposed resolution under division (C)(1) of this section exempts improvements with respect to a parcel for more than ten years, or the percentage of the improvement exempted from taxation exceeds seventy-five per cent, not later than forty-five business days prior to adopting the ordinance the board of township trustees shall deliver to the board of county commissioners of the county within which the incentive district is or will be located a notice that states its intent to adopt a resolution creating an incentive district. The notice shall include a copy of the proposed resolution.

(2) The board of county commissioners, by resolution adopted by a majority of the board, may object to the exemption for the number of years in excess of ten, may object to the exemption for the percentage of the improvement to be exempted in excess of seventy-five per cent, or both, or may accept either or both exemptions. If the board of county commissioners objects, the board may negotiate an agreement with the board of township trustees that provides to the board of county commissioners in the eleventh and subsequent years of the exemption period compensation equal in value to not more than fifty per cent of the taxes that would be payable to the county on the portion of the improvement in excess of seventy-five per cent, were that portion to be subject to taxation. The board of county commissioners shall certify its resolution to the board of township trustees not later than thirty days after receipt of the notice.

(3) If the board of county commissioners does not object or fails to

certify its resolution objecting to an exemption within thirty days after receipt of the notice, the board of township trustees may adopt its resolution, and no compensation shall be provided to the board of county commissioners. If the board of county commissioners timely certifies its resolution objecting to the trustees' resolution, the board of township trustees may adopt its resolution at any time after the compensation agreement is agreed to by the board of county commissioners and the board of township trustees, or, if no compensation agreement is negotiated, at any time after the board of township trustees agrees to provide compensation to the board of county commissioners of fifty per cent of the taxes that would be payable to the county in the eleventh and subsequent years of the exemption period on the portion of the improvement in excess of seventy-five per cent, were that portion to be subject to taxation.

(F) Any of the following property tax levies that are enacted on or after January 1, 2006, and after the date an ordinance creating an incentive district is adopted on or after January 1, 2006, under division (C)(1) of this section shall be levied on property that was exempted from taxation under division (C) of this section and revenues collected from such levies shall not be used to provide service payments under this section:

(1) A tax levied under division (L) of section 5705.19 of the Revised Code for community mental retardation and developmental disabilities programs and services pursuant to Chapter 5126. of the Revised Code;

(2) A tax levied under division (Y) of section 5705.19 of the Revised Code for providing or maintaining senior citizens services or facilities;

(3) A tax levied under section 5705.22 of the Revised Code for county hospitals;

(4) A tax levied under section 5705.221 of the Revised Code for alcohol, drug addiction, and mental health services;

(5) A tax levied under section 5705.23 of the Revised Code for library purposes;

(6) A tax levied under section 5705.24 of the Revised Code for the support of children services and the placement and care of children.

(G) An exemption from taxation granted under this section commences with the tax year in which an improvement first appears on the tax list and ~~duplicate of real and public utility property and specified in the resolution~~ that begins after the effective date of the resolution. Except as otherwise provided in this division, the exemption ends on the date specified in the resolution as the date the improvement ceases to be a public purpose or the incentive district expires, or ends on the date on which the public infrastructure improvements and housing renovations are paid in full from

the township public improvement tax increment equivalent fund established under section 5709.75 of the Revised Code, whichever occurs first. The exemption of an improvement with respect to a parcel may end on a later date, as specified in the resolution, if the board of township trustees and the board of education of the city, local, or exempted village school district within which the parcel is located have entered into a compensation agreement under section 5709.82 of the Revised Code with respect to the improvement or district and the board of education has approved the term of the exemption under division (D) of this section, but in no case shall the improvement be exempted from taxation for more than thirty years. The board of township trustees may, by majority vote, adopt a resolution permitting the township to enter into such agreements as the board finds necessary or appropriate to provide for the construction or undertaking of public infrastructure improvements and housing renovations. Any exemption shall be claimed and allowed in the same or a similar manner as in the case of other real property exemptions. If an exemption status changes during a tax year, the procedure for the apportionment of the taxes for that year is the same as in the case of other changes in tax exemption status during the year.

~~(F)~~(H) The board of township trustees may issue the notes of the township to finance all costs pertaining to the construction or undertaking of public infrastructure improvements and housing renovations made pursuant to this section. The notes shall be signed by the board and attested by the signature of the township clerk, shall bear interest not to exceed the rate provided in section 9.95 of the Revised Code, and are not subject to Chapter 133. of the Revised Code. The resolution authorizing the issuance of the notes shall pledge the funds of the township public improvement tax increment equivalent fund established pursuant to section 5709.75 of the Revised Code to pay the interest on and principal of the notes. The notes, which may contain a clause permitting prepayment at the option of the board, shall be offered for sale on the open market or given to the vendor or contractor if no sale is made.

~~(G)~~(I) The township, not later than fifteen days after the adoption of a resolution under this section, shall submit to the director of development a copy of the resolution. On or before the thirty-first day of March of each year, the township shall submit a status report to the director of development. The report shall indicate, in the manner prescribed by the director, the progress of the project during each year that the exemption remains in effect, including a summary of the receipts from service payments in lieu of taxes; expenditures of money from funds created under

section 5709.75 of the Revised Code; a description of the public infrastructure improvements and housing renovations financed with such expenditures; and a quantitative summary of changes in private investment resulting from each project.

~~(H)~~(J) Nothing in this section shall be construed to prohibit a board of township trustees from declaring to be a public purpose improvements with respect to more than one parcel.

~~(H)~~(K) A board of township trustees that adopted a resolution under this section prior to July 21, 1994, may amend that resolution to include any additional public infrastructure improvement. A board of township trustees that seeks by such an amendment to utilize money from its township public improvement tax increment equivalent fund for land acquisition in aid of industry, commerce, distribution, or research, demolition on private property, or stormwater and flood remediation projects may do so provided that the board currently is a party to a hold-harmless agreement with the board of education of the city, local, or exempted village school district within the territory of which are located the parcels that are subject to an exemption. For the purposes of this division, a "hold-harmless agreement" means an agreement under which the board of township trustees agrees to compensate the school district for one hundred per cent of the tax revenue that the school district would have received from further improvements to parcels designated in the resolution were it not for the exemption granted by the resolution.

Sec. 5709.77. As used in sections 5709.77 to 5709.81 of the Revised Code:

(A) "Business day" means a day of the week excluding Saturday, Sunday, and a legal holiday as defined in section 1.14 of the Revised Code.

(B) "Fund" means to provide for the payment of the debt service on and the expenses relating to an outstanding obligation of the county.

(C) "Housing renovation" means a project carried out for residential purposes.

(D) "Improvement" means the increase in the ~~true~~ assessed value of real property that would first appear on the tax list and duplicate of real and public utility property after the effective date of a resolution adopted under section 5709.78 of the Revised Code were it not for the exemption granted by that resolution. ~~"Improvement" does not include a public infrastructure improvement.~~ For purposes of division (A) of section 5709.78 of the Revised Code, "improvement" does not include any property used or to be used for residential purposes.

(E) "Incentive district" has the same meaning as in section 5709.40 of

the Revised Code, except that a blighted area is in the unincorporated territory of a county.

(F) "Refund" means to fund and retire an outstanding obligation of the county.

(G) "Project" and "public infrastructure improvement" have the same meanings as in section 5709.40 of the Revised Code.

Sec. 5709.78. (A) A board of county commissioners may, by resolution, declare improvements to certain parcels of real property located in the unincorporated territory of the county to be a public purpose. Except as otherwise provided in division (C) of this section, not more than seventy-five per cent of an improvement thus declared to be a public purpose may be exempted from real property taxation; ~~the percentage exempted shall not, except as otherwise provided in those divisions, exceed the estimated percentage of the incremental demand placed on the public infrastructure improvements that is directly attributable to the exempted improvement.~~ The resolution shall specify the percentage of the improvement to be exempted.

A resolution adopted under this division shall designate the specific public infrastructure improvements made, to be made, or in the process of being made by the county that directly benefit, or that once made will directly benefit, the parcels for which improvements are declared to be a public purpose. ~~For the purposes of this division, a public infrastructure improvement directly benefits such a parcel only if a project on the parcel places direct, additional demand on the public infrastructure improvement or, if the public infrastructure improvement has not yet been completed, will place direct, additional demand on the public infrastructure improvement once it is completed.~~ The service payments provided for in section 5709.79 of the Revised Code shall be used to finance the public infrastructure improvements designated in the resolution.

(B)(1) A board of county commissioners may adopt a resolution creating an incentive district and declaring improvements to parcels within the district to be a public purpose and, except as provided in division (E) of this section, exempt from taxation as provided in this section, but no board of county commissioners of a county that has a population that exceeds twenty-five thousand, as shown by the most recent federal decennial census, shall adopt a resolution that creates an incentive district if, as a result of adopting the resolution, more than twenty-five per cent of the county's taxable value, as of the first day of January of the year in which the resolution takes effect, is subject to exemption because of an incentive district. The twenty-five per cent limitation does not apply to an incentive

district that was created by a resolution adopted prior to January 1, 2006, unless the board creates an additional incentive district after that date. The district shall be located within the unincorporated territory of the county and shall not include any territory that is included within a district created under division (C) of section 5709.73 of the Revised Code. The resolution shall delineate the boundary of the district and specifically identify each parcel within the district. A district may not include any parcel that is or has been exempted from taxation under division (A) of this section or that is or has been within another district created under this division. A resolution may create more than one such district, and more than one resolution may be adopted under ~~this~~ division (B)(1) of this section.

(2) Not later than thirty days prior to adopting a resolution under ~~this~~ division (B)(1) of this section, if the county intends to apply for exemptions from taxation under section 5709.911 of the Revised Code on behalf of owners of real property located within the proposed incentive district, the board of county commissioners shall conduct a public hearing on the proposed resolution. Not later than thirty days prior to the public hearing, the board shall give notice of the public hearing and the proposed resolution by first class mail to every real property owner whose property is located within the boundaries of the proposed incentive district that is the subject of the proposed resolution. The board also shall provide the notice by first class mail to the clerk of each township in which the proposed incentive district will be located.

(3)(a) A resolution under ~~this~~ division (B)(1) of this section shall specify the life of the district and the percentage of the improvements to be exempted ~~and~~ shall designate the public infrastructure improvements made ~~or~~ to be made, or in the process of being made, that benefit or serve, ~~or, once made, will benefit or serve~~ parcels in the district. The resolution also shall identify one or more specific projects being, or to be, undertaken in the district that place additional demand on the public infrastructure improvements designated in the resolution. The project identified may, but need not be, the project under division (B)(3)(b) of this section that places real property in use for commercial or industrial purposes.

(b) A resolution adopted under ~~this~~ division (B)(1) of this section may authorize the use of service payments provided for in section 5709.79 of the Revised Code for the purpose of housing renovations within the district, provided that the resolution also designates public infrastructure improvements that benefit or serve the district, and that a project within the district places real property in use for commercial or industrial purposes. Service payments may be used to finance or support loans, deferred loans,

and grants to persons for the purpose of housing renovations within the district. The resolution shall designate the parcels within the district that are eligible for housing renovations. The resolution shall state separately the amount or the percentages of the expected aggregate service payments that are designated for each public infrastructure improvement and for the purpose of housing renovations.

(4) Except with the approval of the board of education of each city, local, or exempted village school district within the territory of which the district is or will be located, and subject to division (D) of this section, the life of a an incentive district shall not exceed ten years, and the percentage of improvements to be exempted shall not exceed seventy-five per cent. With ~~such~~ approval of the board of education, the life of a district may be not more than thirty years, and the percentage of improvements to be exempted may be not more than one hundred per cent.

(5) Approval of a board of education shall be obtained in the manner provided in division (C) of this section for exemptions under division (A) of this section, except that the notice to the board of education shall delineate the boundaries of the district, specifically identify each parcel within the district, identify each anticipated improvement in the district, provide an estimate of the true value in money of each such improvement, specify the life of the district and the percentage of improvements that would be exempted, and indicate the date on which the board of county commissioners intends to adopt the resolution.

~~A board of county commissioners shall not adopt a resolution under this division after June 30, 2007.~~

(C)(1) Improvements with respect to a parcel may be exempted from taxation under division (A) of this section for up to ten years or, with the approval of the board of education of the city, local, or exempted village school district within which the parcel is located, for up to thirty years. The percentage of the improvements exempted from taxation may, with such approval, exceed seventy-five per cent, but shall not exceed one hundred per cent. Not later than forty-five business days prior to adopting a resolution under this section declaring improvements to be a public purpose that is subject to the approval of a board of education under this division, the board of county commissioners shall deliver to the board of education a notice stating its intent to adopt a resolution making that declaration. The notice shall identify the parcels for which improvements are to be exempted from taxation, provide an estimate of the true value in money of the improvements, specify the period for which the improvements would be exempted from taxation and the percentage of the improvements that would



be exempted, and indicate the date on which the board of county commissioners intends to adopt the resolution. The board of education, by resolution adopted by a majority of the board, may approve the exemption for the period or for the exemption percentage specified in the notice, may disapprove the exemption for the number of years in excess of ten, may disapprove the exemption for the percentage of the improvements to be exempted in excess of seventy-five per cent, or both, or may approve the exemption on the condition that the board of county commissioners and the board of education negotiate an agreement providing for compensation to the school district equal in value to a percentage of the amount of taxes exempted in the eleventh and subsequent years of the exemption period or, in the case of exemption percentages in excess of seventy-five per cent, compensation equal in value to a percentage of the taxes that would be payable on the portion of the improvements in excess of seventy-five per cent were that portion to be subject to taxation, or other mutually agreeable compensation. The board of education shall certify its resolution to the board of county commissioners not later than fourteen days prior to the date the board of county commissioners intends to adopt its resolution as indicated in the notice. ~~If the board of education approves the exemption on the condition that a compensation agreement be negotiated, the board of education in its resolution shall propose a compensation percentage.~~ If the board of education and the board of county commissioners negotiate a mutually acceptable compensation agreement, the resolution of the board of county commissioners may declare the improvements a public purpose for the number of years specified in that resolution or, in the case of exemption percentages in excess of seventy-five per cent, for the exemption percentage specified in the resolution. In either case, if the board of education and the board of county commissioners fail to negotiate a mutually acceptable compensation agreement, the resolution may declare the improvements a public purpose for not more than ten years, but shall not exempt more than seventy-five per cent of the improvements from taxation, ~~or, in the case of a resolution adopted under division (A) of this section, not more than the estimated percentage of the incremental demand as otherwise prescribed by division (A) of this section if that percentage is less than seventy-five per cent.~~ If the board of education fails to certify a resolution to the board of county commissioners within the time prescribed by this section, the board of county commissioners thereupon may adopt the resolution and may declare the improvements a public purpose for up to thirty years or, in the case of exemption percentages proposed in excess of seventy-five per cent, for the exemption percentage specified in the resolution. The board of

county commissioners may adopt the resolution at any time after the board of education certifies its resolution approving the exemption to the board of county commissioners, or, if the board of education approves the exemption on the condition that a mutually acceptable compensation agreement be negotiated, at any time after the compensation agreement is agreed to by the board of education and the board of county commissioners.

(2) If a board of education has adopted a resolution waiving its right to approve exemptions from taxation and the resolution remains in effect, approval of such exemptions by the board of education is not required under division (C)(1) of this section. If a board of education has adopted a resolution allowing a board of county commissioners to deliver the notice required under division (C)(1) of this section fewer than forty-five business days prior to approval of the resolution by the board of county commissioners, the board of county commissioners shall deliver the notice to the board of education not later than the number of days prior to such approval as prescribed by the board of education in its resolution. If a board of education adopts a resolution waiving its right to approve exemptions or shortening the notification period, the board of education shall certify a copy of the resolution to the board of county commissioners. If the board of education rescinds such a resolution, it shall certify notice of the rescission to the board of county commissioners.

(D)(1) If a proposed resolution under division (B)(1) of this section exempts improvements with respect to a parcel for more than ten years, or the percentage of the improvement exempted from taxation exceeds seventy-five per cent, not later than forty-five business days prior to adopting the ordinance the board of county commissioners shall deliver to the board of township trustees of any township or legislative authority of any municipal corporation within which the incentive district is or will be located a notice that states its intent to adopt a resolution creating an incentive district. The notice shall include a copy of the proposed resolution.

(2) The board of township trustees or legislative authority of the municipal corporation, or both, by resolution, may object to the exemption for the number of years in excess of ten, may object to the exemption for the percentage of the improvement to be exempted in excess of seventy-five per cent, or both, or may accept either or both exemptions. If the board of township trustees or legislative authority, or both, objects, the board of township trustees or legislative authority may negotiate an agreement with the board of county commissioners that provides to the board of township trustees or legislative authority, or both, in the eleventh and subsequent years of the exemption period compensation equal in value to not more than

fifty per cent of the taxes that would be payable to the township or municipal corporation on the portion of the improvement in excess of seventy-five per cent, were that portion to be subject to taxation. The board of township trustees and legislative authority shall certify its resolution to the board of county commissioners not later than thirty days after receipt of the notice.

(3) If the board of township trustees and the legislative authority of the municipal corporation does not object or fails to certify a resolution objecting to an exemption within thirty days after receipt of the notice, the board of county commissioners may adopt its resolution, and no compensation shall be provided to the board of township trustees or legislative authority. If both the board of township trustees or legislative authority of the municipal corporation certify resolutions objecting to the commissioners' resolution, the board of county commissioners may adopt its resolution at any time after both compensation agreements are agreed to by the board of county commissioners and the respective party to the agreement. If either the board of township trustees or legislative authority of the municipal corporation certify a resolution objecting to the commissioners' resolution, the board of county commissioners may adopt its resolution at any time after the compensation agreement is agreed to by the board of county commissioners and the board or legislative authority, or, if no compensation agreement is negotiated, at any time after the board of county commissioners agrees to provide compensation to the board of township trustees or legislative authority, or to both, of fifty per cent of the taxes that would be payable to the township or municipal corporation in the eleventh and subsequent years of the exemption period on the portion of the improvement in excess of seventy-five per cent, were that portion to be subject to taxation.

(E) Any of the following property tax levies that are enacted on or after January 1, 2006, and after the date an ordinance creating an incentive district is adopted on or after January 1, 2006, under division (C)(1) of this section shall be levied on property that was exempted from taxation under division (C) of this section and revenues collected from such levies shall not be used to provide service payments under this section:

(1) A tax levied under division (L) of section 5705.19 of the Revised Code for community mental retardation and developmental disabilities programs and services pursuant to Chapter 5126. of the Revised Code;

(2) A tax levied under division (Y) of section 5705.19 of the Revised Code for providing or maintaining senior citizens services or facilities;

(3) A tax levied under section 5705.22 of the Revised Code for county

hospitals:

(4) A tax levied under section 5705.221 of the Revised Code for alcohol, drug addiction, and mental health services;

(5) A tax levied under section 5705.23 of the Revised Code for library purposes;

(6) A tax levied under section 5705.24 of the Revised Code for the support of children services and the placement and care of children.

~~(F)~~ An exemption from taxation granted under this section commences with the tax year ~~in which an improvement first appears on the tax list and duplicate of real and public utility property and specified in the resolution~~ that begins after the effective date of the resolution. Except as otherwise provided in this division, the exemption ends on the date specified in the resolution as the date the improvement ceases to be a public purpose or the incentive district expires, or ends on the date on which the county can no longer require annual service payments in lieu of taxes under section 5709.79 of the Revised Code, whichever occurs first. The exemption of an improvement with respect to a parcel may end on a later date, as specified in the resolution, if the board of commissioners and the board of education of the city, local, or exempted village school district within which the parcel is located have entered into a compensation agreement under section 5709.82 of the Revised Code with respect to the improvement or district and the board of education has approved the term of the exemption under division (C)(1) of this section, but in no case shall the improvement be exempted from taxation for more than thirty years. Exemptions shall be claimed and allowed in the same or a similar manner as in the case of other real property exemptions. If an exemption status changes during a tax year, the procedure for the apportionment of the taxes for that year is the same as in the case of other changes in tax exemption status during the year.

~~(E)~~(G) If the board of county commissioners is not required by this section to notify the board of education of the board of county commissioners' intent to declare improvements to be a public purpose, the board of county commissioners shall comply with the notice requirements imposed under section 5709.83 of the Revised Code before taking formal action to adopt the resolution making that declaration, unless the board of education has adopted a resolution under that section waiving its right to receive such a notice.

~~(F)~~(H) The county, not later than fifteen days after the adoption of a resolution under this section, shall submit to the director of development a copy of the resolution. On or before the thirty-first day of March of each year, the county shall submit a status report to the director of development.

The report shall indicate, in the manner prescribed by the director, the progress of the project during each year that an exemption remains in effect, including a summary of the receipts from service payments in lieu of taxes; expenditures of money from funds created under section 5709.75 of the Revised Code; a description of the public infrastructure improvements and housing renovations financed with such expenditures; and a quantitative summary of changes in employment and private investment resulting from each project.

~~(G)~~(I) Nothing in this section shall be construed to prohibit a board of county commissioners from declaring to be a public purpose improvements with respect to more than one parcel.

Sec. 5711.01. As used in this chapter:

(A) "Taxable property" includes all the kinds of property mentioned in division (B) of section 5709.01 and section 5709.02 of the Revised Code, and also the amount or value as of the date of conversion of all taxable property converted into bonds or other securities not taxed on or after the first day of November in the year preceding the date of listing, and of all other taxable property converted into deposits after the date as of which deposits are required to be listed in such year, except in the usual course of the taxpayer's business, to the extent ~~he~~ the taxpayer may hold or control such bonds, securities, or deposits on such day, without deduction for indebtedness created in the purchase of such bonds or securities from ~~his~~ the taxpayer's credits. ~~However, taxable~~ "Taxable property" does not include such investments and deposits as are taxable at the source as provided in sections 5725.01 to 5725.26 of the Revised Code; surrender values under policies of insurance, or any tangible personal property acquired from a public utility or interexchange telecommunications company as defined in section 5727.01 of the Revised Code, and leased back to the public utility or interexchange telecommunications company pursuant to a sale and leaseback transaction as defined in division (I) of section 5727.01 of the Revised Code.

For tax year 2007 and thereafter, taxable property leased to a telephone, telegraph, or interexchange telecommunications company, as defined in section 5727.01 of the Revised Code, shall be listed and assessed by the owner of the property at the percentage of true value in money required under division (H) of section 5711.22 of the Revised Code.

(B) "Taxpayer" means any owner of taxable property, including property exempt under division (C) of section 5709.01 of the Revised Code, and includes every person residing in, or incorporated or organized by or under the laws of this state, or doing business in this state, or owning or

having a beneficial interest in taxable personal property in this state and every fiduciary required by sections 5711.01 to 5711.36 of the Revised Code, to make a return for or on behalf of another. For tax year 2007 and thereafter, "taxpayer" includes telephone companies, telegraph companies, and interexchange telecommunications company as defined in section 5727.01 of the Revised Code. The tax commissioner may by rule define and designate the taxpayer, as to any taxable property which would not otherwise be required by this section to be returned; and any such rule shall be considered supplementary to the enumeration of kinds of taxpayers following:

- (1) Individuals of full age and sound mind residing in this state;
- (2) Partnerships, corporations, associations, and joint-stock companies, under whatever laws organized or existing, doing business or having taxable property in this state; and corporations incorporated by or organized under the laws of this state, wherever their actual business is conducted;
- (3) Fiduciaries appointed by any court in this state or having title, possession, or custody of taxable personal property in this state or engaged in business in this state;
- (4) Unincorporated mutual funds.

Taxpayer excludes all individuals, partnerships, corporations, associations, and joint-stock companies, their executors, administrators, and receivers who are defined in Title LVII of the Revised Code as financial institutions, dealers in intangibles, domestic insurance companies, or public utilities, except to the extent they may be required by sections 5711.01 to 5711.36 of the Revised Code, to make returns as fiduciaries, or by section 5725.26 of the Revised Code, to make returns of property leased, or held for the purpose of leasing, to others if the owner or lessor of the property acquired it for the sole purpose of leasing it to others or to the extent that property is taxable under section 5725.25 of the Revised Code.

(C) "Return" means the taxpayer's annual report of taxable property.

(D) "List" means the designation, in a return, of the description of taxable property, the valuation or amount thereof, the name of the owner, and the taxing district where assessable.

(E) "Taxing district" means, in the case of property assessable on the classified tax list and duplicate, a municipal corporation or the territory in a county outside the limits of all municipal corporations therein; in the case of property assessable on the general tax list and duplicate, a municipal corporation or township, or part thereof, in which the aggregate rate of taxation is uniform.

(F) "Assessor" includes the tax commissioner and the county auditor as

deputy of the commissioner.

(G) "Fiduciary" includes executors, administrators, parents, guardians, receivers, assignees, official custodians, factors, bailees, lessees, agents, attorneys, and employees, but does not include trustees unless the sense so requires.

(H) "General tax list and duplicate" means the books or records containing the assessments of property subject to local tax levies.

(I) "Classified tax list and duplicate" means the books or records containing the assessments of property not subject to local tax levies.

(J) "Investment company" means any corporation, the shares of which are regularly offered for sale to the public, engaged solely in the business of investing and reinvesting funds in real property or investments, or holding or selling real property or investments for the purpose of realizing income or profit which is distributed to its shareholders. Investment company does not include any dealer in intangibles, as defined in section 5725.01 of the Revised Code.

(K) "Unincorporated mutual fund" means any partnership, each partner of which is a corporation, engaged solely in the business of investing and reinvesting funds in investments, or holding or selling investments for the purpose of realizing income or profit which is distributed to its partners and which is subject to Chapter 1707. of the Revised Code. An unincorporated mutual fund does not include any dealer in intangibles as defined in section 5725.01 of the Revised Code.

Sec. 5711.16. (A) As used in this section, ~~manufacturer;~~

(1) "Manufacturer" means a person who purchases, receives, or holds personal property for the purpose of adding to its value by manufacturing, refining, rectifying, or combining different materials with a view of making a gain or profit by so doing.

(2) "Manufacturing equipment" means machinery and equipment, and tools and implements, including any associated patterns, jigs, dies, drawings, and business fixtures, used at a manufacturing facility by a manufacturer, and includes any such property leased to the manufacturer. "Manufacturing equipment" excludes property used for general office purposes. Nothing in this division is to be construed to change the definition of personal property, as defined in section 5701.03 of the Revised Code.

(3) "Manufacturing facility" means a facility or portion of a facility used for manufacturing, mining, refining, rectifying, or combining different materials with a view of making a gain or profit by so doing. "Manufacturing facility" includes that portion of a facility used to store or transport raw materials, work-in-process, or finished goods inventory, for

packaging, for research, or to test for quality control, as long as manufacturing, mining, refining, rectifying, or combining is also performed at the facility. "Manufacturing facility" does not include any portion of a facility used primarily for making retail sales.

(4) "Manufacturing inventory" means all articles purchased, received, or otherwise held for the purpose of being used, in whole or in part, in manufacturing, mining, combining, rectifying, or refining, and of all articles that were at any time manufactured or changed in any way by a manufacturer, either by mining, combining, rectifying, refining, or adding thereto.

(B) When a manufacturer is required to return a statement of the amount of the manufacturer's personal property used in business, the manufacturer shall include the average value, estimated as provided in this section, of ~~all articles purchased, received, or otherwise held for the purpose of being used, in whole or in part, in manufacturing, combining, rectifying, or refining, and of all articles that were at any time manufactured or changed in any way by the manufacturer, either by combining, rectifying, refining, or adding thereto,~~ manufacturing inventory that the manufacturer has had on hand during the year ending on the day the property is listed for taxation annually, or the part of such year during which the manufacturer was engaged in business. The manufacturer shall separately list finished products not kept or stored at the place of manufacture or at a warehouse in the same county.

The average value of such property shall be ascertained by taking the value of all property subject to be listed on the average basis, owned by the manufacturer on the last business day of each month the manufacturer was engaged in business during the year, adding the monthly values together, and dividing the result by the number of months the manufacturer was engaged in such business during the year. The result shall be the average value to be listed.

~~(B)(C)~~ A manufacturer also shall list all ~~engines and machinery, and tools and implements, of every kind used, or designed to be used, in refining and manufacturing,~~ and equipment owned or used by the manufacturer.

Sec. 5711.21. (A) In assessing taxable property the assessor shall be governed by the rules of assessment prescribed by sections 5711.01 to 5711.36 of the Revised Code. Wherever any taxable property is required to be assessed at its true value in money or at any percentage of true value, the assessor shall be guided by the statements contained in the taxpayer's return and such other rules and evidence as will enable the assessor to arrive at such true value. Wherever the income yield of taxable property is required to be assessed, and the method of determining between income and return or



distribution of principal, or that of allocating expenses in determining net income, or that of ascertaining the source from which partial distributions of income have been made is not expressly prescribed by sections 5711.01 to 5711.36 of the Revised Code, the assessor shall be guided by the statements contained in the taxpayer's return and such general rules as the tax commissioner adopts to enable the assessor to make such determination.

(B) ~~The~~ For tax years before tax year 2009, the true value of the boilers, machinery, equipment, and any personal property used to generate or distribute the electricity shall be the sum of the following:

(1) The true value of the property as it would be determined under this chapter if none of the electricity were distributed to others multiplied by the per cent of the electricity generated in the preceding calendar year that was used by the person who generated it; plus

(2) The true value of the property that is production equipment as it would be determined for an electric company under section 5727.11 of the Revised Code multiplied by the per cent of the electricity generated in the preceding calendar year that was not used by the person who generated it; plus

(3) The true value of the property that is not production equipment as it would be determined for an electric company under section 5727.11 of the Revised Code multiplied by the per cent of the electricity generated in the preceding calendar year that was not used by the person who generated it.

(C) ~~The~~ For tax years before tax year 2009, the true value of personal property leased to a public utility or interexchange telecommunications company as defined in section 5727.01 of the Revised Code and used by the utility or interexchange telecommunications company directly in the rendition of a public utility service as defined in division (P) of section 5739.01 of the Revised Code shall be determined in the same manner that the true value of such property is determined under section 5727.11 of the Revised Code if owned by the public utility or interexchange telecommunications company.

Sec. 5711.22. (A) Deposits not taxed at the source shall be listed and assessed at their amount in dollars on the day they are required to be listed. Moneys shall be listed and assessed at the amount thereof in dollars on hand on the day that they are required to be listed. In listing investments, the amount of the income yield of each for the calendar year next preceding the date of listing shall, except as otherwise provided in this chapter, be stated in dollars and cents and the assessment thereof shall be at the amount of such income yield; but any property defined as investments in either division (A) or (B) of section 5701.06 of the Revised Code that has not been outstanding

for the full calendar year next preceding the date of listing, except shares of stock of like kind as other shares of the same corporation outstanding for the full calendar year next preceding the date of listing, or which has yielded no income during such calendar year shall be listed and assessed as unproductive investments, at their true value in money on the day that such investments are required to be listed.

Credits and other taxable intangibles shall be listed and assessed at their true value in money on the day as of which the same are required to be listed.

Shares of stock of a bank holding company, as defined in Title 12 U.S.C.A., section 1841, that are required to be listed for taxation under this division and upon which dividends were paid during the year of their issuance, which dividends are subject to taxation under the provisions of Chapter 5747. of the Revised Code, shall be exempt from the intangibles tax for the year immediately succeeding their issuance. If such shares bear dividends the first calendar year after their issuance, which dividends are subject to taxation under the provisions of Chapter 5747. of the Revised Code, it shall be deemed that the nondelinquent intangible property tax pursuant to division (A) of section 5707.04 of the Revised Code was paid on those dividends paid that first calendar year after the issuance of the shares.

~~(B)(1) Boilers~~ For tax years before tax year 2009, boilers, machinery, equipment, and personal property the true value of which is determined under division (B) of section 5711.21 of the Revised Code shall be listed and assessed at an amount equal to the sum of the products determined under divisions (B)(1)~~(a)~~, ~~(b)(2)~~, and ~~(c)(3)~~ of this section;

~~(a)(1)~~ Multiply the portion of the true value determined under division (B)(1) of section 5711.21 of the Revised Code by the assessment rate for the tax year in division ~~(F)(G)~~ of this section;

~~(b)(2)~~ Multiply the portion of the true value determined under division (B)(2) of section 5711.21 of the Revised Code by the assessment rate in section 5727.111 of the Revised Code that is applicable to the production equipment of an electric company;

~~(c)(3)~~ Multiply the portion of the true value determined under division (B)(3) of section 5711.21 of the Revised Code by the assessment rate in section 5727.111 of the Revised Code that is applicable to the property of an electric company that is not production equipment.

~~(2) Personal~~ (C) For tax years before tax year 2009, personal property leased to a public utility or interexchange telecommunications company as defined in section 5727.01 of the Revised Code and used directly in the rendition of a public utility service as defined in division (P) of section

5739.01 of the Revised Code shall be listed and assessed at the same percentage of true value in money that such property is required to be assessed by section 5727.111 of the Revised Code if owned by the public utility or interexchange telecommunications company.

~~(C)(D)~~(1) Merchandise or an agricultural product shipped from outside this state and held in this state in a warehouse or a place of storage without further manufacturing or processing and for storage only and for shipment outside this state, but that ~~is taxable because it~~ does not qualify as "not used in business in this state" under division (B)(1) or (2) of section 5701.08 of the Revised Code, ~~shall be listed and assessed at a rate of twenty-five one-hundredths of its true value in money until reduced in accordance with the following schedule:~~

~~(a) For any year, subtract five one-hundredths from the rate at which such property was required to be listed and assessed in the preceding year, if the total statewide collection of all real and tangible personal property taxes for the second preceding year exceeded the total statewide collection of all real and tangible personal property taxes for the third preceding year by more than the greater of four per cent or the rate of increase from the third to the second preceding years in the average consumer price index (all urban consumers, all items) prepared by the bureau of labor statistics of the United States department of labor;~~

~~(b) If no reduction in the assessment rate is made for a year, the rate is the same as for the preceding year.~~

~~(2) Each year until the year the assessment rate equals zero, the tax commissioner shall determine the assessment rate required under this division and shall notify all county auditors of that rate.~~

~~(3) Notwithstanding provisions to the contrary in division (B) of section 5701.08 of the Revised Code, during and after the year for which the assessment rate as calculated under this division equals zero, any merchandise or agricultural product shipped from outside this state and held in this state in any warehouse or place of storage, whether public or private, without further manufacturing or processing and for storage only and for shipment outside this state to any person for any purpose is nevertheless not used in business in this state for property tax purposes.~~

~~(D)(1)~~(2) Merchandise or an agricultural product owned by a qualified out-of-state person shipped from outside this state and held in this state in a public warehouse without further manufacturing or processing and for temporary storage only and for shipment inside this state, but that ~~is taxable because it~~ does not qualify as "not used in business in this state" under division (B)(1) or (2) of section 5701.08 of the Revised Code, ~~shall be listed~~

~~and assessed at a rate of twenty five one hundredths of its true value in money until reduced in accordance with the following schedule:~~

~~(a) For any year, subtract five one hundredths from the rate at which such property was required to be listed and assessed in the preceding year, if the total statewide collection of all real and tangible personal property taxes for the second preceding year exceeded the total statewide collection of all real and tangible personal property taxes for the third preceding year by more than the greater of four per cent or the rate of increase from the third to the second preceding years in the average consumer price index (all urban consumers, all items) prepared by the bureau of labor statistics of the United States department of labor;~~

~~(b) If no reduction in the assessment rate is made for a year, the rate is the same as for the preceding year.~~

~~(2) Each year until the year the assessment rate equals zero, the tax commissioner shall determine the assessment rate required under this division and shall notify all county auditors of that rate.~~

~~(3) Notwithstanding provisions to the contrary in division (B) of section 5701.08 of the Revised Code, during and after the year for which the assessment rate as calculated under this division equals zero, any merchandise or agricultural product described in division (D)(1) of this section is nevertheless not used in business in this state for property tax purposes.~~

~~(4)~~(3) As used in division (D)(2) of this section:

(a) "Qualified out-of-state person" means a person that does not own, lease, or use property, other than merchandise or an agricultural product described in this division, in this state, and does not have employees, agents, or representatives in this state;

(b) "Public warehouse" means a warehouse in this state that is not subject to the control of or under the supervision of the owner of the merchandise or agricultural product stored in it, or staffed by the owner's employees, and from which the property is to be shipped inside this state.

(E) Personal property valued pursuant to section 5711.15 of the Revised Code and personal property required to be listed on the average basis by division (A) (B) of section 5711.16 of the Revised Code, except property described in division ~~(C)~~ (D) of this section, business fixtures, and furniture not held for sale in the course of business, shall be listed and assessed at ~~the rate of twenty five per cent of its true value in money until reduced to zero in accordance with the following schedule:~~

~~(1) Beginning in tax year 2002 and for each of tax years 2003 and 2004, subtract one percentage point from the rate at which the property was~~

~~required to be listed and assessed in the preceding year, if the total statewide collection of tangible personal property taxes for the second preceding year exceeded the total statewide collection of tangible personal property taxes for the third preceding year. If no reduction in the assessment rate is made for a year, the rate is the same as for the preceding year.~~

~~(2) In tax years 2005 and 2006, the assessment rate shall be reduced by two percentage points, if the total statewide collection of tangible personal property taxes for the second preceding year exceeded the total statewide collection of tangible personal property taxes for the third preceding year. If no reduction in the assessment rate is made for a year, the rate is the same as for the preceding year.~~

~~(3) For tax year 2007 and each tax year thereafter, the assessment rate shall be reduced by two percentage points. During and after the tax year that the assessment rate equals zero, the property described in division (E) of this section shall not be listed for taxation.~~

~~Each year until the year the assessment rate equals zero, the tax commissioner shall determine the assessment rate required under this division and shall notify all county auditors of that rate.~~

~~For purposes of division (E) of this section, "total statewide collection of tangible personal property taxes" excludes taxes collected from public utilities and interexchange telecommunications companies on property that is determined to be taxable pursuant to section 5727.06 of the Revised Code twenty-three per cent of its true value in money for tax year 2005 and at the percentage of such true value specified in division (G) of this section for tax year 2006 and each tax year thereafter.~~

~~(F) All manufacturing equipment as defined in section 5711.16 of the Revised Code shall be listed and assessed at the following percentage of its true value in money:~~

~~(1) For all such property not previously used in business in this state by the owner thereof, or by related member or predecessor of the owner, other than as inventory, before January 1, 2005, zero per cent of true value;~~

~~(2) For all other such property, at the percentage of true value specified in division (G) of this section for tax year 2005 and each tax year thereafter.~~

~~(F)(G) Unless otherwise provided by law, all other personal property used in business that has not been legally regarded as an improvement on land and considered in arriving at the value of the real property assessed for taxation shall be listed and assessed at the rate of twenty-five per cent following percentages of its true value in money:~~

~~(1) For tax year 2005, twenty-five per cent of true value;~~

~~(2) For tax year 2006, eighteen and three-fourths per cent of true value;~~

(3) For tax year 2007, twelve and one-half per cent of true value;

(4) For tax year 2008, six and one-fourth per cent of true value;

(5) For tax year 2009 and each tax year thereafter, zero per cent of true value.

(H)(1) For tax year 2007 and thereafter, all personal property used by a telephone company, telegraph company, or interexchange telecommunications company shall be listed as provided in this chapter and assessed at the following percentages of true value in money:

(a) For tax year 2007, twenty per cent of true value;

(b) For tax year 2008, fifteen per cent of true value;

(c) For tax year 2009, ten per cent of true value;

(d) For tax year 2010, five per cent of true value;

(e) For tax year 2011 and each tax year thereafter, zero per cent of true value.

(2) The property owned by a telephone, telegraph, or telecommunications company shall be apportioned to each appropriate taxing district as provided in section 5727.15 of the Revised Code.

(I) During and after the tax year in which the assessment rate equals zero per cent, the property described in division (E), (F), (G), or (H) of this section shall not be listed for taxation.

(J) Divisions (E), (F), (G), and (H) of this section apply to the property of a person described in divisions (E)(3) to (10) of section 5751.01 of the Revised Code. Division (J) of this section does not prevent the application of the exemption of property from taxation under section 5725.25 or 5725.26 of the Revised Code.

Sec. 5711.28. Whenever the assessor imposes a penalty prescribed by section 5711.27 or 5725.17 of the Revised Code, the assessor shall send notice of such penalty assessment to the taxpayer by mail. If the notice also reflects the assessment of any property not listed in or omitted from a return, or the assessment of any item or class of taxable property listed in a return by the taxpayer in excess of the value or amount thereof as so listed, or without allowing a claim duly made for deduction from the net book value of accounts receivable, or depreciated book value of personal property used in business, so listed, and the taxpayer objects to one or more of such corrections in addition to the penalty, the taxpayer shall proceed as prescribed by section 5711.31 of the Revised Code, but if no such correction is reflected in the notice, or if the taxpayer does not object to any such correction made, ~~he~~ the taxpayer shall proceed as prescribed herein.

Within sixty days after the mailing of the notice of a penalty assessment prescribed by this section, the taxpayer may file with the tax commissioner,

in person or by certified mail, a petition for abatement of such penalty assessment. If the petition is filed by certified mail, the date of the United States postmark placed on the sender's receipt by the postal employee to whom the petition is presented shall be treated as the date of filing. The petition shall have attached thereto and incorporated therein by reference a true copy of the notice of assessment complained of, but the failure to attach a copy of such notice and incorporate it by reference does not invalidate the petition. The petition shall also indicate that the taxpayer's only objection is to the assessed penalty and the reason for such objection.

Upon the filing of a petition for abatement of penalty, the commissioner shall notify the treasurer of state or the auditor and treasurer of each county having any part of the penalty assessment entered on the tax list or duplicate. The commissioner shall review the petition without the need for hearing. If it appears that the failure of the taxpayer to timely return or list as required under this chapter, or to file a complying report and pay tax under Chapter 5725. of the Revised Code, whichever the case may be, was due to reasonable cause and not willful neglect, the commissioner may abate in whole or in part the penalty assessment. The commissioner shall transmit a certificate of the commissioner's determination to the taxpayer, and if no appeal is taken therefrom as provided by law, or upon the final determination of an appeal which may be taken, the commissioner shall notify the treasurer of state or the proper county auditor of such final determination. If the final determination orders abatement of the penalty assessment, the notification may be in the form of an amended assessment certificate. Upon receipt of the notification, the treasurer of state or county auditor shall make any corrections to the treasurer's or auditor's records and tax lists and duplicates required in accordance therewith and proceed as prescribed by section 5711.32 or 5725.22 of the Revised Code.

The decision of the commissioner shall be final with respect to the percentage of penalty, if any, the commissioner finds appropriate ~~for the failure to return timely or list the property,~~ but neither the commissioner's decision nor a final judgment of the board of tax appeals or any court to which such final determination may be appealed shall finalize the assessment of such property.

Sec. 5713.01. (A) Each county shall be the unit for assessing real estate for taxation purposes. The county auditor shall be the assessor of all the real estate in ~~his~~ the auditor's county for purposes of taxation, but this section does not affect the power conferred by Chapter 5727. of the Revised Code upon the tax commissioner regarding the valuation and assessment of ~~the real property of railroads~~ used in railroad operations.

(B) The auditor shall assess all the real estate situated in the county at its taxable value in accordance with sections 5713.03, 5713.31, and 5715.01 of the Revised Code and with the rules and methods applicable to ~~his~~ the auditor's county adopted, prescribed, and promulgated by the tax commissioner. The auditor shall view and appraise or cause to be viewed and appraised at its true value in money, each lot or parcel of real estate, including land devoted exclusively to agricultural use, and the improvements located thereon at least once in each six-year period and the taxable values required to be derived therefrom shall be placed on the auditor's tax list and the county treasurer's duplicate for the tax year ordered by the commissioner pursuant to section 5715.34 of the Revised Code. The commissioner may grant an extension of one year or less if ~~he~~ the commissioner finds that good cause exists for the extension. When the auditor so views and appraises, ~~he~~ the auditor may enter each structure located thereon to determine by actual view what improvements have been made therein or additions made thereto since the next preceding valuation. The auditor shall revalue and assess at any time all or any part of the real estate in such county, including land devoted exclusively to agricultural use, where ~~he~~ the auditor finds that the true or taxable values thereof have changed, and when a conservation easement is created under sections 5301.67 to 5301.70 of the Revised Code. ~~He~~ The auditor may increase or decrease the true or taxable value of any lot or parcel of real estate in any township, municipal corporation, or other taxing district by an amount which will cause all real property on the tax list to be valued as required by law, or ~~he~~ the auditor may increase or decrease the aggregate value of all real property, or any class of real property, in the county, township, municipal corporation, or other taxing district, or in any ward or other division of a municipal corporation by a per cent or amount which will cause all property to be properly valued and assessed for taxation in accordance with Section 36, Article II, Section 2, Article XII, Ohio Constitution, this section, and sections 5713.03, 5713.31, and 5715.01 of the Revised Code.

(C) When the auditor determines to reappraise all the real estate in the county or any class thereof, when the tax commissioner orders an increase in the aggregate true or taxable value of the real estate in any taxing subdivision, or when the taxable value of real estate is increased by the application of a uniform taxable value per cent of true value pursuant to the order of the commissioner, ~~he~~ the auditor shall advertise the completion of ~~his~~ the reappraisal or equalization action in a newspaper of general circulation in the county once a week for the three consecutive weeks next



preceding the issuance of the tax bills. When the auditor changes the true or taxable value of any individual parcels of real estate, ~~he~~ the auditor shall notify the owner of the real estate, or the person in whose name the same stands charged on the duplicate, by mail or in person, of the changes ~~he~~ the auditor has made in the assessments of such property. Such notice shall be given at least thirty days prior to the issuance of the tax bills. Failure to receive notice shall not invalidate any proceeding under this section.

(D) The auditor shall make the necessary abstracts from books of ~~his~~ the auditor's office containing descriptions of real estate in such county, together with such platbooks and lists of transfers of title to land as the auditor deems necessary in the performance of ~~his~~ the auditor's duties in valuing such property for taxation. Such abstracts, platbooks, and lists shall be in such form and detail as the tax commissioner prescribes.

(E) The auditor, with the approval of the tax commissioner, may appoint and employ such experts, deputies, clerks, or other employees as ~~he~~ the auditor deems necessary to the performance of ~~his~~ the auditor's duties as assessor, or, with the approval of the tax commissioner, ~~he~~ the auditor may enter into a contract with an individual, partnership, firm, company, or corporation to do all or any part of the work; the amount to be expended in the payment of the compensation of such employees shall be fixed by the board of county commissioners. If, in the opinion of the auditor, the board of county commissioners fails to provide a sufficient amount for the compensation of such employees, ~~he~~ the auditor may apply to the tax commissioner for an additional allowance, and the additional amount of compensation allowed by the commissioner shall be certified to the board of county commissioners, and the same shall be final. The salaries and compensation of such experts, deputies, clerks, and employees shall be paid upon the warrant of the auditor out of the general fund or the real estate assessment fund of the county, or both. If the salaries and compensation are in whole or in part fixed by the commissioner, they shall constitute a charge against the county regardless of the amount of money in the county treasury levied or appropriated for such purposes.

(F) Any contract for goods or services related to the auditor's duties as assessor, including contracts for mapping, computers, and reproduction on any medium of any documents, records, photographs, microfiche, or magnetic tapes, but not including contracts for the professional services of an appraiser, shall be awarded pursuant to the competitive bidding procedures set forth in sections 307.86 to 307.92 of the Revised Code and shall be paid for, upon the warrant of the auditor, from the real estate assessment fund.

(G) Experts, deputies, clerks, and other employees, in addition to their other duties, shall perform such services as the auditor directs in ascertaining such facts, description, location, character, dimensions of buildings and improvements, and other circumstances reflecting upon the value of real estate as will aid the auditor in fixing its true and taxable value and, in the case of land valued in accordance with section 5713.31 of the Revised Code, its current agricultural use value. The auditor may also summon and examine any person under oath in respect to any matter pertaining to the value of any real property within the county.

Sec. 5715.01. (A) The tax commissioner shall direct and supervise the assessment for taxation of all real property. The commissioner shall adopt, prescribe, and promulgate rules for the determination of true value and taxable value of real property by uniform rule for such values and for the determination of the current agricultural use value of land devoted exclusively to agricultural use. The uniform rules shall prescribe methods of determining the true value and taxable value of real property and shall also prescribe the method for determining the current agricultural use value of land devoted exclusively to agricultural use, which method shall reflect standard and modern appraisal techniques; that take into consideration: the productivity of the soil under normal management practices; the average price patterns of the crops and products produced to determine the income potential to be capitalized; the market value of the land for agricultural use; and other pertinent factors. The rules shall provide that in determining the true value of lands or improvements thereon for tax purposes, all facts and circumstances relating to the value of the property, its availability for the purposes for which it is constructed or being used, its obsolete character, if any, the income capacity of the property, if any, and any other factor that tends to prove its true value shall be used. The In determining the true value of minerals or rights to minerals for the purpose of real property taxation, the tax commissioner shall not include in the value of the minerals or rights to minerals the value of any tangible personal property used in the recovery of those minerals.

(B) The taxable value shall be that per cent of true value in money, or current agricultural use value in the case of land valued in accordance with section 5713.31 of the Revised Code, the commissioner by rule establishes, but it shall not exceed thirty-five per cent. The uniform rules shall also prescribe methods of making the appraisals set forth in section 5713.03 of the Revised Code. The taxable value of each tract, lot, or parcel of real property and improvements thereon, determined in accordance with the uniform rules and methods prescribed thereby, shall be the taxable value of

the tract, lot, or parcel for all purposes of sections 5713.01 to 5713.26, 5715.01 to 5715.51, and 5717.01 to 5717.06 of the Revised Code. County auditors shall, under the direction and supervision of the commissioner, be the chief assessing officers of their respective counties, and shall list and value the real property within their respective counties for taxation in accordance with this section and sections 5713.03 and 5713.31 of the Revised Code and with such rules of the commissioner. There shall also be a board in each county, known as the county board of revision, which shall hear complaints and revise assessments of real property for taxation.

(C) The commissioner shall neither adopt nor enforce any rule that requires true value for any tax year to be any value other than the true value in money on the tax lien date of such tax year or that requires taxable value to be obtained in any way other than by reducing the true value, or in the case of land valued in accordance with section 5713.31 of the Revised Code, its current agricultural use value, by a specified, uniform percentage.

Sec. 5715.24. (A) The tax commissioner, annually, shall determine whether the real property and the various classes thereof in the several counties, municipal corporations, and taxing districts which have completed a sexennial reappraisal in the current year and which will have the new taxable values placed on the tax list and duplicate have been assessed as required by law, and whether the values set forth in the agricultural land tax list in such taxing districts correctly reflect the true and agricultural use values of the lands contained therein. The determination shall be made prior to the first Monday in August unless the commissioner, for good cause, extends the date. If the commissioner finds that the real property or any class thereof in any such county, municipal corporation, or taxing district, as reported to it by the several county auditors of the counties that have completed such reappraisal is not listed for taxation or recorded on the agricultural land tax list in accordance therewith, ~~he~~ the commissioner shall increase or decrease the appropriate aggregate value of the real property or any class thereof in any such county, township, municipal corporation, taxing district, or ward or division of a municipal corporation, by a per cent or amount that will cause such property to be correctly valued on the agricultural land tax list and to be correctly assessed on the tax list at its taxable value so that every class of real property shall be listed and valued for taxation and valued for purposes of sections 5713.33 to 5713.35 of the Revised Code as required by law. In determining whether a class of real property has been assessed at its correct taxable value and in determining any per cent or amount by which the aggregate value of the class from a prior year shall be increased or decreased to be correctly assessed, the

commissioner shall consider only the aggregate values of property that existed in the prior year and that is to be taxed in the current year. In addition to any other adjustments the commissioner considers necessary to comply with this requirement, the value of new construction shall not be regarded as an increase in such aggregate value from the prior year, and the value of property destroyed or demolished since the prior year shall be deducted from the aggregate value of that class for the prior year.

In implementing any increase or decrease in valuation of real property ordered by the commissioner pursuant to this section, the county auditor shall, when practicable, increase or decrease the taxable valuation of parcels in accordance with actual changes in valuation of real property which occur in different subdivisions, neighborhoods, or among classes of real property in the county.

(B) Division (A) of this section also applies to a county in the third calendar year following the year in which a sexennial reappraisal is completed.

Sec. 5719.041. If the payment of a general personal property or classified property tax is not made on or before the last day prescribed by section 5719.03 or 5719.031 of the Revised Code, an interest charge shall begin to accrue and shall continue until all charges are paid, except that no interest charge shall accrue for or in the month in which such payment was due under such section or under the circumstances and for the period described in division (A)(2) of section 5711.33 of the Revised Code or upon delinquent taxes that are the subject of a delinquent tax contract entered into pursuant to section 5719.05 of the Revised Code.

The interest charge shall accrue against the balance of such taxes and any penalty thereon outstanding that remains unpaid on the last day of each month and shall be at the rate per calendar month, rounded to the nearest one-hundredth of one per cent, equal to one-twelfth of the ~~rate per annum prescribed by~~ federal short-term rate determined by the tax commissioner under section 5703.47 of the Revised Code for the calendar year that includes the month for which the charge accrues. The charge is payable in addition to the unpaid balance of taxes and penalties on the day the charge accrues, unless the entire balance is sooner paid.

If a delinquent tax contract becomes void, interest shall be charged on the day on which the contract becomes void in the amount that would have been charged had the delinquent tax contract not been entered into and shall thereafter accrue as provided in this section.

Interest shall be allowed, at the same rate per calendar month as is applicable that month for underpayments, on any overpayment of the tax

charged on a general personal property or a classified property tax duplicate, from the first day of the month following the date of the overpayment until the last day of the month preceding the date of the refund of the overpayment. The interest shall be paid from the fund or funds to which the overpayment was credited.

When the county treasurer makes the treasurer's annual settlement with the county auditor under division (D) of section 321.24 of the Revised Code, the treasurer shall certify to the auditor a list of all entries on the cumulative delinquent tax duplicate that are at that time in the process of being paid in installments under a valid delinquent tax contract. For each entry that appears on the duplicate that is not on the certified list, the auditor shall compute the full amount of interest charges which have accrued against such entry since the preceding such settlement was made and shall include such charges through the last day of the month preceding the current settlement. The auditor shall include such amounts on the tax list and duplicates prepared by the auditor as prescribed in section 5719.04 of the Revised Code unless the interest is less than one dollar, in which case it shall not be added to such tax lists and duplicates.

Before the county treasurer accepts any payment of taxes against which there are accrued interest charges that do not appear on the delinquent tax duplicate, the treasurer shall notify the auditor who shall issue a certificate to the treasurer showing the amount of such interest charges, and the treasurer shall collect the amount shown on such certificate at the time of accepting payment of such taxes. If the amount of such interest charges is less than one dollar, no such certificate shall be issued. In the case of delinquent personal property taxes, the interest shown on such certificate shall be credited to the undivided general tax fund, and distributed in the same manner as the delinquent taxes upon which the interest charges accrued. In the case of delinquent classified property taxes, the interest shown on such certificate shall be credited to the county library and local government support fund and distributed in accordance with section 5747.48 of the Revised Code. When the payment of delinquent taxes is credited on the tax duplicate the treasurer shall make a separate notation thereon indicating the amount collected and the index number of the auditor's certificate herein prescribed.

Sec. 5725.01. As used in sections 5725.01 to 5725.26 of the Revised Code:

(A) "Financial institution" means:

(1) A national bank organized and existing as a national bank association pursuant to the "National Bank Act," 12 U.S.C. 21;

(2) A federal savings association or federal savings bank that is chartered under 12 U.S.C. 1464;

(3) A bank, banking association, trust company, savings and loan association, savings bank, or other banking institution that is incorporated or organized under the laws of any state;

(4) Any corporation organized under 12 U.S.C. 611 to 631;

(5) Any agency or branch of a foreign depository as defined in 12 U.S.C. 3101;

(6) A company licensed as a small business investment company under the "Small Business Investment Act of 1958," 72 Stat. 689, 15 U.S.C. 661, as amended; or

(7) A company chartered under the "Farm Credit Act of 1933," 48 Stat. 257, 12 U.S.C. 1131(d), as amended.

Corporations or institutions organized under the "Federal Farm Loan Act" and amendments thereto, insurance companies, and credit unions shall not be considered financial institutions or dealers in intangibles within the meaning of such sections.

(B)(1) "Dealer in intangibles" includes every person who keeps an office or other place of business in this state and engages at such office or other place in ~~the a business~~ that consists primarily of lending money, or discounting, buying, or selling bills of exchange, drafts, acceptances, notes, mortgages, or other evidences of indebtedness, or of buying or selling bonds, stocks, or other investment securities, whether on the person's own account with a view to profit, or as agent or broker for others, with a view to profit or personal earnings. Dealer in intangibles excludes institutions used exclusively for charitable purposes, insurance companies, and financial institutions. ~~Neither casual nor isolated transactions of any of the kinds enumerated in this division of this section, nor the~~ The investment of funds as personal accumulations or as business reserves or working capital does not constitute engaging in a business within the meaning of this division of this section; but a person who, having engaged in the a business that consists primarily of lending money, or discounting, buying, or selling bills of exchange, drafts, acceptances, notes, mortgages, or other evidences of indebtedness on the person's own account, remains in business primarily for the purpose of realizing upon the assets of ~~such the~~ the business is deemed a dealer in intangibles, though not presently engaged in a business that consists primarily of lending money or discounting or buying such securities.

(2) The tax commissioner shall adopt a rule defining "primarily" as that term is used in division (B)(1) of this section.

(C) "Insurance company" includes every corporation, association, and society engaged in the business of insurance of any character, or engaged in the business of entering into contracts substantially amounting to insurance of any character, or of indemnifying or guaranteeing against loss or damage, or acting as surety on bonds or undertakings. "Insurance company" also includes any health insuring corporation as defined in section 1751.01 of the Revised Code.

(D) "Domestic insurance company" includes every insurance company organized and existing under the laws of this state, and every unincorporated association and society formed under the laws of this state for the purpose of engaging in said business, except a company, association, or society that is an insurance holding company affiliate controlled by a nonresident affiliate and has risks in this state formerly written by its foreign affiliates in a total amount exceeding the risks outstanding on the taxpayer's latest annual report that arise from business initially written by it in this state; and excludes every foreign insurance company. As used in this division, terms defined in section 3901.32 of the Revised Code have the same meanings given to them in that section.

(E) "Foreign insurance company" includes every insurance company organized or existing under the laws of any other state, territory, country, or the United States and every insurance holding company affiliate excepted under division (D) of this section.

Sec. 5725.19. (A) As used in this section, "tax otherwise due" means the tax imposed on a domestic insurance company under section 5725.18 of the Revised Code reduced by the total amount of all other nonrefundable credits, if any, that the domestic insurance company is entitled to claim.

(B) Upon the issuance of a tax credit certificate by the Ohio venture capital authority under section 150.07 of the Revised Code, a credit may be claimed against the tax imposed on a domestic insurance company under section 5725.18 of the Revised Code. The credit shall be claimed in the calendar year specified in the certificate issued by the authority.

(C) If the company elected a refundable credit under section 150.07 of the Revised Code and if the amount of the credit shown on the certificate does not exceed the tax otherwise due, then for the calendar year the company shall claim a refundable credit equal to the amount of the credit shown on the certificate.

(D) If the company elected a refundable credit under section 150.07 of the Revised Code, and the amount of the credit shown on the certificate exceeds the tax otherwise due under section 5725.18 of the Revised Code, then for the calendar year the company may receive a refund equal to

~~seventy-five per cent of such excess. If~~ shall claim a refundable credit equal to the sum of the following:

(1) The amount, if any, of the tax otherwise due;

(2) Seventy-five per cent of the difference between the amount of the refundable credit shown on the certificate and the tax otherwise due.

(E) If the company elected a nonrefundable credit, the amount of the credit shown on the certificate shall not exceed the amount of tax otherwise due. If the company elected a nonrefundable credit and the credit to which the company would otherwise be entitled under this section for any calendar year is greater than the tax otherwise due ~~under section 5725.18 of the Revised Code~~, the excess shall be allowed as a nonrefundable credit in each of the ensuing ten calendar years, but the amount of any excess credit allowed in the ensuing calendar year shall be deducted from the balance carried forward to the next calendar year.

Sec. 5725.32. Upon the issuance of a tax credit certificate by the director of development, a refundable credit granted by the tax credit authority under section 122.17 of the Revised Code may be claimed against the tax imposed by section 5725.18 of the Revised Code. The credit shall be claimed in the calendar year specified in the certificate issued by the director of development.

Sec. 5727.01. As used in this chapter:

(A) "Public utility" means each person referred to as a telephone company, telegraph company, electric company, natural gas company, pipe-line company, water-works company, water transportation company, heating company, rural electric company, railroad company, or combined company.

(B) "Gross receipts" means the entire receipts for business done by any person from operations as a public utility, or incidental thereto, or in connection therewith, including any receipts received under Chapter 4928. of the Revised Code. The gross receipts for business done by an incorporated company engaged in operation as a public utility includes the entire receipts for business done by such company under the exercise of its corporate powers, whether from the operation as a public utility or from any other business.

(C) "Rural electric company" means any nonprofit corporation, organization, association, or cooperative engaged in the business of supplying electricity to its members or persons owning an interest therein in an area the major portion of which is rural.

(D) Any person:

(1) Is a telegraph company when engaged in the business of transmitting



telegraphic messages to, from, through, or in this state;

(2) Is a telephone company when primarily engaged in the business of providing local exchange telephone service, excluding cellular radio service, in this state;

(3) Is an electric company when engaged in the business of generating, transmitting, or distributing electricity within this state for use by others, but excludes a rural electric company;

(4) Is a natural gas company when engaged in the business of supplying or distributing natural gas for lighting, power, or heating purposes to consumers within this state, excluding a person that is a governmental aggregator or retail natural gas supplier as defined in section 4929.01 of the Revised Code;

(5) Is a pipe-line company when engaged in the business of transporting natural gas, oil, or coal or its derivatives through pipes or tubing, either wholly or partially within this state;

(6) Is a water-works company when engaged in the business of supplying water through pipes or tubing, or in a similar manner, to consumers within this state;

(7) Is a water transportation company when engaged in the transportation of passengers or property, by boat or other watercraft, over any waterway, whether natural or artificial, from one point within this state to another point within this state, or between points within this state and points without this state;

(8) Is a heating company when engaged in the business of supplying water, steam, or air through pipes or tubing to consumers within this state for heating purposes;

(9) Is a railroad company when engaged in the business of owning or operating a railroad either wholly or partially within this state on rights-of-way acquired and held exclusively by such company, or otherwise, and includes a passenger, street, suburban, or interurban railroad company.

As used in division (D)(2) of this section, "local exchange telephone service" means making available or furnishing access and a dial tone to all persons within a local calling area for use in originating and receiving voice grade communications over a switched network operated by the provider of the service within the area and for gaining access to other telecommunication services.

(E) "Taxable property" means the property required by section 5727.06 of the Revised Code to be assessed by the tax commissioner, but does not include either of the following:

(1) An item of tangible personal property that for the period subsequent

to the effective date of an air, water, or noise pollution control certificate and continuing so long as the certificate is in force, has been certified as part of the pollution control facility with respect to which the certificate has been issued;

(2) An item of tangible personal property that during the construction of a plant or facility and until the item is first capable of operation, whether actually used in operation or not, is incorporated in or being held exclusively for incorporation in that plant or facility.

Notwithstanding section 5701.03 of the Revised Code, for tax year 2006 and thereafter, "taxable property" includes patterns, jigs, dies, and drawings of an electric company or a combined company for use in the activity of an electric company.

(F) "Taxing district" means a municipal corporation of township, or part thereof, in which the aggregate rate of taxation is uniform.

(G) "Telecommunications service" has the same meaning as in division (AA) of section 5739.01 of the Revised Code.

(H) "Interexchange telecommunications company" means a person that is engaged in the business of transmitting telephonic messages to, from, through, or in this state, but that is not a telephone company.

(I) "Sale and leaseback transaction" means a transaction in which a public utility or interexchange telecommunications company sells any tangible personal property to a person other than a public utility or interexchange telecommunications company and leases that property back from the buyer.

(J) "Production equipment" means all taxable steam, nuclear, hydraulic, and other production plant equipment used to generate electricity. For tax years prior to 2001, "production equipment" includes taxable station equipment that is located at a production plant.

(K) "Tax year" means the year for which property or gross receipts are subject to assessment under this chapter. This division does not limit the tax commissioner's ability to assess and value property or gross receipts outside the tax year.

(L) "Combined company" means any person engaged in the activity of an electric company or rural electric company that is also engaged in the activity of a heating company or a natural gas company, or any combination thereof.

(M) "Public utility property lessor" means any person, other than a public utility or an interexchange telecommunications company, that leases personal property, other than in a sale and leaseback transaction, to a public utility, other than a railroad, water transportation, telephone, or telegraph

company if the property would be taxable property if owned by the public utility. A public utility property lessor is subject to this chapter only for the purposes of reporting and paying tax on taxable property it leases to a public utility other than a telephone or telegraph company. A public utility property lessor that leases property to a public utility other than a telephone or telegraph company is not a public utility, but it shall report its property and be assessed in the same manner as the utility to which it leases the property.

Sec. 5727.02. As used in this chapter, "public utility," "electric company," "natural gas company," "pipe-line company," "water-works company," "water transportation company" or "heating company" does not include any of the following:

(A) ~~Any~~ (1) Except as provided in division (A)(2) of this section, any person that is engaged in some other primary business to which the supplying of electricity, heat, natural gas, water, water transportation, steam, or air to others is incidental. As used in this division (A) of this section and in section 5727.031 of the Revised Code, "supplying of electricity" means generating, transmitting, or distributing electricity.

(2) For tax year 2009 and each tax year thereafter, a person that is engaged in some other primary business to which the supplying of electricity to others is incidental shall be treated as an "electric company" and a "public utility" for purposes of this chapter solely to the extent required by section 5727.031 of the Revised Code.

(B) Any person that supplies electricity, natural gas, water, water transportation, steam, or air to its tenants, whether for a separate charge or otherwise;

(C) Any person whose primary business in this state consists of producing, refining, or marketing petroleum or its products.

(D) Any person whose primary business in this state consists of producing or gathering natural gas rather than supplying or distributing natural gas to consumers.

Sec. 5727.031. (A) For tax year 2009 and each tax year thereafter, a person that is engaged in some other primary business to which the supplying of electricity to others is incidental shall file a report under section 5727.08 of the Revised Code as an electric company but shall only report therein as taxable property the amounts required in divisions (B) and (C) of this section. All time limits and other procedural requirements of this chapter for the reporting and assessment of property of electric companies apply to persons required to file a report under this section.

(B) A person subject to this section shall report the true value of the boilers, machinery, equipment, and any personal property used to supply

electricity to others, which shall be the sum of the following:

(1) The true value of the property that is production equipment as it would be determined for an electric company under section 5727.11 of the Revised Code multiplied by the per cent of the electricity generated in the preceding calendar year that was not used by the person who generated it; plus

(2) The true value of the property that is not production equipment as it would be determined for an electric company under section 5727.11 of the Revised Code multiplied by the per cent of the electricity generated in the preceding calendar year that was not used by the person who generated it.

(C) The property reported under division (B) of this section shall be listed and assessed at an amount equal to the sum of the products determined under divisions (C)(1) and (2) of this section.

(1) Multiply the portion of the true value determined under division (B)(1) of this section by the assessment rate in section 5727.111 of the Revised Code that is applicable to the production equipment of an electric company;

(2) Multiply the portion of the true value determined under division (B)(2) of this section by the assessment rate in section 5727.111 of the Revised Code that is applicable to the property of an electric company that is not production equipment.

Sec. 5727.06. (A) Except as otherwise provided by law, the following constitutes the taxable property of a public utility ~~or~~, interexchange telecommunications company, or public utility property lessor that shall be assessed by the tax commissioner:

(1) For tax years before tax year 2006:

(a) In the case of a railroad company, all real property and tangible personal property owned or operated by the railroad company in this state on the thirty-first day of December of the preceding year;

(2)(b) In the case of a water transportation company, all tangible personal property, except watercraft, owned or operated by the water transportation company in this state on the thirty-first day of December of the preceding year and all watercraft owned or operated by the water transportation company in this state during the preceding calendar year;

(3)(c) In the case of all other public utilities and interexchange telecommunications companies, all tangible personal property that on the thirty-first day of December of the preceding year was both located in this state and:

(a)(i) Owned by the public utility or interexchange telecommunications company; or

~~(b)~~(ii) Leased by the public utility or interexchange telecommunications company under a sale and leaseback transaction.

(2) For tax years 2006, 2007, and 2008:

(a) In the case of a railroad company, all real property used in railroad operations and tangible personal property owned or operated by the railroad company in this state on the thirty-first day of December of the preceding year;

(b) In the case of a water transportation company, all tangible personal property, except watercraft, owned or operated by the water transportation company in this state on the thirty-first day of December of the preceding year and all watercraft owned or operated by the water transportation company in this state during the preceding calendar year;

(c) In the case of all other public utilities except telephone and telegraph companies, all tangible personal property that on the thirty-first day of December of the preceding year was both located in this state and either owned by the public utility or leased by the public utility under a sale and leaseback transaction.

(3) For tax year 2009 and each tax year thereafter:

(a) In the case of a railroad company, all real property used in railroad operations and tangible personal property owned or operated by the railroad company in this state on the thirty-first day of December of the preceding year;

(b) In the case of a water transportation company, all tangible personal property, except watercraft, owned or operated by the water transportation company in this state on the thirty-first day of December of the preceding year and all watercraft owned or operated by the water transportation company in this state during the preceding calendar year;

(c) In the case of all other public utilities except telephone and telegraph companies, all tangible personal property that on the thirty-first day of December of the preceding year was both located in this state and either owned by the public utility or leased by the public utility under a sale and leaseback transaction;

(d) In the case of a public utility property lessor, all personal property that on the thirty-first day of December of the preceding year was both located in this state and leased, in other than a sale and leaseback transaction, to an interexchange telecommunications company or a public utility other than a railroad company or water transportation company. The assessment rate used under section 5727.111 of the Revised Code shall be based on the assessment rate that would apply if the interexchange telecommunications company or public utility owned the property.

(4) For tax years 2005 and 2006, in the case of telephone, telegraph, or interexchange telecommunications companies, all tangible personal property that on the thirty-first day of December of the preceding year was both located in this state and either owned by the telephone, telegraph, or interexchange telecommunications company or leased by the telephone, telegraph, or interexchange telecommunications company under a sale and leaseback transaction.

(5) For tax year 2007 and thereafter, in the case of telephone, telegraph, or interexchange telecommunications companies, all tangible personal property shall be listed and assessed for taxation under Chapter 5711. of the Revised Code.

(B) ~~In~~ This division applies to tax years before tax year 2007.

In the case of an interexchange telecommunications company, all taxable property shall be subject to the provisions of this chapter and shall be valued by the commissioner in accordance with division (A) of section 5727.11 of the Revised Code. A person described by this division shall file the report required by section 5727.08 of the Revised Code. Persons described in this division shall not be considered taxpayers, as defined in division (B) of section 5711.01 of the Revised Code, and shall not be required to file a return and list their taxable property under any provision of Chapter 5711. of the Revised Code.

(C) The lien of the state for taxes levied each year on the real and personal property of public utilities and interexchange telecommunications companies and on the personal property of public utility property lessors shall attach thereto on the thirty-first day of December of the preceding year.

(D) Property that is required by division (A)(3)(b) of this section to be assessed by the tax commissioner under this chapter shall not be listed by the owner of the property under Chapter 5711. of the Revised Code.

(E) The tax commissioner may adopt rules governing the listing of the taxable property of public utilities and interexchange telecommunications companies and the determination of true value.

Sec. 5727.08. On or before the first day of March, annually, each public utility and interexchange telecommunications company, and, for tax years 2009 and thereafter, each public utility property lessor, shall file a report with the tax commissioner, on a form prescribed by the tax commissioner. The report shall include such information as the tax commissioner requires to enable the tax commissioner to make any assessment or apportionment required under this chapter.

The report shall be signed by either the owner of the public utility, interexchange telecommunications company, or public utility property

lessor or the president, secretary, treasurer, or another duly authorized person.

If such a public utility, interexchange telecommunications company, or lessor fails to file the report on or before the first day of March, or the date it is due under an extension allowed pursuant to section 5727.48 of the Revised Code, or fails to accurately report all taxable property, the tax commissioner may impose a penalty of up to fifty per cent of the taxable value of the property that was not timely or accurately reported. However, if the such a public utility, company, or lessor files, within sixty days after the first day of March or the extended due date, the report or an amended report and discloses all items of taxable property that are required by this chapter to be reported, the penalty shall not be more than five per cent of the taxable value that was not timely or accurately reported. The penalty shall be added to and considered a part of the total taxable value of the property that was not timely or accurately reported, and may be abated in whole or in part by the tax commissioner pursuant to a petition for reassessment filed under section 5727.47 of the Revised Code.

Sec. 5727.10. Annually, the tax commissioner shall determine, in accordance with section 5727.11 of the Revised Code, the true value in money of all taxable property, except property of a railroad company, required by ~~division (A)(2) or (3)~~ of section 5727.06 of the Revised Code to be assessed by the commissioner. The commissioner also shall determine the total taxable value of such property based on the percentages of true value at which the property is required to be assessed by section 5727.111 of the Revised Code.

The commissioner shall be guided by the information contained in the report filed by the public utility and such other evidence and rules as will enable ~~him~~ the commissioner to make these determinations.

Before issuing the preliminary assessment under section 5727.23 of the Revised Code, the commissioner shall notify each public utility of the proposed total taxable value of its taxable property, including any proposed penalty. After receiving such notice, a public utility may, upon written application, within the time prescribed by the commissioner, appear before ~~him~~ the commissioner and be heard in the matter of the proposal. The commissioner may, on the application of a public utility, or on ~~his~~ the commissioner's own motion, correct the proposal.

Sec. 5727.11. (A) Except as otherwise provided in this section, the true value of all taxable property, except property of a railroad company, required by ~~division (A)(2) or (3)~~ of section 5727.06 of the Revised Code to be assessed by the tax commissioner shall be determined by a method of

valuation using cost as capitalized on the public utility's books and records less composite annual allowances as prescribed by the commissioner. If the commissioner finds that application of this method will not result in the determination of true value of the public utility's taxable property, the commissioner may use another method of valuation.

(B)(1) Except as provided in division (B)(2) of this section, the true value of current gas stored underground is the cost of that gas shown on the books and records of the public utility on the thirty-first day of December of the preceding year.

(2) For tax year 2001 and thereafter, the true value of current gas stored underground is the quotient obtained by dividing (a) the average value of the current gas stored underground, which shall be determined by adding the value of the gas on hand at the end of each calendar month in the calendar year preceding the tax year, or, if applicable, the last day of business of each month for a partial month, divided by (b) the total number of months the natural gas company was in business during the calendar year prior to the beginning of the tax year. with the approval of the tax commissioner, a natural gas company may use a date other than the end of a calendar month to value its current gas stored underground.

(C) The true value of noncurrent gas stored underground is thirty-five per cent of the cost of that gas shown on the books and records of the public utility on the thirty-first day of December of the preceding year.

(D)(1) Except as provided in division (D)(2) of this section, the true value of the production equipment of an electric company and the true value of all taxable property of a rural electric company is the equipment's or property's cost as capitalized on the company's books and records less fifty per cent of that cost as an allowance for depreciation and obsolescence.

(2) The true value of the production equipment of an electric company or rural electric company purchased, transferred, or placed into service after the effective date of this amendment is the purchase price of the equipment as capitalized on the company's books and records less composite annual allowances as prescribed by the tax commissioner.

(E) The true value of taxable property ~~described in division (A)(2) or (3) of, except property of a railroad company, required by section 5727.06 of the Revised Code to be assessed by the tax commissioner~~ shall not include the allowance for funds used during construction or interest during construction that has been capitalized on the public utility's books and records as part of the total cost of the taxable property. This division shall not apply to the taxable property of an electric company or a rural electric company, excluding transmission and distribution property, first placed into



service after December 31, 2000, or to the taxable property a person purchases, which includes transfers, if that property was used in business by the seller prior to the purchase.

(F) The true value of watercraft owned or operated by a water transportation company shall be determined by multiplying the true value of the watercraft as determined under division (A) of this section by a fraction, the numerator of which is the number of revenue-earning miles traveled by the watercraft in the waters of this state and the denominator of which is the number of revenue-earning miles traveled by the watercraft in all waters.

(G) The cost of property subject to a sale and leaseback transaction is the cost of the property as capitalized on the books and records of the public utility owning the property immediately prior to the sale and leaseback transaction.

(H) The cost as capitalized on the books and records of a public utility includes amounts capitalized that represent regulatory assets, if such amounts previously were included on the company's books and records as capitalized costs of taxable personal property.

(I) Any change in the composite annual allowances as prescribed by the commissioner on a prospective basis shall not be admissible in any judicial or administrative action or proceeding as evidence of value with regard to prior years' taxes. Information about the business, property, or transactions of any taxpayer obtained by the commissioner for the purpose of adopting or modifying the composite annual allowances shall not be subject to discovery or disclosure.

Sec. 5727.111. The taxable property of each public utility, except a railroad company, and of each interexchange telecommunications company shall be assessed at the following percentages of true value:

~~(A)(1) Except as provided in division (A)(2) of this section, fifty per cent in the case of a rural electric company;~~

~~(2) For tax year 2001 and thereafter, fifty~~ Fifty per cent in the case of the taxable transmission and distribution property of a rural electric company, and twenty-five per cent for all its other taxable property;

(B) In the case of a telephone or telegraph company, twenty-five per cent for taxable property first subject to taxation in this state for tax year 1995 or thereafter for tax years before tax year 2007, and pursuant to division (H) of section 5711.22 of the Revised Code for tax year 2007 and thereafter, and the following for all other taxable property:

(1) For tax years prior to 2005, eighty-eight per cent;

(2) For tax year 2005, sixty-seven per cent;

(3) For tax year 2006, forty-six per cent;

(4) For tax year 2007 and thereafter, ~~twenty-five per cent pursuant to division (H) of section 5711.22 of the Revised Code.~~

(C) Twenty-five per cent in the case of a natural gas company.

(D) Eighty-eight per cent in the case of a pipe-line, water-works, or heating company;

(E)(1) ~~Except as provided in division (E)(2) or (3) of this section, one hundred per cent in the case of the taxable production equipment of an electric company and eighty-eight per cent for all its other taxable property;~~

(2) For tax year ~~2001 and thereafter~~ 2005, eighty-eight per cent in the case of the taxable transmission and distribution property of an electric company, and twenty-five per cent for all its other taxable property;

~~(3) Property listed and assessed under divisions (B)(1) and (2) of section 5711.22 of the Revised Code and leased to an electric company shall continue to be assessed at one hundred per cent for production equipment and eighty-eight~~ (2) For tax year 2006 and each tax year thereafter, eighty-five per cent in the case of the taxable transmission and distribution property of an electric company, and twenty-four per cent for all such its other taxable property until January 1, 2002.

(F)(1) Twenty-five per cent in the case of an interexchange telecommunications company for tax years before tax year 2007;

(2) Pursuant to division (H) of section 5711.22 of the Revised Code for tax year 2007 and thereafter.

(G) Twenty-five per cent in the case of a water transportation company.

Sec. 5727.12. As used in this chapter, "property used in railroad operations" means property used in or determined by the tax commissioner to be held by a railroad for use in railroad operations. In determining the true value of all real and personal property owned or leased by each railroad company and used in railroad operations, the commissioner shall use the unitary method and value all of the property of the company's railroad system as a whole, considering the factors generally used in that method, and weighing each factor appropriately. The true value of the property used in railroad operations shall be apportioned to this state as provided in section 5727.14 of the Revised Code. ~~The commissioner shall separately determine the true~~ For tax year 2006 and each tax year thereafter, the county auditor shall value of and assess the real property owned by the company that the commissioner determines is not used in railroad operations. ~~The commissioner may require the advice of county auditors concerning such values.~~

All property of a railroad shall be assessed for taxation at the same percentage of true value at which all other real property in this state is

assessed, in the case of real property, and at the percentage of true value provided under divisions (E) ~~and~~ (F), ~~and~~ (G) of section 5711.22 of the Revised Code, in the case of personal property.

A determination of the value of ~~each tract, lot, or parcel of real property~~ ~~or~~ each item of personal property not used in railroad operations shall be considered a separate determination with respect to which a separate petition for reassessment may be filed under section 5727.47 of the Revised Code.

Where a line of railroad is subsidized under the terms of the federal regional rail reorganization act or the federal rail revitalization and regulatory reform act, the real and other fixed property shall be assessed solely in the name of its owner.

Sec. 5727.23. On or before the first Monday in October, annually, the tax commissioner shall assess the taxable property of each public utility-~~The and interexchange telecommunications company, and for tax year 2009 and thereafter of each public utility property lessor. If the taxpayer failed to file its annual report required by section 5727.08 of the Revised Code at least sixty days prior to the first Monday of October, the commissioner may make the assessment under this section within sixty days after the taxpayer files the report, but this does not preclude the commissioner from making an assessment without receiving the report.~~

The action of the tax commissioner shall be evidenced by a preliminary assessment that reflects the taxable value apportioned to each county and each taxing district in the county. The commissioner may amend the preliminary assessment as provided in this section. Each preliminary assessment and amended preliminary assessment shall be certified to the public utility, interexchange telecommunications company, or public utility property lessor, and to, the auditor of each county to which taxable value has been apportioned.

The county auditor shall place the apportioned taxable value on the general tax list and duplicate of real and public utility property, and taxes shall be levied and collected thereon at the same rates and in the same manner as taxes are levied and collected on real property in the taxing district in question.

Unless a petition for reassessment of an assessment has been properly filed pursuant to section 5727.47 of the Revised Code, each preliminary assessment and, if amended, each preliminary assessment as last amended shall become final ninety days after certification of the preliminary assessment or thirty days after certification of the amended preliminary assessment, whichever is later. If a petition for reassessment is properly filed, the assessment shall become final when the tax commissioner issues a

final determination.

Neither the certification of any preliminary or amended assessment nor the expiration of the period of time that makes any assessment final constitutes a final determination, assessment, reassessment, valuation, finding, computation, or order of the commissioner that is appealable under section 5717.02 of the Revised Code.

Sec. 5727.241. (A) As used in this section:

(1) "Tax otherwise due" means the tax imposed on a taxpayer under section 5727.24 of the Revised Code reduced by the total amount of all other nonrefundable credits, if any, that the taxpayer is entitled to claim.

(2) "Taxpayer" means any person subject to the tax imposed by section 5727.24 of the Revised Code.

(B) Upon the issuance of a tax credit certificate by the Ohio venture capital authority under section 150.07 of the Revised Code, a credit may be claimed against the tax imposed on a taxpayer under section 5727.24 of the Revised Code. The credit shall be claimed on a return due under section 5727.25 of the Revised Code after the certificate is issued by the authority.

(C) If the taxpayer elected a refundable credit under section 150.07 of the Revised Code and if the amount of the credit shown on the certificate does not exceed the tax otherwise due, then for the calendar year the taxpayer shall claim a refundable credit equal to the amount of the credit shown on the certificate.

(D) If the taxpayer elected a refundable credit under section 150.07 of the Revised Code, and if the amount of the refundable credit shown on the certificate exceeds the tax otherwise due, then for the calendar year the taxpayer shall claim a refundable credit equal to the sum of the following:

(1) The amount, if any, of the tax otherwise due;

(2) Seventy-five per cent of the difference between the amount of the refundable credit shown on the certificate and the tax otherwise due.

(E) If the taxpayer elected a nonrefundable credit under section 150.07 of the Revised Code and if the nonrefundable credit to which the taxpayer would otherwise be entitled under this section for any calendar year is greater than the tax otherwise due, the excess shall be allowed as a nonrefundable credit in each of the ensuing ten calendar years, but the amount of any excess nonrefundable credit allowed in the ensuing calendar year shall be deducted from the balance carried forward to the next calendar year.

Sec. 5727.84. (A) As used in this section and sections 5727.85, 5727.86, and 5727.87 of the Revised Code:

(1) "School district" means a city, local, or exempted village school

district.

(2) "Joint vocational school district" means a joint vocational school district created under section 3311.16 of the Revised Code, and includes a cooperative education school district created under section 3311.52 or 3311.521 of the Revised Code and a county school financing district created under section 3311.50 of the Revised Code.

(3) "Local taxing unit" means a subdivision or taxing unit, as defined in section 5705.01 of the Revised Code, a park district created under Chapter 1545. of the Revised Code, or a township park district established under section 511.23 of the Revised Code, but excludes school districts and joint vocational school districts.

(4) "State education aid" means the sum of state aid amounts computed for a school district or joint vocational school district under Chapter 3317. of the Revised Code.

(5) "State education aid offset" means the amount determined for each school district or joint vocational school district under division (A)(1) of section 5727.85 of the Revised Code.

(6) "Recognized valuation" has the same meaning as in section 3317.02 of the Revised Code.

(7) "Electric company tax value loss" means the amount determined under division (D) of this section.

(8) "Natural gas company tax value loss" means the amount determined under division (E) of this section.

(9) "Tax value loss" means the sum of the electric company tax value loss and the natural gas company tax value loss.

(10) "Fixed-rate levy" means any tax levied on property other than a fixed-sum levy.

(11) "Fixed-rate levy loss" means the amount determined under division (G) of this section.

(12) "Fixed-sum levy" means a tax levied on property at whatever rate is required to produce a specified amount of tax money or levied in excess of the ten-mill limitation to pay debt charges, and includes school district emergency levies imposed pursuant to section 5705.194 of the Revised Code.

(13) "Fixed-sum levy loss" means the amount determined under division (H) of this section.

(14) "Consumer price index" means the consumer price index (all items, all urban consumers) prepared by the bureau of labor statistics of the United States department of labor.

(B) The kilowatt-hour tax receipts fund is hereby created in the state

treasury and shall consist of money arising from the tax imposed by section 5727.81 of the Revised Code. All money in the kilowatt-hour tax receipts fund shall be credited as follows:

(1) Fifty-nine and nine hundred seventy-six one-thousandths per cent, shall be credited to the general revenue fund.

(2) Two and six hundred forty-six one-thousandths per cent shall be credited to the local government fund, for distribution in accordance with section 5747.50 of the Revised Code.

(3) Three hundred seventy-eight one-thousandths per cent shall be credited to the local government revenue assistance fund, for distribution in accordance with section 5747.61 of the Revised Code.

(4) Twenty-five and four-tenths per cent shall be credited to the school district property tax replacement fund, which is hereby created in the state treasury for the purpose of making the payments described in section 5727.85 of the Revised Code.

(5) Eleven and six-tenths per cent shall be credited to the local government property tax replacement fund, which is hereby created in the state treasury for the purpose of making the payments described in section 5727.86 of the Revised Code.

~~(6) In fiscal years 2002, 2003, 2004, 2005, and 2006, if the revenue arising from the tax levied by section 5727.81 of the Revised Code is less than five hundred fifty two million dollars, the amount credited to the general revenue fund under division (B)(1) of this section shall be reduced by the amount necessary to credit to each of the funds in divisions (B)(2) and (3) of this section the amount it would have received if the tax did raise five hundred fifty two million dollars for that fiscal year. The tax commissioner shall certify to the director of budget and management the amounts that shall be credited under this division.~~

~~(7) Beginning in fiscal year 2007, if the revenue arising from the tax levied by section 5727.81 of the Revised Code is less than five hundred fifty two million dollars, the amount credited to the general revenue fund under division (B)(1) of this section shall be reduced by the amount necessary to credit to each of the funds in divisions (B)(2), (3), (4), and (5) of this section the amount that it would have received if the tax did raise five hundred fifty two million dollars for that fiscal year. The tax commissioner shall certify to the director of budget and management the amounts to be credited under division (B)(7) of this section.~~

(C) The natural gas tax receipts fund is hereby created in the state treasury and shall consist of money arising from the tax imposed by section 5727.811 of the Revised Code. All money in the fund shall be credited as

follows:

(1) Sixty-eight and seven-tenths per cent shall be credited to the school district property tax replacement fund for the purpose of making the payments described in section 5727.85 of the Revised Code.

(2) Thirty-one and three-tenths per cent shall be credited to the local government property tax replacement fund for the purpose of making the payments described in section 5727.86 of the Revised Code.

~~(3) Beginning in fiscal year 2007, if the revenue arising from the tax levied by section 5727.811 of the Revised Code is less than ninety million dollars, an amount equal to the difference between the amount collected and ninety million dollars shall be transferred from the general revenue fund to each of the funds in divisions (C)(1) and (2) of this section in the same percentages as if that amount had been collected as taxes under section 5727.811 of the Revised Code. The tax commissioner shall certify to the director of budget and management the amounts that shall be transferred under this division.~~

(D) Not later than January 1, 2002, the tax commissioner shall determine for each taxing district its electric company tax value loss, which is the sum of the applicable amounts described in divisions (D)(1) to (3) of this section:

(1) The difference obtained by subtracting the amount described in division (D)(1)(b) from the amount described in division (D)(1)(a) of this section.

(a) The value of electric company and rural electric company tangible personal property as assessed by the tax commissioner for tax year 1998 on a preliminary assessment, or an amended preliminary assessment if issued prior to March 1, 1999, and as apportioned to the taxing district for tax year 1998;

(b) The value of electric company and rural electric company tangible personal property as assessed by the tax commissioner for tax year 1998 had the property been apportioned to the taxing district for tax year 2001, and assessed at the rates in effect for tax year 2001.

(2) The difference obtained by subtracting the amount described in division (D)(2)(b) from the amount described in division (D)(2)(a) of this section.

(a) The three-year average for tax years 1996, 1997, and 1998 of the assessed value from nuclear fuel materials and assemblies assessed against a person under Chapter 5711. of the Revised Code from the leasing of them to an electric company for those respective tax years, as reflected in the preliminary assessments;

(b) The three-year average assessed value from nuclear fuel materials and assemblies assessed under division (D)(2)(a) of this section for tax years 1996, 1997, and 1998, as reflected in the preliminary assessments, using an assessment rate of twenty-five per cent.

(3) In the case of a taxing district having a nuclear power plant within its territory, any amount, resulting in an electric company tax value loss, obtained by subtracting the amount described in division (D)(1) of this section from the difference obtained by subtracting the amount described in division (D)(3)(b) of this section from the amount described in division (D)(3)(a) of this section.

(a) The value of electric company tangible personal property as assessed by the tax commissioner for tax year 2000 on a preliminary assessment, or an amended preliminary assessment if issued prior to March 1, 2001, and as apportioned to the taxing district for tax year 2000;

(b) The value of electric company tangible personal property as assessed by the tax commissioner for tax year 2001 on a preliminary assessment, or an amended preliminary assessment if issued prior to March 1, 2002, and as apportioned to the taxing district for tax year 2001.

(E) Not later than January 1, 2002, the tax commissioner shall determine for each taxing district its natural gas company tax value loss, which is the sum of the amounts described in divisions (E)(1) and (2) of this section:

(1) The difference obtained by subtracting the amount described in division (E)(1)(b) from the amount described in division (E)(1)(a) of this section.

(a) The value of all natural gas company tangible personal property, other than property described in division (E)(2) of this section, as assessed by the tax commissioner for tax year 1999 on a preliminary assessment, or an amended preliminary assessment if issued prior to March 1, 2000, and apportioned to the taxing district for tax year 1999;

(b) The value of all natural gas company tangible personal property, other than property described in division (E)(2) of this section, as assessed by the tax commissioner for tax year 1999 had the property been apportioned to the taxing district for tax year 2001, and assessed at the rates in effect for tax year 2001.

(2) The difference in the value of current gas obtained by subtracting the amount described in division (E)(2)(b) from the amount described in division (E)(2)(a) of this section.

(a) The three-year average assessed value of current gas as assessed by the tax commissioner for tax years 1997, 1998, and 1999 on a preliminary assessment, or an amended preliminary assessment if issued prior to March



1, 2001, and as apportioned in the taxing district for those respective years;

(b) The three-year average assessed value from current gas under division (E)(2)(a) of this section for tax years 1997, 1998, and 1999, as reflected in the preliminary assessment, using an assessment rate of twenty-five per cent.

(F) The tax commissioner may request that natural gas companies, electric companies, and rural electric companies file a report to help determine the tax value loss under divisions (D) and (E) of this section. The report shall be filed within thirty days of the commissioner's request. A company that fails to file the report or does not timely file the report is subject to the penalty in section 5727.60 of the Revised Code.

(G) Not later than January 1, 2002, the tax commissioner shall determine for each school district, joint vocational school district, and local taxing unit its fixed-rate levy loss, which is the sum of its electric company tax value loss multiplied by the tax rate in effect in tax year 1998 for fixed-rate levies and its natural gas company tax value loss multiplied by the tax rate in effect in tax year 1999 for fixed-rate levies.

(H) Not later than January 1, 2002, the tax commissioner shall determine for each school district, joint vocational school district, and local taxing unit its fixed-sum levy loss, which is the amount obtained by subtracting the amount described in division (H)(2) of this section from the amount described in division (H)(1) of this section:

(1) The sum of the electric company tax value loss multiplied by the tax rate in effect in tax year 1998, and the natural gas company tax value loss multiplied by the tax rate in effect in tax year 1999, for fixed-sum levies for all taxing districts within each school district, joint vocational school district, and local taxing unit. For the years 2002 through 2006, this computation shall include school district emergency levies that existed in 1998 in the case of the electric company tax value loss, and 1999 in the case of the natural gas company tax value loss, and all other fixed-sum levies that existed in 1998 in the case of the electric company tax value loss and 1999 in the case of the natural gas company tax value loss and continue to be charged in the tax year preceding the distribution year. For the years 2007 through 2016 in the case of school district emergency levies, and for all years after 2006 in the case of all other fixed-sum levies, this computation shall exclude all fixed-sum levies that existed in 1998 in the case of the electric company tax value loss and 1999 in the case of the natural gas company tax value loss, but are no longer in effect in the tax year preceding the distribution year. For the purposes of this section, an emergency levy that existed in 1998 in the case of the electric company tax value loss, and

1999 in the case of the natural gas company tax value loss, continues to exist in a year beginning on or after January 1, 2007, but before January 1, 2017, if, in that year, the board of education levies a school district emergency levy for an annual sum at least equal to the annual sum levied by the board in tax year 1998 or 1999, respectively, less the amount of the payment certified under this division for 2002.

(2) The total taxable value in tax year 1999 less the tax value loss in each school district, joint vocational school district, and local taxing unit multiplied by one-fourth of one mill.

If the amount computed under division (H) of this section for any school district, joint vocational school district, or local taxing unit is greater than zero, that amount shall equal the fixed-sum levy loss reimbursed pursuant to division (E) of section 5727.85 of the Revised Code or division (A)(2) of section 5727.86 of the Revised Code, and the one-fourth of one mill that is subtracted under division (H)(2) of this section shall be apportioned among all contributing fixed-sum levies in the proportion of each levy to the sum of all fixed-sum levies within each school district, joint vocational school district, or local taxing unit.

(I) Notwithstanding divisions (D), (E), (G), and (H) of this section, in computing the tax value loss, fixed-rate levy loss, and fixed-sum levy loss, the tax commissioner shall use the greater of the 1998 tax rate or the 1999 tax rate in the case of levy losses associated with the electric company tax value loss, but the 1999 tax rate shall not include for this purpose any tax levy approved by the voters after June 30, 1999, and the tax commissioner shall use the greater of the 1999 or the 2000 tax rate in the case of levy losses associated with the natural gas company tax value loss.

(J) Not later than January 1, 2002, the tax commissioner shall certify to the department of education the tax value loss determined under divisions (D) and (E) of this section for each taxing district, the fixed-rate levy loss calculated under division (G) of this section, and the fixed-sum levy loss calculated under division (H) of this section. The calculations under divisions (G) and (H) of this section shall separately display the levy loss for each levy eligible for reimbursement.

(K) Not later than September 1, 2001, the tax commissioner shall certify the amount of the fixed-sum levy loss to the county auditor of each county in which a school district with a fixed-sum levy loss has territory.

Sec. 5727.85. (A) By the thirty-first day of July of each year, beginning in 2002 and ending in 2016, the department of education shall determine the following for each school district and each joint vocational school district eligible for payment under division (C) or (D) of this section:

(1) The state education aid offset, which is the difference obtained by subtracting the amount described in division (A)(1)(b) of this section from the amount described in division (A)(1)(a) of this section:

(a) The state education aid computed for the school district or joint vocational school district for the current fiscal year as of the thirty-first day of July;

(b) The state education aid that would be computed for the school district or joint vocational school district for the current fiscal year as of the thirty-first day of July if the recognized valuation included the tax value loss for the school district or joint vocational school district.

(2) The greater of zero or the difference obtained by subtracting the state education aid offset determined under division (A)(1) of this section from the fixed-rate levy loss certified under division (J) of section 5727.84 of the Revised Code for all taxing districts in each school district and joint vocational school district.

By the fifth day of August of each such year, the department of education shall certify the amount so determined under division (A)(1) of this section to the director of budget and management.

(B) Not later than the thirty-first day of October of the years 2006 through 2016, the department of education shall determine all of the following for each school district:

(1) The amount obtained by subtracting the district's state education aid computed for fiscal year 2002 from the district's state education aid computed for the current fiscal year;

(2) The inflation-adjusted property tax loss. The inflation-adjusted property tax loss equals the fixed-rate levy loss, excluding the tax loss from levies within the ten-mill limitation to pay debt charges, determined under division (G) of section 5727.84 of the Revised Code for all taxing districts in each school district, plus the product obtained by multiplying that loss by the cumulative percentage increase in the consumer price index from January 1, 2002, to the thirtieth day of June of the current year.

(3) The difference obtained by subtracting the amount computed under division (B)(1) from the amount of the inflation-adjusted property tax loss. If this difference is zero or a negative number, no further payments shall be made under division (C) of this section to the school district from the school district property tax replacement fund.

(C) The department of education shall pay from the school district property tax replacement fund to each school district all of the following:

(1) In February 2002, one-half of the fixed-rate levy loss certified under division (J) of section 5727.84 of the Revised Code between the twenty-first

and twenty-eighth days of February.

(2) From August 2002 through August 2006, one-half of the amount calculated for that fiscal year under division (A)(2) of this section between the twenty-first and twenty-eighth days of August and of February.

(3) From February 2007 through August 2016, one-half of the amount calculated for that calendar year under division (B)(3) of this section between the twenty-first and twenty-eighth days of August and of February.

(4) For taxes levied within the ten-mill limitation for debt purposes in tax year 1998 in the case of electric company tax value losses, and in tax year 1999 in the case of natural gas company tax value losses, payments shall be made equal to one hundred per cent of the loss computed as if the tax were a fixed-rate levy, but those payments shall extend from fiscal year 2006 through fiscal year 2016.

The department of education shall report to each school district the apportionment of the payments among the school district's funds based on the certifications under division (J) of section 5727.84 of the Revised Code.

(D) Not later than January 1, 2002, for all taxing districts in each joint vocational school district, the tax commissioner shall certify to the department of education the fixed-rate levy loss determined under division (G) of section 5727.84 of the Revised Code. From February 2002 to August 2016, the department shall pay from the school district property tax replacement fund to the joint vocational school district one-half of the amount calculated for that fiscal year under division (A)(2) of this section between the twenty-first and twenty-eighth days of August and of February.

(E)(1) Not later than January 1, 2002, for each fixed-sum levy levied by each school district or joint vocational school district and for each year for which a determination is made under division (H) of section 5727.84 of the Revised Code that a fixed-sum levy loss is to be reimbursed, the tax commissioner shall certify to the department of education the fixed-sum levy loss determined under that division. The certification shall cover a time period sufficient to include all fixed-sum levies for which the tax commissioner made such a determination. The department shall pay from the school district property tax replacement fund to the school district or joint vocational school district one-half of the fixed-sum levy loss so certified for each year between the twenty-first and twenty-eighth days of August and of February.

(2) Beginning in 2003, by the thirty-first day of January of each year, the tax commissioner shall review the certification originally made under division (E)(1) of this section. If the commissioner determines that a debt levy that had been scheduled to be reimbursed in the current year has

expired, a revised certification for that and all subsequent years shall be made to the department of education.

(F) If the balance of the half-mill equalization fund created under section 3318.18 of the Revised Code is insufficient to make the full amount of payments required under division (D) of that section, the department of education, at the end of the third quarter of the fiscal year, shall certify to the director of budget and management the amount of the deficiency, and the director shall transfer an amount equal to the deficiency from the school district property tax replacement fund to the half-mill equalization fund.

(G) Beginning in August 2002, and ending in ~~February~~ May 2017, the director of budget and management shall transfer from the school district property tax replacement fund to the general revenue fund each of the following:

(1) Between the twenty-eighth day of August and the fifth day of September, the lesser of one-half of the amount certified for that fiscal year under division (A)(2) of this section or the balance in the school district property tax replacement fund;

(2) Between the first and fifth days of ~~March~~ May, the lesser of one-half of the amount certified for that fiscal year under division (A)(2) of this section or the balance in the school district property tax replacement fund.

~~(G) By August 5, 2002, the tax commissioner shall estimate the amount of money in the school district property tax replacement fund in excess of the amount necessary to make payments under divisions (C), (D), (E), and (F) of this section. Notwithstanding division (C) of this section, the department of education, in consultation with the tax commissioner and from those excess funds, may pay any school district four and one-half times the amount certified under division (A)(2) of this section. Payments shall be made in order from the smallest annual loss to the largest annual loss. A payment made under this division shall be in lieu of the payment to be made in August 2002 under division (C)(2) of this section. No payments shall be made in the manner established in this division to any school district with annual losses from permanent improvement fixed rate levies in excess of twenty thousand dollars, or annual losses from any other fixed rate levies in excess of twenty thousand dollars. A school district receiving a payment under this division is no longer entitled to any further payments under division (C) of this section.~~

~~(H) On the thirty first day of July of 2003, 2004, 2005, and 2006, and on the thirty first day of January and July of 2007 and each year thereafter, if the amount credited to the school district property tax replacement fund exceeds the amount needed to make payments from the fund under divisions~~

~~(C), (D), (E), and (F) of this section, the department of education shall distribute the excess among school districts and joint vocational school districts. The amount distributed to each district shall bear the same proportion to the excess remaining in the fund as the ADM of the district bears to the ADM of all of the districts. For the purpose of this division, "ADM" means the formula ADM in the case of a school district, and the average daily membership reported under section 3317.03 of the Revised Code in the case of a joint vocational school district.~~

~~If, in the opinion of the department of education, the excess remaining in the school district property tax replacement fund in any year is not sufficient to warrant distribution under this division, the excess shall remain to the credit of the fund.~~

~~Amounts received by a school district or joint vocational school district under this division shall be used exclusively for capital improvements.~~

(H) On the first day of June each year, the director of budget and management shall transfer any balance remaining in the school district property tax replacement fund after the payments have been made under divisions (C), (D), (E), (F), and (G) of this section to the half-mill equalization fund created under section 3318.18 of the Revised Code.

(I) From fiscal year 2002 through fiscal year 2016, if the total amount in the school district property tax replacement fund is insufficient to make all payments under divisions (C), (D), ~~and (E), and (F)~~ of this section at the time the payments are to be made, the director of budget and management shall transfer from the general revenue fund to the school district property tax replacement fund the difference between the total amount to be paid and the total amount in the school district property tax replacement fund, except that no transfer shall be made by reason of a deficiency to the extent that it results from the amendment of section 5727.84 of the Revised Code by Amended Substitute House Bill No. 95 of the 125th general assembly.

(J) If all ~~or a part~~ of the territory of a school district or joint vocational school district is merged with an existing district, or if a part of the territory of a school district or joint vocational school district is transferred to another an existing or new district, the department of education, in consultation with the tax commissioner, shall adjust the payments made under this section ~~to each of the districts in proportion to the tax value loss apportioned to the merged or transferred territory as follows:~~

(1) For the merger of all of the territory of two or more districts, the fixed-rate levy loss and the fixed-sum levy loss of the successor district shall be equal to the sum of the fixed-rate levy losses and the fixed-sum levy losses for each of the districts involved in the merger.

(2) For the transfer of a part of one district's territory to an existing district, the amount of the fixed-rate levy loss that is transferred to the recipient district shall be an amount equal to the transferring district's total fixed-rate levy loss times a fraction, the numerator of which is the value of electric company tangible personal property located in the part of the territory that was transferred, and the denominator of which is the total value of electric company tangible personal property located in the entire district from which the territory was transferred. The value of electric company tangible personal property under this division shall be determined for the most recent year for which data is available. Fixed-sum levy losses for both districts shall be determined under division (J)(4) of this section.

(3) For the transfer of a part of the territory of one or more districts to create a new district:

(a) If the new district is created on or after January 1, 2000, but before January 1, 2005, the new district shall be paid its current fixed-rate levy loss through August 2006. From February 2007 to August 2016, the new district shall be paid the lesser of: (i) the amount calculated under division (B) of this section or (ii) an amount determined under the schedule in division (A)(1) of section 5727.86 of the Revised Code, as if for this purpose the new district was a local taxing unit under that section. Fixed-sum levy losses for the districts shall be determined under division (J)(4) of this section.

(b) If the new district is created on or after January 1, 2005, the new district shall be deemed not to have any fixed-rate levy loss or, except as provided in division (J)(4) of this section, fixed-sum levy loss. The district or districts from which the territory was transferred shall have no reduction in their fixed-rate levy loss, or, except as provided in division (J)(4) of this section, their fixed-sum levy loss.

(4) If a recipient district under division (J)(2) of this section or a new district under division (J)(3)(a) or (b) of this section takes on debt from one or more of the districts from which territory was transferred, and any of the districts transferring the territory had fixed-sum levy losses, the department of education, in consultation with the tax commissioner, shall make an equitable division of the fixed-sum levy losses.

(K) There is hereby created the public utility property tax study committee, effective January 1, 2011. The committee shall consist of the following seven members: the tax commissioner, three members of the senate appointed by the president of the senate, and three members of the house of representatives appointed by the speaker of the house of representatives. The appointments shall be made not later than January 31, 2011. The tax commissioner shall be the chairperson of the committee.

The committee shall study the extent to which each school district or joint vocational school district has been compensated, under sections 5727.84 and 5727.85 of the Revised Code as enacted by Substitute Senate Bill No. 3 of the 123rd general assembly and any subsequent acts, for the property tax loss caused by the reduction in the assessment rates for natural gas, electric, and rural electric company tangible personal property. Not later than June 30, 2011, the committee shall issue a report of its findings, including any recommendations for providing additional compensation for the property tax loss or regarding remedial legislation, to the president of the senate and the speaker of the house of representatives, at which time the committee shall cease to exist.

The department of taxation and department of education shall provide such information and assistance as is required for the committee to carry out its duties.

Sec. 5728.01. As used in sections 5728.02 to 5728.14 of the Revised Code:

(A) "Motor vehicle" means everything on wheels that is self-propelled, other than by muscular power or power collected from electric trolley wires and other than vehicles or machinery not designed for or employed in general highway transportation, used to transport or propel persons or property over a public highway.

(B) "Commercial car" means any motor vehicle used for transporting persons or property, wholly on its own structure on a public highway.

(C) "Commercial tractor" means any motor vehicle designed and used to propel or draw a trailer or semi-trailer or both on a public highway without having any provision for carrying loads independently of such trailer or semi-trailer.

(D) "Trailer" means everything on wheels that is not self-propelled, except vehicles or machinery not designed for or employed in general highway transportation, used for carrying property wholly on its own structure and for being drawn by a motor vehicle on a public highway, including any such vehicle when formed by or operated as a combination of a semi-trailer and a vehicle of the dolly type such as that commonly known as a trailer dolly. "Trailer" does not include manufactured homes as defined in division (C)(4) of section 3781.06 of the Revised Code or mobile homes as defined in division (O) of section 4501.01 of the Revised Code.

(E) "Semi-trailer" means everything on wheels that is not self-propelled, except vehicles or machinery not designed for or employed in general highway transportation, designed and used for carrying property on a public highway when being propelled or drawn by a commercial tractor when part



of its own weight or the weight of its load, or both, rest upon and is carried by a commercial tractor.

(F) "Commercial tandem" means any commercial car and trailer or any commercial tractor, semi-trailer, and trailer when fastened together and used as one unit.

(G) "Commercial tractor combination" means any commercial tractor and semi-trailer when fastened together and used as one unit.

(H) "Axle" means two or more load carrying wheels mounted in a single transverse vertical plane.

(I) "Public highway" means any highway, road, or street dedicated to public use, including a highway under the control and jurisdiction of the Ohio turnpike commission created by the provisions of section 5537.02 of the Revised Code and land and lots over which the public, either as user or owner, generally has a right to pass even though such land or lots are closed temporarily by public authorities for the purpose of construction, reconstruction, maintenance, or repair.

(J) "Jurisdiction" means a state of the United States, the District of Columbia, or a province or territory of Canada.

Sec. 5728.02. (A) Except as provided in section 5728.03 of the Revised Code, every person who is liable for the tax imposed by section 5728.06 of the Revised Code on the operation of a commercial car ~~with three or more axles when operated alone or as part of a commercial tandem, a commercial car with two axles that is to be operated as part of a commercial tandem with a gross vehicle weight or a registered gross vehicle weight exceeding twenty-six thousand pounds, or a commercial tractor that is, or is to be, operated or driven upon a public highway~~ in two or more jurisdictions shall cause to be filed annually with the tax commissioner ~~a written~~ an application for a fuel use permit ~~on blank forms~~ to be furnished by the commissioner for that purpose.

Each application for a fuel use permit for a commercial car or a commercial tractor shall contain any information the tax commissioner prescribes.

(B) Upon receipt of the application, the tax commissioner shall issue to the person making the application a fuel use permit and any identification device that the commissioner considers necessary for the proper administration of this chapter. The permit and the identification device shall be of a design and contain any information the commissioner considers necessary. The identification device shall be displayed on the commercial car or commercial tractor for which it was issued at all times in the manner the commissioner prescribes. The fuel use permits and the identification

device shall not be transferable. In case of the loss of a fuel use permit or identification device, the commissioner shall issue a duplicate of the permit or device.

The fuel use permit shall be valid until it expires or is suspended or surrendered.

Sec. 5728.03. (A) In lieu of filing an application for an annual fuel use permit under section 5728.02 of the Revised Code and in lieu of filing returns under section 5728.08 of the Revised Code, a person who is the owner of a commercial car ~~with three or more axles when operated alone or as part of a commercial tandem, a commercial car with two axles that is to be operated as part of a commercial tandem with a gross vehicle weight or a registered gross vehicle weight exceeding twenty-six thousand pounds, or a commercial tractor that would otherwise be liable for the tax imposed by~~ section 5728.06 of the Revised Code, that is, or is to be, operated or driven upon a public highway, may file an application with the tax commissioner for a single-trip fuel use permit. The application shall be based on rules adopted by the tax commissioner and shall include an amount estimated to be substantially equivalent to the fuel use tax liability that the applicant will incur by driving on the highways of this state during the period covered by the single-trip permit. The amount so estimated shall be considered to be the fuel use tax liability so incurred.

The commissioner may authorize independent permit services or other persons to issue single-trip fuel use permits.

(B) The tax commissioner shall adopt rules establishing all of the following:

- (1) Procedures for the issuance of single-trip permits;
- (2) The length of time the permits are effective;
- (3) Requirements that independent permit services or other persons must meet to be authorized to issue single-trip fuel use permits and procedures for obtaining that authorization;
- (4) Estimates of the amount substantially equivalent to the fuel use tax liability that an applicant will incur by driving on the highways of this state during the period covered by the permit.

(C) No person whose fuel use permit issued under section 5728.02 of the Revised Code is currently under suspension in accordance with section 5728.11 of the Revised Code shall be issued a single-trip fuel use permit under this section.

(D) All moneys collected pursuant to this section shall be deposited in the state treasury in accordance with section 5728.08 of the Revised Code.

Sec. 5728.04. (A) It is unlawful for any person to operate a commercial

~~car with three or more axles when operated alone or as part of a commercial tandem, a commercial car with two axles that is to be operated as part of a commercial tandem with a gross vehicle weight or a registered gross vehicle weight exceeding twenty-six thousand pounds, or a commercial tractor when operated alone or as part of a commercial tractor combination or commercial tandem that is subject to the tax imposed by section 5728.06 of the Revised Code on a public highway in two or more jurisdictions~~ under either of the following circumstances:

(1) Without a fuel use permit or single trip fuel use permit for such commercial car or commercial tractor.

(2) With a suspended or surrendered fuel use permit for such commercial car or commercial tractor.

(B) The judge or magistrate of any court finding any person guilty of unlawfully operating a commercial car or commercial tractor as provided for in this section shall immediately notify the tax commissioner of such violation and shall transmit to the tax commissioner the name and the permanent address of the owner of the commercial car or commercial tractor operated in violation of this section, the registration number, the state of registration, and the certificate of title number of the commercial car or commercial tractor. The commercial car or commercial tractor involved in a violation of division (A)(1) or (2) of this section may be detained until a valid fuel use permit is obtained or reinstated.

Sec. 5728.06. (A) For the following purposes, an excise tax is hereby imposed on the use of motor fuel to operate on the public highways of this state a commercial car with three or more axles, regardless of weight, operated alone or as part of a commercial tandem, a commercial car with two axles ~~operated as part of a commercial tandem~~ having a gross vehicle weight or registered gross vehicle weight exceeding twenty-six thousand pounds operated alone or as part of a commercial tandem, or a commercial tractor operated alone or as part of a commercial tractor combination or commercial tandem: to provide revenue for maintaining the state highway system, to widen existing surfaces on such highways, to resurface such highways, to enable the counties of the state properly to plan for, maintain, and repair their roads, to enable the municipal corporations to plan, construct, reconstruct, repave, widen, maintain, repair, clear, and clean public highways, roads, and streets; to pay that portion of the construction cost of a highway project that a county, township, or municipal corporation normally would be required to pay, but that the director of transportation, pursuant to division (B) of section 5531.08 of the Revised Code, determines instead will be paid from moneys in the highway operating fund; to maintain

and repair bridges and viaducts; to purchase, erect, and maintain street and traffic signs and markers; to purchase, erect, and maintain traffic lights and signals; to pay the costs apportioned to the public under section 4907.47 of the Revised Code; and to supplement revenue already available for such purposes, to distribute equitably among those persons using the privilege of driving motor vehicles upon such highways and streets the cost of maintaining and repairing the same, and to pay the interest, principal, and charges on bonds and other obligations issued pursuant to Section 2i of Article VIII, Ohio Constitution, and sections 5528.30 and 5528.31 of the Revised Code. The tax is imposed in the same amount as the motor fuel tax imposed under Chapter 5735. of the Revised Code plus an additional tax of three cents per gallon of motor fuel used before July 1, 2004, provided that the additional tax shall be reduced to two cents per gallon of motor fuel used from July 1, 2004 through June 30, 2005, as determined by the gallons consumed while operated on the public highways of this state. Subject to section 5735.292 of the Revised Code, on and after July 1, 2005, the tax shall be imposed in the same amount as the motor fuel tax imposed under Chapter 5735. of the Revised Code. Payment of the fuel use tax shall be made by the purchase of motor fuel within Ohio of such gallons of motor fuel, for which the tax imposed under Chapter 5735. of the Revised Code has been paid, as is equivalent to the gallons consumed while operating such a motor vehicle on the public highways of this state, or by direct remittance to the treasurer of state with the fuel use tax return filed pursuant to section 5728.08 of the Revised Code.

Any person subject to the tax imposed under this section who purchases motor fuel in this state for use in another state in excess of the amount consumed while operating such motor vehicle on the public highways of this state shall be allowed a credit against the tax imposed by this section or a refund equal to the motor fuel tax paid to this state on such excess. No such credit or refund shall be allowed for taxes paid to any state that imposes a tax on motor fuel purchased or obtained in this state and used on the highways of such other state but does not allow a similar credit or refund for the tax paid to this state on motor fuel purchased or acquired in the other state and used on the public highways of this state.

The tax commissioner is authorized to determine whether such credits or refunds are available and to prescribe such rules as are required for the purpose of administering this chapter.

(B) Within sixty days after the last day of each month, the tax commissioner shall determine the amount of motor fuel tax allowed as a credit against the tax imposed by this section. The commissioner shall

certify the amount to the director of budget and management and the treasurer of state, who shall credit the amount in accordance with section 5728.08 of the Revised Code from current revenue arising from the tax levied by section 5735.05 of the Revised Code.

(C) The owner of each commercial car and commercial tractor subject to sections 5728.01 to 5728.14 of the Revised Code is liable for the payment of the full amount of the taxes imposed by this section.

An owner who is a person regularly engaged, for compensation, in the business of leasing or renting motor vehicles without furnishing drivers may designate that the lessee of a motor vehicle leased for a period of thirty days or more shall report and pay the tax incurred during the duration of the lease. An owner who is an independent contractor that furnishes both the driver and motor vehicle, may designate that the person so furnished with the driver and motor vehicle for a period of thirty days or more shall report and pay the tax incurred during that period. An independent contractor that is not an owner, but that furnishes both the driver and motor vehicle and that has been designated by the owner of the motor vehicle to report and pay the tax, may designate that the person so furnished with driver and motor vehicle for a period of thirty days or more shall report and pay the tax incurred during that period.

Sec. 5728.08. Except as provided in section 5728.03 of the Revised Code and except as otherwise provided in ~~this division (A) of~~ section 5728.06 of the Revised Code, whoever is liable for the payment of the tax levied by section 5728.06 of the Revised Code, on or before the last day of each January, April, July, and October, shall file with the tax commissioner, on forms prescribed by the commissioner, a fuel use tax return and make payment of the full amount of the tax due for the operation of each commercial car and commercial tractor for the preceding three calendar months. ~~If the commercial cars or commercial tractors are farm trucks and the amount of motor fuel used to operate the trucks during the preceding twelve calendar months was less than fifteen thousand gallons, the fuel use tax return shall be filed and the full amount of tax due paid on or before the last day of each July for the preceding twelve calendar months. If the commercial cars or commercial tractors are farm trucks and the amount of motor fuel used to operate the trucks during the preceding twelve calendar months was fifteen thousand gallons or more, the fuel use tax return shall be filed and the full amount of the tax due paid either on or before the last day of each July for the preceding twelve calendar months, or on or before the last day of each January, April, July, and October for the preceding three calendar months, at the option of the person liable for payment of the tax. If~~

~~the commercial cars or commercial tractors are not farm trucks, and if, in the estimation of the commissioner, the amount of the tax due does not warrant quarterly filing, the commissioner may authorize the filing of the fuel use tax return and payment of the full amount due on or before the last day of each July for the preceding twelve months.~~

The commissioner shall immediately forward to the treasurer of state all money received from the tax levied by section 5728.06 of the Revised Code.

The treasurer of state shall place to the credit of the tax refund fund created by section 5703.052 of the Revised Code, out of receipts from the taxes levied by section 5728.06 of the Revised Code, amounts equal to the refund certified by the tax commissioner pursuant to section 5728.061 of the Revised Code. Receipts from the tax shall be used by the commissioner to defray expenses incurred by the department of taxation in administering sections 5728.01 to 5728.14 of the Revised Code.

All moneys received in the state treasury from taxes levied by section 5728.06 of the Revised Code and fees assessed under section 5728.03 of the Revised Code that are not required to be placed to the credit of the tax refund fund as provided by this section shall, during each calendar year, be credited to the highway improvement bond retirement fund created by section 5528.12 of the Revised Code until the commissioners of the sinking fund certify to the treasurer of state, as required by section 5528.17 of the Revised Code, that there are sufficient moneys to the credit of the highway improvement bond retirement fund to meet in full all payments of interest, principal, and charges for the retirement of bonds and other obligations issued pursuant to Section 2g of Article VIII, Ohio Constitution, and sections 5528.10 and 5528.11 of the Revised Code due and payable during the current calendar year and during the following calendar year. From the date of the receipt of the certification required by section 5528.17 of the Revised Code by the treasurer of state until the thirty-first day of December of the calendar year in which the certification is made, all moneys received in the state treasury from taxes levied under section 5728.06 of the Revised Code and fees assessed under section 5728.03 of the Revised Code that are not required to be placed to the credit of the tax refund fund as provided by this section shall be credited to the highway obligations bond retirement fund created by section 5528.32 of the Revised Code until the commissioners of the sinking fund certify to the treasurer of state, as required by section 5528.38 of the Revised Code, that there are sufficient moneys to the credit of the highway obligations bond retirement fund to meet in full all payments of interest, principal, and charges for the retirement of bonds and other obligations issued pursuant to Section 2i of

Article VIII, Ohio Constitution, and sections 5528.30 and 5528.31 of the Revised Code due and payable during the current calendar year and during the following calendar year. From the date of the receipt of the certification required by section 5528.38 of the Revised Code by the treasurer of state until the thirty-first day of December of the calendar year in which the certification is made, all moneys received in the state treasury from taxes levied under section 5728.06 of the Revised Code and fees assessed under section 5728.03 of the Revised Code that are not required to be placed to the credit of the tax refund fund as provided by this section shall be credited to the highway operating fund created by section 5735.291 of the Revised Code, except as provided by the following paragraph of this section.

From the date of the receipt by the treasurer of state of certifications from the commissioners of the sinking fund, as required by sections 5528.18 and 5528.39 of the Revised Code, certifying that the moneys to the credit of the highway improvement bond retirement fund are sufficient to meet in full all payments of interest, principal, and charges for the retirement of all bonds and other obligations that may be issued pursuant to Section 2g of Article VIII, Ohio Constitution, and sections 5528.10 and 5528.11 of the Revised Code, and to the credit of the highway obligations bond retirement fund are sufficient to meet in full all payments of interest, principal, and charges for the retirement of all obligations issued pursuant to Section 2i of Article VIII, Ohio Constitution, and sections 5528.30 and 5528.31 of the Revised Code, all moneys received in the state treasury from the taxes levied under section 5728.06 and fees assessed under section 5728.03 of the Revised Code that are not required to be placed to the credit of the tax refund fund as provided by this section, shall be deposited to the credit of the highway operating fund.

~~As used in this section, "farm truck" means any commercial car or commercial tractor that is registered as a farm truck under Chapter 4503. of the Revised Code.~~

Sec. 5729.032. Upon the issuance of a tax credit certificate by the director of development, a refundable credit granted by the tax credit authority under section 122.17 of the Revised Code may be claimed against the tax imposed by section 5729.03 of the Revised Code. The credit shall be claimed in the calendar year specified in the certificate issued by the director of development.

Sec. 5729.08. (A) As used in this section, "tax otherwise due" means the tax imposed on a foreign insurance company under section 5729.03 of the Revised Code reduced by the total amount of all other nonrefundable credits, if any, that the foreign insurance company is entitled to claim.

(B) Upon the issuance of a tax credit certificate by the Ohio venture capital authority under section 150.07 of the Revised Code, a credit may be claimed against the tax imposed on a foreign insurance company under section 5729.03 of the Revised Code. The credit shall be claimed in the calendar year specified in the certificate issued by the authority.

(C) If the company elected a refundable credit under section 150.07 of the Revised Code and if the amount of the credit shown on the certificate does not exceed the tax otherwise due, then for the calendar year the company shall claim a refundable credit equal to the amount of the credit shown on the certificate.

(D) If the company elected a refundable credit under section 150.07 of the Revised Code, and the amount of the credit shown on the certificate exceeds the tax otherwise due ~~under section 5729.03 of the Revised Code,~~ then for the calendar year the company ~~may receive a refund equal to seventy-five per cent of such excess. If shall claim a refundable credit equal to the sum of the following:~~

(1) The amount, if any, of the tax otherwise due;

(2) Seventy-five per cent of the difference between the amount of the refundable credit shown on the certificate and the tax otherwise due.

(E) If the company elected a nonrefundable credit, the amount of the credit shown on the certificate shall not exceed the amount of tax otherwise due. If the company elected a nonrefundable credit and the credit to which the company would otherwise be entitled under this section for any calendar year is greater than the tax otherwise due ~~under section 5729.03 of the Revised Code,~~ the excess shall be allowed as a nonrefundable credit in each of the ensuing ten calendar years, but the amount of any excess credit allowed in the ensuing calendar year shall be deducted from the balance carried forward to the next calendar year.

Sec. 5731.01. As used in this chapter:

(A) The "value of the gross estate" of the decedent shall include, to the extent provided in sections 5731.03 to 5731.131 of the Revised Code, the value, on the ~~date~~ date of the decedent's death or on an alternate valuation date prescribed by division (D) of this section, of all property, real or personal, tangible or intangible, wherever situated, except real property situated and tangible personal property having an actual situs outside of this state.

(B) Subject to the provisions of section 5731.011 of the Revised Code that permit a valuation of qualified farm property at its value for its actual qualified use, the value of any property included in the gross estate shall be the price at which such property would change hands between a willing



buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of relevant facts. All relevant facts and elements of value as of the valuation date shall be considered in determining such value.

The rulings and regulations of the internal revenue service and decisions of the federal courts defining the principles applicable in determining fair market value for purposes of the federal estate tax imposed by Subchapter A, Chapter 11 of the Internal Revenue Code ~~of 1954, 26 U.S.C. 2001, as amended~~, shall be applied in determining fair market value for purposes of the estate taxes imposed by this chapter, to the extent that these rulings, regulations, and decisions are not inconsistent with the express provisions of this chapter, but the actual determination of the fair market value by the internal revenue service of any asset included in the gross estate is not controlling for purposes of the estate taxes imposed by this chapter, unless the person filing the estate tax return and the tax commissioner have agreed in writing to be bound by the federal determination, as provided in section 5731.26 of the Revised Code.

(C) In the case of stock and securities of a corporation the value of which, by reason of their not being listed on an exchange and by reason of the absence of sales of them, cannot be determined with reference to bid and asked prices, or with reference to sales prices, the value of them shall be determined by taking into consideration, in addition to all other factors, the value of stock or securities of corporations engaged in the same or a similar line of business which are listed on an exchange or which are traded actively in the over-the-counter market.

If a valuation of securities is undertaken by reference to market transactions and if the block of securities to be valued is so large in relation to actual sales on existing markets that it could not be liquidated in a reasonable time without depressing the market, the price at which the block could be sold, as such, outside the usual market, as through an underwriter, shall be considered in determining the value of such block of securities.

(D) "Alternate valuation date" means the date for valuation of a gross estate permitted by filing an election under this division. Whether or not an alternate valuation date election is available to an estate for federal estate tax purposes or, if available, is made for the estate, the value of the gross estate may be determined, if the person required to file the estate tax return so elects, by valuing all the property included in the gross estate on the alternate date, if any, provided in section 2032 (a) of the Internal Revenue Code ~~of 1954, 26 U.S.C. 2032(a), as amended~~ as such section generally applies, for federal estate tax purposes, to the estates of persons dying on the

decedent's date of death.

No deduction under this chapter of any item shall be allowed if allowance is, in effect, given by use of the alternate valuation date. In the determination of any tax liability of any estate in which an election is filed under this division, all provisions in this chapter ~~which~~ that refer to value at the time of the decedent's death shall be construed for all purposes to mean the value of such property used in determining the value of the gross estate. For the purposes of the charitable deduction under section 5731.17 of the Revised Code, any bequest, legacy, devise, or transfer enumerated in it shall be valued as of the date of the decedent's death with adjustment for any difference in value, not due to mere lapse of time or the occurrence or nonoccurrence of a contingency, of the property as of the date six months after the decedent's death, or in case of its earlier disposition, on such date of disposition.

An election under this division shall be exercised on the estate tax return by the person required to file the return. When made, an election under this division is irrevocable. An election cannot be exercised under this division if a return is filed more than one year after the time prescribed, including any extensions of time granted, pursuant to law for filing the return.

(E) Unless otherwise indicated by the context, "county" means one of the following:

- (1) The county in which the decedent's estate is administered;
- (2) If no administration of the decedent's estate is being had, the county of residence of the decedent at the time of ~~his~~ death;
- (3) If the decedent dies a resident of another state, any county in which any property subject to tax is located.

(F) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 1, as amended.

Sec. 5731.05. (A) Except as provided in divisions (B) and (C) of this section, the value of the gross estate shall include the value of all property, to the extent of any interest in property, of which the decedent has at any time made a transfer, by trust or otherwise, in contemplation of ~~his~~ death.

(B) Any transfer, except as provided in division (C) of this section, by trust or otherwise, made within a period of three years ending with the date of the decedent's death shall be deemed to have been made in contemplation of death, unless the contrary is shown. No transfer made before that three-year period shall be treated as having been made in contemplation of death.

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

- (1) A bona fide sale for an adequate and full consideration in money or

money's worth;

(2) A transfer of property that would not be included in the decedent's gross estate if retained by ~~him~~ the decedent until death;

(3) The first ten thousand dollars of the transfers that were made by the decedent to each transferee, other than the spouse of the decedent, in each calendar year, but only to the extent that those transfers qualify as present interests under section 2503(b) and (c) of the "Internal Revenue Code of 1986," ~~26 U.S.C. 2503, as amended~~. The exclusion provided by division (C)(3) of this section does not apply to any portion of a transfer that is treated as being made by the spouse of the decedent under section 2513 of the "Internal Revenue Code of 1986," ~~26 U.S.C. 2513, as amended~~.

(4) A transfer of property made to the spouse of the transferor, except as provided in section 5731.131 of the Revised Code;

(5) Federal or state gift taxes paid with respect to any includible transfer.

~~(D) The amendments made to this section by Amended Substitute House Bill No. 111 and Substitute Senate Bill No. 336 of the 118th general assembly that are effective on July 1, 1993, shall apply only to the estates of decedents who die on or after that date.~~

Sec. 5731.131. ~~(A)~~ The value of the gross estate shall include the value of any property in which the decedent had an income interest for life as follows:

~~(1)~~(A) If a marital deduction was allowed with respect to the transfer of such property to the decedent under section 2523(f) of the "Internal Revenue Code of 1986," ~~26 U.S.C. 2523(f), as amended~~, in connection with the determination of the value of the taxable estate of the decedent's predeceasing spouse;

~~(2)~~(B) If the decedent's predeceasing spouse was not a resident of this state at the time of ~~his~~ death and if a marital deduction was allowed with respect to the transfer of such property to the decedent under section 2056(b)(7) of the "Internal Revenue Code of 1986," ~~26 U.S.C. 2056(b)(7), as amended~~, in connection with the determination of the value of the taxable estate of the decedent's predeceasing spouse;

~~(3)~~(C) If the decedent's predeceasing spouse died prior to July 1, 1993, and if a marital deduction was allowed with respect to the transfer of such property to the decedent under division (A)(1) of section 5731.15 of the Revised Code as it existed prior to July 1, 1993, in connection with the determination of the value of the taxable estate of the decedent's predeceasing spouse;

~~(4)~~(D) If a qualified terminable interest property deduction was allowed

with respect to the transfer of such property to the decedent under division (B) of section 5731.15 of the Revised Code, in connection with the determination of the value of the taxable estate of the decedent's predeceasing spouse.

~~(B) The amendments made to this section by Amended Substitute House Bill No. 111 and substitute Senate Bill No. 336 of the 118th general assembly that are effective on July 1, 1993, shall apply only to the estates of decedents who die on or after that date.~~

Sec. 5731.14. For purposes of the tax levied by section 5731.02 of the Revised Code, the value of the taxable estate shall be determined by deducting from the value of the gross estate deductions provided for in sections 5731.15 to 5731.17 ~~and 5731.20~~ of the Revised Code.

Sec. 5731.18. (A) In addition to the tax levied by section 5731.02 of the Revised Code, a tax is hereby levied upon the transfer of the estate of every person dying on or after July 1, 1968, who, at the time of ~~his~~ death was a resident of this state, in an amount equal to the maximum credit allowable by subtitle B, ~~chapter~~ Chapter 11 of the Internal Revenue Code ~~of 1954, 26 U.S.C. 2011, as amended,~~ for any taxes paid to any state.

(B) The tax levied on any estate under this section shall be credited with the amount of the tax levied under section 5731.02 of the Revised Code and with the amount of any estate, inheritance, legacy, or succession taxes actually paid to any state or territory of the United States or to the District of Columbia on any property included in the decedent's gross estate for federal estate tax purposes.

(C) The additional tax levied under this section shall be administered, collected, and paid as provided in section 5731.24 of the Revised Code.

Sec. 5731.181. (A) For purposes of this section, "generation-skipping transfer," "taxable distribution," and "taxable termination" have the same meaning as in Chapter 13 of subtitle B of the Internal Revenue Code ~~of 1986, 100 Stat. 2718, 26 U.S.C. 2601-2624, as amended.~~

(B) A tax is hereby levied upon every generation-skipping transfer of property having a situs in this state, that occurs at the same time as, and as a result of, the death of an individual, in an amount equal to the credit allowed by Chapter 13 of subtitle B of the Internal Revenue Code ~~of 1986, 100 Stat. 2718, 26 U.S.C. 2601-2624, as amended,~~ for any taxes paid to any state in respect of any property included in the generation-skipping transfer.

For purposes of this division, "property having a situs in this state" includes all the following:

- (1) Real property situated in this state;
- (2) Tangible personal property having an actual situs in this state;

(3) Intangible personal property employed in carrying on a business in this state;

(4) Intangible personal property owned by a trust, the trustee of which resides in or has its principal place of business in this state, or, if there is more than one trustee of the trust, the principal place of administration of which is in this state.

(C) The return with respect to the generation-skipping tax levied by division (B) of this section shall be filed in the form that the tax commissioner shall prescribe, on or before the day prescribed by law, including extensions, for filing the generation-skipping transfer tax return under Chapter 13 of subtitle B of the Internal Revenue Code of 1986, 100 Stat. 2718, 26 U.S.C. 2601-2624, as amended, for the same generation-skipping transfer. The return shall be filed by the distributee in the case of a taxable distribution and by the trustee in the case of a taxable termination.

(D) The generation-skipping tax levied by division (B) of this section shall be paid, without notice or demand by the tax commissioner, with the return, and shall be charged, collected, and administered in the same manner as estate taxes levied by this chapter. This chapter is generally applicable to, except to the extent it is inconsistent with the nature of, the generation-skipping tax.

(E) If another state levies a generation-skipping tax on a transfer described in division (B) of this section, the tax commissioner may enter into a compromise of the generation-skipping tax levied by division (B) of this section in the manner provided in section 5731.35 of the Revised Code, except that no approval of any probate court is required. If such a compromise agreement is made, no interest and penalties shall accrue for the period prior to the execution of the agreement and for sixty days after its execution.

Sec. 5731.22. (A) If the executor, administrator, or other person required to file a return fails to file the return required by this chapter or to pay the tax due under this chapter on or before the date prescribed therefor, determined with regard to any extension of time for filing or payment, ~~unless it is shown that such failure is due to reasonable cause and not due to willful neglect~~, there shall be added to the amount of tax as finally determined a penalty ~~determined by the tax commissioner~~, in the amount of ~~five ten~~ per cent of the amount of that tax ~~if the failure is not for more than one month, or, if the failure is for more than one month, in the amount of five per cent of the amount of that tax plus an additional five per cent for each additional month or fraction of a month during which the failure~~

~~continues, not exceeding twenty five per cent in the aggregate. If, due to fraud, there is a failure to file the return or an underpayment of tax due under this chapter, there shall be added to the amount of tax as finally determined a penalty determined by the tax commissioner, in an amount not to exceed ten thousand dollars the tax due and unpaid. The penalties penalty imposed by this section shall be collected at the same time and in the same manner as the tax itself.~~

The ~~penalties~~ penalty shall be charged against the executor, administrator, or other person having custody or control of any property the transfer of which is subject to estate tax, and such executor, administrator, or other person is personally liable for the ~~penalties~~. ~~Such penalties penalty.~~ The penalty shall be divided in the same manner prescribed for the division of the tax in sections 5731.50 and 5731.51 of the Revised Code.

(B) The county auditor, upon consultation with the county treasurer, shall remit a penalty imposed under this section on a person if that person applies for remission and shows that the failure to file the return or to pay the tax due under this chapter on or before the date prescribed for such filing or payment, determined with regard to any extension, was due to reasonable cause and not willful neglect. The county auditor shall notify the applicant of the remission decision by mail. If the county auditor denies the applicant's application for remission, the applicant, within sixty days after the notice of the county auditor's decision is mailed, may apply to the tax commissioner for review of the county auditor's decision. The application may be filed in person or by certified mail. If the application is filed by certified mail, the date of the United States postmark placed on the sender's receipt by the postal service shall be treated as the date of filing. The tax commissioner shall consider the application, determine whether the penalty should be remitted, and certify the determination to the applicant, the county auditor, and the county treasurer. The county auditor and county treasurer shall make any settlement, and the county treasurer shall correct the accounts required to be kept under section 5731.46 of the Revised Code, as necessitated by the tax commissioner's determination. The applicant may file an exception to the tax commissioner's determination with the probate court as provided under section 5731.30 of the Revised Code.

The tax commissioner may issue orders and instructions for the uniform implementation of this division by the county auditors and county treasurers of all counties, and such officers shall follow such orders and instructions.

Sec. 5731.23. Subject to division (A) of section 5731.25 of the Revised Code or any other statute extending the time for payment of an estate tax, the tax levied by section 5731.02 and division (A) of section 5731.19 of the

Revised Code shall, without notice or demand by the tax commissioner, be due and payable by the person liable for it, at the expiration of nine months from the date of the decedent's death, to the treasurer of the county. If any amount of tax levied by section 5731.02 or division (A) of section 5731.19 of the Revised Code is not paid on or before nine months from the date of the decedent's death, interest on such amount shall be paid for the period from such date to the date paid, computed at the ~~rate per annum prescribed by federal short-term rate determined by the tax commissioner under~~ section 5703.47 of the Revised Code. Interest at the same rate shall be paid on any amount of tax determined to be due by way of deficiency from nine months from the date of the decedent's death to the date of payment thereof. Such interest shall be charged and collected in the same manner as the tax.

Interest computed at the ~~rate per annum prescribed by federal short-term rate determined by the tax commissioner under~~ section 5703.47 of the Revised Code shall be allowed and paid upon any overpayment of tax levied by section 5731.02 or division (A) of section 5731.19 of the Revised Code from nine months from the date of the decedent's death or the date of payment of the tax, whichever is later, to the date such overpayment is repaid. ~~Such payment may be made upon an estimated basis whether or not a return is filed, and shall be charged and collected in the same manner as provided in section 5731.21 of the Revised Code.~~

At any time after nine months from the date of the decedent's death, payment of an estimated deficiency may be made and shall be credited against any deficiency of tax finally determined. Interest on any deficiency ultimately determined to be due shall be charged only upon the unpaid portion thereof.

Sec. 5731.39. (A) No corporation organized or existing under the laws of this state shall transfer on its books or issue a new certificate for any share of its capital stock registered in the name of a decedent, or in trust for a decedent, or in the name of a decedent and another person or persons, without the written consent of the tax commissioner.

(B) No safe deposit company, trust company, financial institution as defined in division (A) of section 5725.01 of the Revised Code or other corporation or person, having in possession, control, or custody a deposit standing in the name of a decedent, or in trust for a decedent, or in the name of a decedent and another person or persons, shall deliver or transfer an amount in excess of three-fourths of the total value of such deposit, including accrued interest and dividends, as of the date of decedent's death, without the written consent of the tax commissioner. The written consent of the tax commissioner need not be obtained prior to the delivery or transfer

of amounts having a value of three-fourths or less of said total value.

(C) No life insurance company shall pay the proceeds of an annuity or matured endowment contract, or of a life insurance contract payable to the estate of a decedent, or of any other insurance contract taxable under Chapter 5731. of the Revised Code, without the written consent of the tax commissioner. Any life insurance company may pay the proceeds of any insurance contract not specified in this division (C) without the written consent of the tax commissioner.

(D) No trust company or other corporation or person shall pay the proceeds of any death benefit, retirement, pension or profit sharing plan in excess of two thousand dollars, without the written consent of the tax commissioner. Such trust company or other corporation or person, however, may pay the proceeds of any death benefit, retirement, pension, or profit-sharing plan which consists of insurance on the life of the decedent payable to a beneficiary other than the estate of the insured without the written consent of the tax commissioner.

(E) No safe deposit company, trust company, financial institution as defined in division (A) of section 5725.01 of the Revised Code, or other corporation or person, having in possession, control, or custody securities, assets, or other property (including the shares of the capital stock of, or other interest in, such safe deposit company, trust company, financial institution as defined in division (A) of section 5725.01 of the Revised Code, or other corporation), standing in the name of a decedent, or in trust for a decedent, or in the name of a decedent and another person or persons, and the transfer of which is taxable under Chapter 5731. of the Revised Code, shall deliver or transfer any such securities, assets, or other property which have a value as of the date of decedent's death in excess of three-fourths of the total value thereof, without the written consent of the tax commissioner. The written consent of the tax commissioner need not be obtained prior to the delivery or transfer of any such securities, assets, or other property having a value of three-fourths or less of said total value.

(F) No safe deposit company, financial institution as defined in division (A) of section 5725.01 of the Revised Code, or other corporation or person having possession or control of a safe deposit box or similar receptacle standing in the name of a decedent or in the name of the decedent and another person or persons, or to which the decedent had a right of access, except when such safe deposit box or other receptacle stands in the name of a corporation or partnership, or in the name of the decedent as guardian or executor, shall deliver any of the contents thereof unless the safe deposit box or similar receptacle has been opened and inventoried in the presence of the



tax commissioner or the commissioner's agent, and a written consent to transfer issued; provided, however, that a safe deposit company, financial institution, or other corporation or person having possession or control of a safe deposit box may deliver wills, deeds to burial lots, and insurance policies to a representative of the decedent, but that a representative of the safe deposit company, financial institution, or other corporation or person must supervise the opening of the box and make a written record of the wills, deeds, and policies removed. Such written record shall be included in the tax commissioner's inventory records.

(G) Notwithstanding any provision of this section:

(1) The tax commissioner may authorize any delivery or transfer or waive any of the foregoing requirements under such terms and conditions as the commissioner may prescribe;

(2) An adult care facility, as defined in section 3722.01 of the Revised Code, or a home, as defined in section 3721.10 of the Revised Code, may transfer or use the money in a personal needs allowance account in accordance with section ~~5111.112~~ 5111.113 of the Revised Code without the written consent of the tax commissioner, and without the account having been opened and inventoried in the presence of the commissioner or the commissioner's agent.

Failure to comply with this section shall render such safe deposit company, trust company, life insurance company, financial institution as defined in division (A) of section 5725.01 of the Revised Code, or other corporation or person liable for the amount of the taxes and interest due under the provisions of Chapter 5731. of the Revised Code on the transfer of such stock, deposit, proceeds of an annuity or matured endowment contract or of a life insurance contract payable to the estate of a decedent, or other insurance contract taxable under Chapter 5731. of the Revised Code, proceeds of any death benefit, retirement, pension, or profit sharing plan in excess of two thousand dollars, or securities, assets, or other property of any resident decedent, and in addition thereto, to a penalty of not less than five hundred or more than five thousand dollars.

Sec. 5731.41. To enforce section 5731.39 of the Revised Code, and to administer Chapters 5713. and 4503. of the Revised Code the tax commissioner may appoint agents in the unclassified civil service who shall perform such duties as are prescribed by the commissioner. Such agents shall, as compensation, receive annually eight cents per capita for each full one thousand of the first twenty thousand of the population of the county and two cents per capita for each full one thousand over twenty thousand of the population of the county, as shown by the last federal census, which

shall be paid in equal monthly installments from the undivided inheritance or estate tax in the county treasury on the warrant of the county auditor or from the county real estate assessment fund pursuant to division (B)(6) of section 325.31 of the Revised Code, any other provision of law to the contrary notwithstanding. The amount paid to any agent in the unclassified service for all of the duties performed ~~in estate tax matters~~ under this section, as directed by the commissioner, shall not exceed three thousand nor be less than twelve hundred dollars in any calendar year.

Sec. 5733.01. (A) The tax provided by this chapter for domestic corporations shall be the amount charged against each corporation organized for profit under the laws of this state and each nonprofit corporation organized pursuant to Chapter 1729. of the Revised Code, except as provided in sections 5733.09 and 5733.10 of the Revised Code, for the privilege of exercising its franchise during the calendar year in which that amount is payable, and the tax provided by this chapter for foreign corporations shall be the amount charged against each corporation organized for profit and each nonprofit corporation organized or operating in the same or similar manner as nonprofit corporations organized under Chapter 1729. of the Revised Code, under the laws of any state or country other than this state, except as provided in sections 5733.09 and 5733.10 of the Revised Code, for the privilege of doing business in this state, owning or using a part or all of its capital or property in this state, holding a certificate of compliance with the laws of this state authorizing it to do business in this state, or otherwise having nexus in or with this state under the Constitution of the United States, during the calendar year in which that amount is payable.

(B) A corporation is subject to the tax imposed by section 5733.06 of the Revised Code for each calendar year that it is so organized, doing business, owning or using a part or all of its capital or property, holding a certificate of compliance, or otherwise having nexus in or with this state under the Constitution of the United States, on the first day of January of that calendar year.

(C) Any corporation subject to this chapter that is not subject to the federal income tax shall file its returns and compute its tax liability as required by this chapter in the same manner as if that corporation were subject to the federal income tax.

(D) For purposes of this chapter, a federally chartered financial institution shall be deemed to be organized under the laws of the state within which its principal office is located.

(E) ~~Any~~ For purposes of this chapter, any person, as defined in section

5701.01 of the Revised Code, shall be treated as a corporation ~~for purposes of this chapter~~ if the person is classified for federal income tax purposes as an association taxable as a corporation, and an equity interest in the person shall be treated as capital stock of the person.

(F) For the purposes of this chapter, "disregarded entity" has the same meaning as in division (D) of section 5745.01 of the Revised Code.

(1) A person's interest in a disregarded entity, whether held directly or indirectly, shall be treated as the person's ownership of the assets and liabilities of the disregarded entity, and the income, including gain or loss, shall be included in the person's net income under this chapter.

(2) Any sale, exchange, or other disposition of the person's interest in the disregarded entity, whether held directly or indirectly, shall be treated as a sale, exchange, or other disposition of the person's share of the disregarded entity's underlying assets or liabilities, and the gain or loss from such sale, exchange, or disposition shall be included in the person's net income under this chapter.

(3) The disregarded entity's payroll, property, and sales factors shall be included in the person's factors.

(G) The tax a corporation is required to pay under this chapter shall be as follows:

(1)(a) For financial institutions, the greater of the minimum payment required under division (E) of section 5733.06 of the Revised Code or the difference between all taxes charged the financial institution under this chapter, without regard to division (G)(2) of this section, less any credits allowable against such tax.

(b) A corporation satisfying the description in division (E)(5), (6), (7), (8), or (10) of section 5751.01 of the Revised Code that is not a financial institution, insurance company, or dealer in intangibles is subject to the taxes imposed under this chapter as a corporation and not subject to tax as a financial institution, and shall pay the greater of the minimum payment required under division (E) of section 5733.06 of the Revised Code or the difference between all the taxes charged under this chapter, without regard to division (G)(2) of this section, less any credits allowable against such tax.

(2) For all corporations other than those persons described in division (G)(1)(a) or (b) of this section, the amount under division (G)(2)(a) of this section applicable to the tax year specified less the amount under division (G)(2)(b) of this section:

(a)(i) For tax year 2005, the greater of the minimum payment required under division (E) of section 5733.06 of the Revised Code or the difference between all taxes charged the corporation under this chapter and any credits

allowable against such tax:

(ii) For tax year 2006, the greater of the minimum payment required under division (E) of section 5733.06 of the Revised Code or four-fifths of the difference between all taxes charged the corporation under this chapter and any credits allowable against such tax except the qualifying pass-through entity tax credit described in division (A)(30) and the refundable credits described in divisions (A)(31), (32), and (33) of section 5733.98 of the Revised Code;

(iii) For tax year 2007, the greater of the minimum payment required under division (E) of section 5733.06 of the Revised Code or three-fifths of the difference between all taxes charged the corporation under this chapter and any credits allowable against such tax except the qualifying pass-through entity tax credit described in division (A)(30) and the refundable credits described in divisions (A)(31), (32), and (33) of section 5733.98 of the Revised Code;

(iv) For tax year 2008, the greater of the minimum payment required under division (E) of section 5733.06 of the Revised Code or two-fifths of the difference between all taxes charged the corporation under this chapter and any credits allowable against such tax except the qualifying pass-through entity tax credit described in division (A)(30) and the refundable credits described in divisions (A)(31), (32), and (33) of section 5733.98 of the Revised Code;

(v) For tax year 2009, the greater of the minimum payment required under division (E) of section 5733.06 of the Revised Code or one-fifth of the difference between all taxes charged the corporation under this chapter and any credits allowable against such tax except the qualifying pass-through entity tax credit described in division (A)(30) and the refundable credits described in divisions (A)(31), (32), and (33) of section 5733.98 of the Revised Code;

(vi) For tax year 2010 and each tax year thereafter, no tax.

(b) A corporation shall subtract from the amount calculated under division (G)(2)(a)(ii), (iii), (iv), or (v) of this section any qualifying pass-through entity tax credit described in division (A)(30) and any refundable credits described in divisions (A)(31), (32), and (33) of section 5733.98 of the Revised Code to which the corporation is entitled. Any unused qualifying pass-through entity tax credit is not refundable.

(c) For the purposes of computing the amount of a credit that may be carried forward to a subsequent tax year under division (G)(2) of this section, a credit is utilized against the tax for a tax year to the extent the credit applies against the tax for that tax year, even if the difference is then

multiplied by the applicable fraction under division (G)(2)(a) of this section.

(3) Nothing in division (G) of this section eliminates or reduces the tax imposed by section 5733.41 of the Revised Code on a qualifying pass-through entity.

Sec. 5733.065. (A) As used in this section, "litter stream products" means:

(1) Intoxicating liquor, beer, wine, mixed beverages, or spirituous liquor as defined in section 4301.01 of the Revised Code;

(2) Soft drinks as defined in section 913.22 of the Revised Code;

(3) Glass, metal, plastic, or fiber containers with a capacity of less than two gallons sold for the purpose of being incorporated into or becoming a part of a product enumerated in divisions (A)(1) and (2) of this section;

(4) Container crowns and closures sold for the purpose of being incorporated into or becoming a part of a product enumerated in divisions (A)(1) and (2) of this section;

(5) Packaging materials transferred or intended for transfer of use or possession in conjunction with retail sales of products enumerated in divisions (A)(1) and (2) of this section;

(6) Packaging materials in the finished form in which they are to be used, including sacks, bags, cups, lids, straws, plates, wrappings, boxes, or containers of any type used in the packaging or serving of food or beverages, when the food or beverages are prepared for human consumption by a restaurant or take-out food outlet at the premises where sold at retail and are delivered to a purchaser for consumption off the premises where the food or beverages are sold;

(7) Cigarettes, cigars, tobacco, matches, candy, and gum.

(B) For the purpose of providing additional funding for ~~the division of recycling and litter prevention under Chapter 1502. of the Revised Code,~~ there is hereby levied an additional tax on corporations for the privilege of manufacturing or selling litter stream products in this state. The tax imposed by this section is in addition to the tax charged under section 5733.06 of the Revised Code, computed at the rate prescribed by section 5733.066 of the Revised Code. ~~This section does not apply for tax year 1981 to a corporation whose taxable year for tax year 1981 ended on or before June 30, 1980.~~

(C) The tax shall be imposed upon each corporation subject to the tax imposed by section 5733.06 of the Revised Code that manufactures or sells litter stream products in this state. The tax for each year shall be in an amount equal to the greater of either:

(1) Twenty-two hundredths of one per cent upon the value of that portion of the taxpayer's issued and outstanding shares of stock as

determined under division (B) of section 5733.05 of the Revised Code that is subject to the rate contained in division (B) of section 5733.06 of the Revised Code;

(2) Fourteen one-hundredths of a mill times the value of the taxpayer's issued and outstanding shares of stock as determined under division (C) of section 5733.05 of the Revised Code.

The additional tax charged any taxpayer or group of combined taxpayers pursuant to this section for any tax year shall not exceed five thousand dollars.

(D)(1) In the case of a corporation engaged in the business of manufacturing litter stream products, no tax shall be due under this section unless the sale of litter stream products in this state during the taxable year exceeds five per cent of the total sales in this state of the corporation during that period or unless the total sales in this state of litter stream products by the corporation during the taxable year exceed ten million dollars.

(2) In the case of a corporation engaged in the business of selling litter stream products in the form in which the item is or is to be received, no tax shall be due under this section unless the corporation's sales of litter stream products in this state during the taxable year constitute more than five per cent of its total sales in this state during that period.

(3) In the case of a corporation transferring possession of litter stream products included in division (A)(6) of this section, in which food or beverages prepared for human consumption are placed, when the food or beverages are prepared for retail sale at the premises where sold and are delivered to a purchaser for consumption off the premises where the food or beverages are sold, no tax shall be due under this section unless such sales for off-premises consumption during the taxable year exceed five per cent of the corporation's total annual sales during the taxable year.

(E)(1) The tax imposed by this section is due in the proportions and on the dates on which the tax imposed by section 5733.06 of the Revised Code may be paid without penalty.

(2) Payment of the tax and any reports or returns required to enable the tax commissioner to determine the correct amount of the tax shall be submitted with and are due at the same time as payments and reports required to be submitted under this chapter.

(3) If the tax is not paid in full on or before the date required by division (E)(1) of this section, the unpaid portion of the tax due and unpaid shall be subject to all provisions of this chapter for the collection of unpaid, delinquent taxes imposed by section 5733.06 of the Revised Code, except that all such taxes, interest, and penalties, when collected, shall be treated as

proceeds arising from the tax imposed by this section and shall be deposited in the general revenue fund.

The tax levied on corporations under this section does not prohibit or otherwise limit the authority of municipal corporations to impose an income tax on the income of such corporations.

Sec. 5733.066. There shall be added to the rates contained in section 5733.06 of the Revised Code the following:

(A) To the rate in division (A) of that section upon that portion of the value of the taxpayer's issued and outstanding shares of stock as determined under division (B) of section 5733.05 of the Revised Code that is subject to such rate, an additional eleven-hundredths per cent upon that value to provide funding for ~~the division of recycling and litter prevention under Chapter 1502. of the Revised Code;~~

(B) To the rate in division (B) of that section upon that portion of the value so determined that is subject to that rate, an additional twenty-two-hundredths per cent upon that value to provide funding for ~~the division recycling and litter prevention under Chapter 1502. of the Revised Code;~~

(C) To the rate in division (C) of that section times that portion of the value of the taxpayer's issued and outstanding shares of stock as determined under division (C) of section 5733.05 of the Revised Code, an additional fourteen one-hundredths mills times that value to provide funding for ~~the division of recycling and litter prevention under Chapter 1502. of the Revised Code.~~

The additional tax charged any taxpayer or group of combined taxpayers pursuant to this section for any tax year shall not exceed five thousand dollars.

This section does not apply to any family farm corporation as defined in section 4123.01 of the Revised Code.

The tax levied on corporations under this section does not prohibit or otherwise limit the authority of municipal corporations to impose an income tax on the income of such corporations.

Sec. 5733.33. (A) As used in this section:

(1) "Manufacturing machinery and equipment" means engines and machinery, and tools and implements, of every kind used, or designed to be used, in refining and manufacturing. "Manufacturing machinery and equipment" does not include property acquired after December 31, 1999, that is used:

(a) For the transmission and distribution of electricity;

(b) For the generation of electricity, if fifty per cent or more of the

electricity that the property generates is consumed, during the one-hundred-twenty-month period commencing with the date the property is placed in service, by persons that are not related members to the person who generates the electricity.

(2) "New manufacturing machinery and equipment" means manufacturing machinery and equipment, the original use in this state of which commences with the taxpayer or with a partnership of which the taxpayer is a partner. "New manufacturing machinery and equipment" does not include property acquired after December 31, 1999, that is used:

(a) For the transmission and distribution of electricity;

(b) For the generation of electricity, if fifty per cent or more of the electricity that the property generates is consumed, during the one-hundred-twenty-month period commencing with the date the property is placed in service, by persons that are not related members to the person who generates the electricity.

(3)(a) "Purchase" has the same meaning as in section 179(d)(2) of the Internal Revenue Code.

(b) For purposes of this section, any property that is not manufactured or assembled primarily by the taxpayer is considered purchased at the time the agreement to acquire the property becomes binding. Any property that is manufactured or assembled primarily by the taxpayer is considered purchased at the time the taxpayer places the property in service in the county for which the taxpayer will calculate the county excess amount.

(c) Notwithstanding section 179(d) of the Internal Revenue Code, a taxpayer's direct or indirect acquisition of new manufacturing machinery and equipment is not purchased on or after July 1, 1995, if the taxpayer, or a person whose relationship to the taxpayer is described in subparagraphs (A), (B), or (C) of section 179(d)(2) of the Internal Revenue Code, had directly or indirectly entered into a binding agreement to acquire the property at any time prior to July 1, 1995.

(4) "Qualifying period" means the period that begins July 1, 1995, and ends ~~December 31, 2015~~ June 30, 2005.

(5) "County average new manufacturing machinery and equipment investment" means either of the following:

(a) The average annual cost of new manufacturing machinery and equipment purchased for use in the county during baseline years, in the case of a taxpayer that was in existence for more than one year during baseline years.

(b) Zero, in the case of a taxpayer that was not in existence for more than one year during baseline years.



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

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

(8) "Distressed area" means either a municipal corporation that has a population of at least fifty thousand or a county that meets two of the following criteria of economic distress, or a municipal corporation the majority of the population of which is situated in such a county:

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

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

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

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

(9) "Eligible area" means a distressed area, a labor surplus area, an inner city area, or a situational distress area.

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

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

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

(13) "Situational distress area" means a county or a municipal corporation that has experienced or is experiencing a closing or downsizing

of a major employer, that will adversely affect the county's or municipal corporation's economy. In order to be designated as a situational distress area for a period not to exceed thirty-six months, the county or municipal corporation may petition the director of development. The petition shall include written documentation that demonstrates all of the following adverse effects on the local economy:

- (a) The number of jobs lost by the closing or downsizing;
- (b) The impact that the job loss has on the county's or municipal corporation's unemployment rate as measured by the state director of job and family services;
- (c) The annual payroll associated with the job loss;
- (d) The amount of state and local taxes associated with the job loss;
- (e) The impact that the closing or downsizing has on the suppliers located in the county or municipal corporation.

(14) "Cost" has the same meaning and limitation as in section 179(d)(3) of the Internal Revenue Code.

(15) "Baseline years" means:

(a) Calendar years 1992, 1993, and 1994, with regard to a credit claimed for the purchase during calendar year 1995, 1996, 1997, or 1998 of new manufacturing machinery and equipment;

(b) Calendar years 1993, 1994, and 1995, with regard to a credit claimed for the purchase during calendar year 1999 of new manufacturing machinery and equipment;

(c) Calendar years 1994, 1995, and 1996, with regard to a credit claimed for the purchase during calendar year 2000 of new manufacturing machinery and equipment;

(d) Calendar years 1995, 1996, and 1997, with regard to a credit claimed for the purchase during calendar year 2001 of new manufacturing machinery and equipment;

(e) Calendar years 1996, 1997, and 1998, with regard to a credit claimed for the purchase during calendar year 2002 of new manufacturing machinery and equipment;

(f) Calendar years 1997, 1998, and 1999, with regard to a credit claimed for the purchase during calendar year 2003 of new manufacturing machinery and equipment;

(g) Calendar years 1998, 1999, and 2000, with regard to a credit claimed for the purchase during calendar year 2004 of new manufacturing machinery and equipment;

(h) Calendar years 1999, 2000, and 2001, with regard to a credit claimed for the purchase ~~during calendar year 2005~~ on or after January 1, 2005, and

on or before June 30, 2005, of new manufacturing machinery and equipment;

~~(i) Calendar years 2000, 2001, and 2002, with regard to a credit claimed for the purchase during calendar year 2006 of new manufacturing machinery and equipment;~~

~~(j) Calendar years 2001, 2002, and 2003, with regard to a credit claimed for the purchase during calendar year 2007 of new manufacturing machinery and equipment;~~

~~(k) Calendar years 2002, 2003, and 2004, with regard to a credit claimed for the purchase during calendar year 2008 of new manufacturing machinery and equipment;~~

~~(l) Calendar years 2003, 2004, and 2005, with regard to a credit claimed for the purchase during calendar year 2009 of new manufacturing machinery and equipment;~~

~~(m) Calendar years 2004, 2005, and 2006, with regard to a credit claimed for the purchase during calendar year 2010 of new manufacturing machinery and equipment;~~

~~(n) Calendar years 2005, 2006, and 2007, with regard to a credit claimed for the purchase during calendar year 2011 of new manufacturing machinery and equipment;~~

~~(o) Calendar years 2006, 2007, and 2008, with regard to a credit claimed for the purchase during calendar year 2012 of new manufacturing machinery and equipment;~~

~~(p) Calendar years 2007, 2008, and 2009, with regard to a credit claimed for the purchase during calendar year 2013 of new manufacturing machinery and equipment;~~

~~(q) Calendar years 2008, 2009, and 2010, with regard to a credit claimed for the purchase during calendar year 2014 of new manufacturing machinery and equipment;~~

~~(r) Calendar years 2009, 2010, and 2011, with regard to a credit claimed for the purchase during calendar year 2015 of new manufacturing machinery and equipment.~~

(16) "Related member" has the same meaning as in section 5733.042 of the Revised Code.

(B)(1) Subject to division (I) of this section, a nonrefundable credit is allowed against the tax imposed by section 5733.06 of the Revised Code for a taxpayer that purchases new manufacturing machinery and equipment during the qualifying period, provided that the new manufacturing machinery and equipment are installed in this state no later than ~~December 31, 2016~~ June 30, 2006. No credit shall be allowed under this section or

section 5747.31 of the Revised Code for taxable years ending on or after July 1, 2005. The elimination of the credit for those taxable years includes the elimination of any remaining one-sevenths of credit amounts for which a portion was allowed for prior taxable years and the elimination of any credit carry-forward, but the purchases on which the credits were based remain subject to grants under section 122.173 of the Revised Code for those remaining one-seventh amounts or carry-forward amounts.

(2)(a) Except as otherwise provided in division (B)(2)(b) of this section, a credit may be claimed under this section in excess of one million dollars only if the cost of all manufacturing machinery and equipment owned in this state by the taxpayer claiming the credit on the last day of the calendar year exceeds the cost of all manufacturing machinery and equipment owned in this state by the taxpayer on the first day of that calendar year.

As used in division (B)(2)(a) of this section, "calendar year" means the calendar year in which the machinery and equipment for which the credit is claimed was purchased.

(b) Division (B)(2)(a) of this section does not apply if the taxpayer claiming the credit applies for and is issued a waiver of the requirement of that division. A taxpayer may apply to the director of development for such a waiver in the manner prescribed by the director, and the director may issue such a waiver if the director determines that granting the credit is necessary to increase or retain employees in this state, and that the credit has not caused relocation of manufacturing machinery and equipment among counties within this state for the primary purpose of qualifying for the credit.

(C)(1) Except as otherwise provided in division (C)(2) and division (I) of this section, the credit amount is equal to seven and one-half per cent of the excess of the cost of the new manufacturing machinery and equipment purchased during the calendar year for use in a county over the county average new manufacturing machinery and equipment investment for that county.

(2) Subject to division (I) of this section, as used in division (C)(2) of this section "county excess" means the taxpayer's excess cost for a county as computed under division (C)(1) of this section.

Subject to division (I) of this section, a taxpayer with a county excess, whose purchases included purchases for use in any eligible area in the county, the credit amount is equal to thirteen and one-half per cent of the cost of the new manufacturing machinery and equipment purchased during the calendar year for use in the eligible areas in the county, provided that the cost subject to the thirteen and one-half per cent rate shall not exceed the county excess. If the county excess is greater than the cost of the new

manufacturing machinery and equipment purchased during the calendar year for use in eligible areas in the county, the credit amount also shall include an amount equal to seven and one-half per cent of the amount of the difference.

(3) If a taxpayer is allowed a credit for purchases of new manufacturing machinery and equipment in more than one county or eligible area, it shall aggregate the amount of those credits each year.

(4) The taxpayer shall claim one-seventh of the credit amount for the tax year immediately following the calendar year in which the new manufacturing machinery and equipment is purchased for use in the county by the taxpayer or partnership. One-seventh of the taxpayer credit amount is allowed for each of the six ensuing tax years. Except for carried-forward amounts, the taxpayer is not allowed any credit amount remaining if the new manufacturing machinery and equipment is sold by the taxpayer or partnership or is transferred by the taxpayer or partnership out of the county before the end of the seven-year period unless, at the time of the sale or transfer, the new manufacturing machinery and equipment has been fully depreciated for federal income tax purposes.

(5)(a) A taxpayer that acquires manufacturing machinery and equipment as a result of a merger with the taxpayer with whom commenced the original use in this state of the manufacturing machinery and equipment, or with a taxpayer that was a partner in a partnership with whom commenced the original use in this state of the manufacturing machinery and equipment, is entitled to any remaining or carried-forward credit amounts to which the taxpayer was entitled.

(b) A taxpayer that enters into an agreement under division (C)(3) of section 5709.62 of the Revised Code and that acquires manufacturing machinery or equipment as a result of purchasing a large manufacturing facility, as defined in section 5709.61 of the Revised Code, from another taxpayer with whom commenced the original use in this state of the manufacturing machinery or equipment, and that operates the large manufacturing facility so purchased, is entitled to any remaining or carried-forward credit amounts to which the other taxpayer who sold the facility would have been entitled under this section had the other taxpayer not sold the manufacturing facility or equipment.

(c) New manufacturing machinery and equipment is not considered sold if a pass-through entity transfers to another pass-through entity substantially all of its assets as part of a plan of reorganization under which substantially all gain and loss is not recognized by the pass-through entity that is transferring the new manufacturing machinery and equipment to the transferee and under which the transferee's basis in the new manufacturing

machinery and equipment is determined, in whole or in part, by reference to the basis of the pass-through entity which transferred the new manufacturing machinery and equipment to the transferee.

(d) Division (C)(5) of this section shall apply only if the acquiring taxpayer or transferee does not sell the new manufacturing machinery and equipment or transfer the new manufacturing machinery and equipment out of the county before the end of the seven-year period to which division (C)(4) of this section refers.

(e) Division (C)(5)(b) of this section applies only to the extent that the taxpayer that sold the manufacturing machinery or equipment, upon request, timely provides to the tax commissioner any information that the tax commissioner considers to be necessary to ascertain any remaining or carried-forward amounts to which the taxpayer that sold the facility would have been entitled under this section had the taxpayer not sold the manufacturing machinery or equipment. Nothing in division (C)(5)(b) or (e) of this section shall be construed to allow a taxpayer to claim any credit amount with respect to the acquired manufacturing machinery or equipment that is greater than the amount that would have been available to the other taxpayer that sold the manufacturing machinery or equipment had the other taxpayer not sold the manufacturing machinery or equipment.

(D) The taxpayer shall claim the credit in the order required under section 5733.98 of the Revised Code. Each year, any credit amount in excess of the tax due under section 5733.06 of the Revised Code after allowing for any other credits that precede the credit under this section in that order may be carried forward for three tax years.

(E) A taxpayer purchasing new manufacturing machinery and equipment and intending to claim the credit shall file, with the department of development, a notice of intent to claim the credit on a form prescribed by the department of development. The department of development shall inform the tax commissioner of the notice of intent to claim the credit. No credit may be claimed under this section for any manufacturing machinery and equipment with respect to which a notice was not filed by the date of a timely filed return, including extensions, for the taxable year that includes September 30, 2005.

(F) The director of development shall annually certify, by the first day of January of each year during the qualifying period, the eligible areas for the tax credit for the calendar year that includes that first day of January. The director shall send a copy of the certification to the tax commissioner.

(G) New manufacturing machinery and equipment for which a taxpayer claims the credit under section 5733.31, 5733.311, 5747.26, or 5747.261 of

the Revised Code shall not be considered new manufacturing machinery and equipment for purposes of the credit under this section.

(H)(1) Notwithstanding sections 5733.11 and 5747.13 of the Revised Code, but subject to division (H)(2) of this section, the tax commissioner may issue an assessment against a person with respect to a credit claimed under this section for new manufacturing machinery and equipment described in division (A)(1)(b) or (2)(b) of this section, if the machinery or equipment subsequently does not qualify for the credit.

(2) Division (H)(1) of this section shall not apply after the twenty-fourth month following the last day of the period described in divisions (A)(1)(b) and (2)(b) of this section.

(I) Notwithstanding any other provision of this section to the contrary, in the case of a qualifying controlled group, the credit available under this section to a taxpayer or taxpayers in the qualifying controlled group shall be computed as if all corporations in the group were a single corporation. The credit shall be allocated to such a taxpayer or taxpayers in the group in any amount elected for the taxable year by the group. Such election shall be revocable and amendable during the period described in division (B) of section 5733.12 of the Revised Code.

This division applies to all purchases of new manufacturing machinery and equipment made on or after January 1, 2001, and to all baseline years used to compute any credit attributable to such purchases; provided, that this division may be applied solely at the election of the qualifying controlled group with respect to all purchases of new manufacturing machinery and equipment made before that date, and to all baseline years used to compute any credit attributable to such purchases. The qualifying controlled group at any time may elect to apply this division to purchases made prior to January 1, 2001, subject to the following:

(1) The election is irrevocable;

(2) The election need not accompany a timely filed report, but the election may accompany a subsequently filed but timely application for refund, a subsequently filed but timely amended report, or a subsequently filed but timely petition for reassessment.

Sec. 5733.351. (A) As used in this section, "qualified research expenses" has the same meaning as in section 41 of the Internal Revenue Code.

(B)(1) A nonrefundable credit is allowed against the tax imposed by section 5733.06 of the Revised Code for tax year 2002 for a taxpayer whose taxable year for tax year 2002 ended before July 1, 2001. The credit shall equal seven per cent of the excess of qualified research expenses incurred in

this state by the taxpayer between January 1, 2001, and the end of the taxable year, over the taxpayer's average annual qualified research expenses incurred in this state for the three preceding taxable years.

(2) A nonrefundable credit also is allowed against the tax imposed by section 5733.06 of the Revised Code for each tax year, commencing with tax year 2004, and in the case of a corporation subject to division (G)(2) of section 5733.01 of the Revised Code ending with tax year 2008. The credit shall equal seven per cent of the excess of qualified research expenses incurred in this state by the taxpayer for the taxable year over the taxpayer's average annual qualified research expenses incurred in this state for the three preceding taxable years.

(3) The taxpayer shall claim the credit allowed under division (B)(1) or (2) of this section in the order required by section 5733.98 of the Revised Code. Any credit amount in excess of the tax due under section 5733.06 of the Revised Code, after allowing for any other credits that precede the credit under this section in the order required under section 5733.98 of the Revised Code, may be carried forward for seven taxable years, but the amount of the excess credit allowed in any such year shall be deducted from the balance carried forward to the next year. A corporation subject to division (G)(2) of section 5733.01 of the Revised Code may carry forward any credit not fully utilized by tax year 2008 and apply it against the tax levied by Chapter 5751. of the Revised Code to the extent allowed under section 5751.51 of the Revised Code, provided that the total number of taxable years under this section and calendar years under Chapter 5751. of the Revised Code for which the credit is carried forward shall not exceed seven.

(C) In the case of a qualifying controlled group, the credit allowed under division (B)(1) or (2) of this section to taxpayers in the qualifying controlled group shall be computed as if all corporations in the qualifying controlled group were a consolidated, single taxpayer. The credit shall be allocated to such taxpayers in any amount elected for the taxable year by the qualifying controlled group. The election shall be revocable and amendable during the period prescribed by division (B) of section 5733.12 of the Revised Code.

Sec. 5733.352. (A) As used in this section:

(1) "Borrower" means any person that receives a loan from the director of development under section 166.21 of the Revised Code, regardless of whether the borrower is subject to the taxes imposed by sections 5733.06, 5733.065, and 5733.066 of the Revised Code.

(2) "Related member" has the same meaning as in section 5733.042 of the Revised Code.

(3) "Qualified research and development loan payments" has the same



meaning as in division (D) of section 166.21 of the Revised Code.

(B) Beginning ~~in~~ with tax year 2004, and in the case of a corporation subject to division (G)(2) of section 5733.01 of the Revised Code ending with tax year 2008, a nonrefundable credit is allowed against the taxes imposed by sections 5733.06, 5733.065, and 5733.066 of the Revised Code equal to a borrower's qualified research and development loan payments made during the calendar year immediately preceding the tax year for which the credit is claimed. The amount of the credit for a tax year shall not exceed one hundred fifty thousand dollars. No taxpayer is entitled to claim a credit under this section unless it has obtained a certificate issued by the director of development under division (D) of section 166.21 of the Revised Code. The credit shall be claimed in the order required under section 5733.98 of the Revised Code. The credit, to the extent it exceeds the taxpayer's tax liability for the tax year after allowance for any other credits that precede the credit under this section in that order, shall be carried forward to the next succeeding tax year or years until fully used. A corporation subject to division (G)(2) of section 5733.01 of the Revised Code may carry forward any credit not fully utilized by tax year 2008 and apply it against the tax levied by Chapter 5751. of the Revised Code to the extent allowed under section 5751.52 of the Revised Code.

(C) A borrower entitled to a credit under this section may assign the credit, or a portion thereof, to any of the following:

- (1) A related member of that borrower;
- (2) The owner or lessee of the eligible research and development project;
- (3) A related member of the owner or lessee of the eligible research and development project.

A borrower making an assignment under this division shall provide written notice of the assignment to the tax commissioner and the director of development, in such form as the tax commissioner prescribes, before the credit that was assigned is used. The assignor may not claim the credit to the extent it was assigned to an assignee. The assignee may claim the credit only to the extent the assignor has not claimed it.

(D) If any taxpayer is a partner in a partnership or a member in a limited liability company treated as a partnership for federal income tax purposes, the taxpayer shall be allowed the taxpayer's distributive or proportionate share of the credit available through the partnership or limited liability company.

(E) The aggregate credit against the taxes imposed by sections 5733.06, 5733.065, 5733.066, and 5747.02 of the Revised Code that may be claimed

under this section and section 5747.331 of the Revised Code by a borrower as a result of qualified research and development loan payments attributable during a calendar year to any one loan shall not exceed one hundred fifty thousand dollars.

Sec. 5733.40. As used in sections 5733.40 and 5733.41 and Chapter 5747. of the Revised Code:

(A)(1) "Adjusted qualifying amount" means either of the following:

(a) The sum of a each qualifying investor's distributive share of the income, gain, expense, or loss of a qualifying pass-through entity for the qualifying taxable year of the qualifying pass-through entity multiplied by the apportionment fraction defined in division (B) of this section, subject to section 5733.401 of the Revised Code and divisions (A)(2) to (7) of this section;

(b) The sum of a each qualifying beneficiary's share of the qualifying net income and qualifying net gain distributed by a qualifying trust for the qualifying taxable year of the qualifying trust multiplied by the apportionment fraction defined in division (B) of this section, subject to section 5733.401 of the Revised Code and divisions (A)(2) to ~~(6)~~(7) of this section.

(2) The sum shall exclude any amount which, pursuant to the Constitution of the United States, the Constitution of Ohio, or any federal law is not subject to a tax on or measured by net income.

(3) ~~The sum shall be increased by~~ For the purposes of Chapters 5733. and 5747. of the Revised Code, the profit or net income of the qualifying entity shall be increased by disallowing all amounts representing expenses, other than amounts described in division (A)(7) of this section, that the qualifying entity paid to or incurred with respect to direct or indirect transactions with one or more related members, excluding the cost of goods sold calculated in accordance with section 263A of the Internal Revenue Code and United States department of the treasury regulations issued thereunder. Nothing in division (A)(3) of this section shall be construed to limit solely to this chapter the application of section 263A of the Internal Revenue Code and United States department of the treasury regulations issued thereunder.

(4) ~~The sum shall be increased by~~ For the purposes of Chapters 5733. and 5747. of the Revised Code, the profit or net income of the qualifying entity shall be increased by disallowing all recognized losses, other than losses from sales of inventory the cost of which is calculated in accordance with section 263A of the Internal Revenue Code and United States department of the treasury regulations issued thereunder, with respect to all

direct or indirect transactions with one or more related members. ~~Losses~~ For the purposes of Chapters 5733. and 5747. of the Revised Code, losses from the sales of such inventory shall be allowed only to the extent calculated in accordance with section 482 of the Internal Revenue Code and United States department of the treasury regulations issued thereunder. Nothing in division (A)(4) of this section shall be construed to limit solely to this section the application of section 263A and section 482 of the Internal Revenue Code and United States department of the treasury regulations issued thereunder.

(5) The sum shall be increased or decreased by an amount equal to the qualifying investor's or qualifying beneficiary's distributive or proportionate share of the amount that the qualifying entity would be required to add or deduct under divisions (A)(20) and (21) of section 5747.01 of the Revised Code if the qualifying entity were a taxpayer for the purposes of Chapter 5747. of the Revised Code.

(6) The sum shall be computed without regard to section 5733.051 or division (D) of section 5733.052 of the Revised Code.

(7) For the purposes of Chapters 5733. and 5747. of the Revised Code, guaranteed payments or compensation paid to investors by a qualifying entity that is not subject to the tax imposed by section 5733.06 of the Revised Code shall be considered a distributive share of income of the qualifying entity. Division (A)(7) of this section applies only to such payments or such compensation paid to an investor who at any time during the qualifying entity's taxable year holds at least a twenty per cent direct or indirect interest in the profits or capital of the qualifying entity.

(B) "Apportionment fraction" means:

(1) With respect to a qualifying pass-through entity other than a financial institution, the fraction calculated pursuant to division (B)(2) of section 5733.05 of the Revised Code as if the qualifying pass-through entity were a corporation subject to the tax imposed by section 5733.06 of the Revised Code;

(2) With respect to a qualifying pass-through entity that is a financial institution, the fraction calculated pursuant to division (C) of section 5733.056 of the Revised Code as if the qualifying pass-through entity were a financial institution subject to the tax imposed by section 5733.06 of the Revised Code.

(3) With respect to a qualifying trust, the fraction calculated pursuant to division (B)(2) of section 5733.05 of the Revised Code as if the qualifying trust were a corporation subject to the tax imposed by section 5733.06 of the Revised Code, except that the property, payroll, and sales fractions shall be

calculated by including in the numerator and denominator of the fractions only the property, payroll, and sales, respectively, directly related to the production of income or gain from acquisition, ownership, use, maintenance, management, or disposition of tangible personal property located in this state at any time during the qualifying trust's qualifying taxable year or of real property located in this state.

(C) "Qualifying beneficiary" means any individual that, during the qualifying taxable year of a qualifying trust, is a beneficiary of that trust, but does not include an individual who is a resident taxpayer for the purposes of Chapter 5747. of the Revised Code for the entire qualifying taxable year of the qualifying trust.

(D) "Fiscal year" means an accounting period ending on any day other than the thirty-first day of December.

(E) "Individual" means a natural person.

(F) "Month" means a calendar month.

(G) "Partnership" has the same meaning as in section 5747.01 of the Revised Code.

(H) "Investor" means any person that, during any portion of a taxable year of a qualifying pass-through entity, is a partner, member, shareholder, or investor in that qualifying pass-through entity.

(I) Except as otherwise provided in section 5733.402 or 5747.401 of the Revised Code, "qualifying investor" means any investor except those described in divisions (I)(1) to (9) of this section.

(1) An investor satisfying one of the descriptions under section 501(a) or (c) of the Internal Revenue Code, a partnership with equity securities registered with the United States securities and exchange commission under section 12 of the "Securities Exchange Act of 1934," as amended, or an investor described in division (F) of section 3334.01, or division (A) or (C) of section 5733.09 of the Revised Code for the entire qualifying taxable year of the qualifying pass-through entity.

(2) An investor who is either an individual or an estate and is a resident taxpayer for the purposes of section 5747.01 of the Revised Code for the entire qualifying taxable year of the qualifying pass-through entity.

(3) An investor who is an individual for whom the qualifying pass-through entity makes a good faith and reasonable effort to comply fully and timely with the filing and payment requirements set forth in division (D) of section 5747.08 of the Revised Code and section 5747.09 of the Revised Code with respect to the individual's adjusted qualifying amount for the entire qualifying taxable year of the qualifying pass-through entity.

(4) An investor that is another qualifying pass-through entity having

only investors described in division (I)(1), (2), (3), or (6) of this section during the three-year period beginning twelve months prior to the first day of the qualifying taxable year of the qualifying pass-through entity.

(5) An investor that is another pass-through entity having no investors other than individuals and estates during the qualifying taxable year of the qualifying pass-through entity in which it is an investor, and that makes a good faith and reasonable effort to comply fully and timely with the filing and payment requirements set forth in division (D) of section 5747.08 of the Revised Code and section 5747.09 of the Revised Code with respect to investors that are not resident taxpayers of this state for the purposes of Chapter 5747. of the Revised Code for the entire qualifying taxable year of the qualifying pass-through entity in which it is an investor.

(6) An investor that is a financial institution required to calculate the tax in accordance with division ~~(D)~~(E) of section 5733.06 of the Revised Code on the first day of January of the calendar year immediately following the last day of the financial institution's calendar or fiscal year in which ends the taxpayer's taxable year.

(7) An investor other than an individual that satisfies all the following:

(a) The investor submits a written statement to the qualifying pass-through entity stating that the investor irrevocably agrees that the investor has nexus with this state under the Constitution of the United States and is subject to and liable for the tax calculated under division (A) or (B) of section 5733.06 of the Revised Code with respect to the investor's adjusted qualifying amount for the entire qualifying taxable year of the qualifying pass-through entity. The statement is subject to the penalties of perjury, shall be retained by the qualifying pass-through entity for no fewer than seven years, and shall be delivered to the tax commissioner upon request.

(b) The investor makes a good faith and reasonable effort to comply timely and fully with all the reporting and payment requirements set forth in Chapter 5733. of the Revised Code with respect to the investor's adjusted qualifying amount for the entire qualifying taxable year of the qualifying pass-through entity.

(c) Neither the investor nor the qualifying pass-through entity in which it is an investor, before, during, or after the qualifying pass-through entity's qualifying taxable year, carries out any transaction or transactions with one or more related members of the investor or the qualifying pass-through entity resulting in a reduction or deferral of tax imposed by Chapter 5733. of the Revised Code with respect to all or any portion of the investor's adjusted qualifying amount for the qualifying pass-through entity's taxable year, or that constitute a sham, lack economic reality, or are part of a series of

transactions the form of which constitutes a step transaction or transactions or does not reflect the substance of those transactions.

(8) Any other investor that the tax commissioner may designate by rule. The tax commissioner may adopt rules including a rule defining "qualifying investor" or "qualifying beneficiary" and governing the imposition of the withholding tax imposed by section 5747.41 of the Revised Code with respect to an individual who is a resident taxpayer for the purposes of Chapter 5747. of the Revised Code for only a portion of the qualifying taxable year of the qualifying entity.

(9) An investor that is a trust or fund the beneficiaries of which, during the qualifying taxable year of the qualifying pass-through entity, are limited to the following:

(a) A person that is or may be the beneficiary of a trust subject to Subchapter D of Chapter 1 of Subtitle A of the Internal Revenue Code.

(b) A person that is or may be the beneficiary of or the recipient of payments from a trust or fund that is a nuclear decommissioning reserve fund, a designated settlement fund, or any other trust or fund established to resolve and satisfy claims that may otherwise be asserted by the beneficiary or a member of the beneficiary's family. Sections 267(c)(4), 468A(e), and 468B(d)(2) of the Internal Revenue Code apply to the determination of whether such a person satisfies division (I)(9) of this section.

(c) A person who is or may be the beneficiary of a trust that, under its governing instrument, is not required to distribute all of its income currently. Division (I)(9)(c) of this section applies only if the trust, prior to the due date for filing the qualifying pass-through entity's return for taxes imposed by section 5733.41 and sections 5747.41 to 5747.453 of the Revised Code, irrevocably agrees in writing that for the taxable year during or for which the trust distributes any of its income to any of its beneficiaries, the trust is a qualifying trust and will pay the estimated tax, and will withhold and pay the withheld tax, as required under sections 5747.40 to 5747.453 of the Revised Code.

For the purposes of division (I)(9) of this section, a trust or fund shall be considered to have a beneficiary other than persons described under divisions (I)(9)(a) to (c) of this section if a beneficiary would not qualify under those divisions under the doctrines of "economic reality," "sham transaction," "step doctrine," or "substance over form." A trust or fund described in division (I)(9) of this section bears the burden of establishing by a preponderance of the evidence that any transaction giving rise to the tax benefits provided under division (I)(9) of this section does not have as a principal purpose a claim of those tax benefits. Nothing in this section shall

be construed to limit solely to this section the application of the doctrines referred to in this paragraph.

(J) "Qualifying net gain" means any recognized net gain with respect to the acquisition, ownership, use, maintenance, management, or disposition of tangible personal property located in this state at any time during a trust's qualifying taxable year or real property located in this state.

(K) "Qualifying net income" means any recognized income, net of related deductible expenses, other than distributions deductions with respect to the acquisition, ownership, use, maintenance, management, or disposition of tangible personal property located in this state at any time during the trust's qualifying taxable year or real property located in this state.

(L) "Qualifying entity" means a qualifying pass-through entity or a qualifying trust.

(M) "Qualifying trust" means a trust subject to subchapter J of the Internal Revenue Code that, during any portion of the trust's qualifying taxable year, has income or gain from the acquisition, management, ownership, use, or disposition of tangible personal property located in this state at any time during the trust's qualifying taxable year or real property located in this state. "Qualifying trust" does not include a person described in section 501(c) of the Internal Revenue Code or a person described in division (C) of section 5733.09 of the Revised Code.

(N) "Qualifying pass-through entity" means a pass-through entity as defined in section 5733.04 of the Revised Code, excluding: a person described in section 501(c) of the Internal Revenue Code; a partnership with equity securities registered with the United States securities and exchange commission under section 12 of the Securities Exchange Act of 1934, as amended; or a person described in division (C) of section 5733.09 of the Revised Code.

(O) "Quarter" means the first three months, the second three months, the third three months, or the last three months of a qualifying entity's qualifying taxable year.

(P) "Related member" has the same meaning as in division (A)(6) of section 5733.042 of the Revised Code without regard to division (B) of that section. However, for the purposes of divisions (A)(3) and (4) of this section only, "related member" has the same meaning as in division (A)(6) of section 5733.042 of the Revised Code without regard to division (B) of that section, but shall be applied by substituting "forty per cent" for "twenty per cent" wherever "twenty per cent" appears in division (A) of that section.

(Q) "Return" or "report" means the notifications and reports required to be filed pursuant to sections 5747.42 to 5747.45 of the Revised Code for the

purpose of reporting the tax imposed under section 5733.41 or 5747.41 of the Revised Code, and included declarations of estimated tax when so required.

(R) "Qualifying taxable year" means the calendar year or the qualifying entity's fiscal year ending during the calendar year, or fractional part thereof, for which the adjusted qualifying amount is calculated pursuant to sections 5733.40 and 5733.41 or sections 5747.40 to 5747.453 of the Revised Code.

(S) "Distributive share" includes the sum of the income, gain, expense, or loss of a disregarded entity or qualified subchapter S subsidiary.

Sec. 5733.41. The purpose of the tax imposed by this section is to complement and to reinforce the tax imposed under section 5733.06 of the Revised Code.

For the same purposes for which the tax is levied under section 5733.06 of the Revised Code, there is hereby levied a tax on every qualifying pass-through entity having at least one qualifying investor that is not an individual. The tax imposed by this section is imposed on the sum of the adjusted qualifying amounts of the qualifying pass-through entity's qualifying investors that are not individuals as follows: for qualifying investors subject to division (G)(2) of section 5733.01 of the Revised Code, at six and eight-tenths per cent for the entity's taxable year ending in 2005, at five and one-tenth per cent for the entity's taxable year ending in 2006, at three and four-tenths per cent for the entity's taxable year ending in 2007, at one and seven-tenths per cent for the entity's taxable year ending in 2008, and at zero per cent for the entity's taxable year ending in 2009 or in subsequent years; and for all other qualifying investors that are not individuals, at the rate specified in division (B) of section 5733.06 of the Revised Code that is in effect on the last day of the entity's taxable year.

The tax imposed by this section applies only if the qualifying entity has nexus with this state under the Constitution of the United States for any portion of the qualifying entity's qualifying taxable year, and the sum of the qualifying entity's adjusted qualifying amounts exceeds one thousand dollars for the qualifying entity's qualifying taxable year. This section does not apply to a pass-through entity if all of the partners, shareholders, members, or investors of the pass-through entity are taxpayers for the purposes of section 5733.04 of the Revised Code without regard to section 5733.09 of the Revised Code for the entire qualifying taxable year of the pass-through entity.

If, prior to the due date of the return, a qualifying pass-through entity receives from an investor a written representation, under penalties of perjury, that the investor is described in division (I)(1), (2), (6), (7), (8), or



(9) of section 5733.40 of the Revised Code for the qualifying pass-through entity's entire qualifying taxable year, the qualifying pass-through entity is not required to withhold or pay the taxes or estimated taxes imposed under this section or sections 5747.41 to 5747.453 of the Revised Code with respect to that investor for that qualifying taxable year, and is not subject to any interest or interest penalties for failure to withhold or pay those taxes or estimated taxes with respect to that investor for that qualifying taxable year.

If, prior to the due date of the return, a qualifying trust receives from a beneficiary of that trust a written representation, under penalties of perjury, that the beneficiary is a resident taxpayer for the purposes of Chapter 5747. of the Revised Code for the qualifying trust's entire qualifying taxable year, the qualifying trust is not required to withhold or pay the taxes or estimated taxes imposed under this section or sections 5747.41 to 5747.453 of the Revised Code with respect to that beneficiary for that qualifying taxable year, and is not subject to any interest or interest penalties for failure to withhold or pay those taxes or estimated taxes with respect to that beneficiary for that qualifying taxable year.

The tax commissioner may adopt rules for the purpose of the tax levied by this section or section 5747.41 of the Revised Code, including a rule defining "qualifying investor" or "qualifying beneficiary", and a rule requiring or permitting a qualifying entity to combine its income with related members and to pay the tax and estimated tax on a combined basis.

Sections 5747.10 to 5747.19 and 5747.42 to 5747.453 of the Revised Code apply to a qualifying entity subject to the tax imposed under this section.

The levy of the tax under this section does not prevent a municipal corporation or a joint economic development district created under section 715.70 or 715.71 or sections 715.72 to 715.81 of the Revised Code from levying a tax on income.

Sec. 5733.49. (A) Upon the issuance of a tax credit certificate by the Ohio venture capital authority under section 150.07 of the Revised Code, a credit may be claimed against the tax imposed by section 5733.06 of the Revised Code. The credit shall be claimed for the tax year specified in the certificate issued by the authority and in the order required under section 5733.98 of the Revised Code.

(B) If the taxpayer elected a refundable credit under section 150.07 of the Revised Code and the amount of the credit shown on the certificate does not exceed the tax otherwise due under section 5733.06, 5733.065, and 5733.066 of the Revised Code after all nonrefundable credits are deducted, then the taxpayer shall claim a refundable credit equal to the amount of the

credit shown on the certificate.

~~(C) If the taxpayer elected a refundable credit under section 150.07 of the Revised Code, and the amount of the credit shown on the certificate exceeds the tax otherwise due under sections 5733.06, 5733.065, and 5733.066 of the Revised Code after all nonrefundable credits, ~~including the credit allowed under this section,~~ are deducted ~~in that order,~~ the taxpayer shall ~~receive a refund equal to seventy five per cent of that excess. If the taxpayer elected a nonrefundable credit, the amount of the credit, claimed in that order, shall not exceed the tax otherwise due under those sections after all the taxpayer's credits are deducted in that order. If~~ claim a refundable credit equal to the sum of the following:~~

(1) The amount, if any, of the tax otherwise due under sections 5733.06, 5733.065, and 5733.066 of the Revised Code after all nonrefundable credits are deducted;

(2) Seventy-five per cent of the difference between the amount of the refundable credit shown on the certificate and the tax otherwise due under sections 5733.06, 5733.065, and 5733.066 of the Revised Code after all nonrefundable credits are deducted.

(D) If the taxpayer elected a nonrefundable credit and the credit to which the taxpayer would otherwise be entitled under this section for any tax year is greater than the tax otherwise due under sections 5733.06, 5733.065, and 5733.066 of the Revised Code, after allowing for any other credits that, under section 5733.98 of the Revised Code, precede the credit allowed under this section, the excess shall be allowed as a nonrefundable credit in each of the ensuing ten tax years, but the amount of any excess credit allowed in the ensuing tax year shall be deducted from the balance carried forward to the next tax year.

Sec. 5733.98. (A) To provide a uniform procedure for calculating the amount of tax imposed by section 5733.06 of the Revised Code that is due under this chapter, a taxpayer shall claim any credits to which it is entitled in the following order, except as otherwise provided in section 5733.058 of the Revised Code:

(1) ~~The~~ For tax year 2005, the credit for taxes paid by a qualifying pass-through entity allowed under section 5733.0611 of the Revised Code;

(2) The credit allowed for financial institutions under section 5733.45 of the Revised Code;

(3) The credit for qualifying affiliated groups under section 5733.068 of the Revised Code;

(4) The subsidiary corporation credit under section 5733.067 of the Revised Code;

(5) The savings and loan assessment credit under section 5733.063 of the Revised Code;

(6) The credit for recycling and litter prevention donations under section 5733.064 of the Revised Code;

(7) The credit for employers that enter into agreements with child day-care centers under section 5733.36 of the Revised Code;

(8) The credit for employers that reimburse employee child care expenses under section 5733.38 of the Revised Code;

(9) The credit for maintaining railroad active grade crossing warning devices under section 5733.43 of the Revised Code;

(10) The credit for purchases of lights and reflectors under section 5733.44 of the Revised Code;

(11) The job retention credit under division (B) of section 5733.0610 of the Revised Code;

(12) The credit for losses on loans made under the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code if the taxpayer elected a nonrefundable credit under section 150.07 of the Revised Code;

(13) The credit for purchases of new manufacturing machinery and equipment under section 5733.31 or section 5733.311 of the Revised Code;

(14) The second credit for purchases of new manufacturing machinery and equipment under section 5733.33 of the Revised Code;

(15) The job training credit under section 5733.42 of the Revised Code;

(16) The credit for qualified research expenses under section 5733.351 of the Revised Code;

(17) The enterprise zone credit under section 5709.66 of the Revised Code;

(18) The credit for the eligible costs associated with a voluntary action under section 5733.34 of the Revised Code;

(19) The credit for employers that establish on-site child day-care centers under section 5733.37 of the Revised Code;

(20) The ethanol plant investment credit under section 5733.46 of the Revised Code;

(21) The credit for purchases of qualifying grape production property under section 5733.32 of the Revised Code;

(22) The export sales credit under section 5733.069 of the Revised Code;

(23) The credit for research and development and technology transfer investors under section 5733.35 of the Revised Code;

(24) The enterprise zone credits under section 5709.65 of the Revised

Code;

(25) The credit for using Ohio coal under section 5733.39 of the Revised Code;

~~(26) The research and development credit under section 5733.352 of the Revised Code;~~

~~(27)~~ The credit for small telephone companies under section 5733.57 of the Revised Code;

~~(28)~~(27) The credit for eligible nonrecurring 9-1-1 charges under section 5733.55 of the Revised Code;

~~(29)~~(28) The credit for providing programs to aid the communicatively impaired under section 5733.56 of the Revised Code;

~~(30)~~(29) The research and development credit under section 5733.352 of the Revised Code;

(30) For tax years 2006 and subsequent tax years, the credit for taxes paid by a qualifying pass-through entity allowed under section 5733.0611 of the Revised Code;

(31) The refundable jobs creation credit under division (A) of section 5733.0610 of the Revised Code;

~~(31)~~(32) The refundable credit for tax withheld under division (B)(2) of section 5747.062 of the Revised Code;

~~(32)~~(33) The credit for losses on loans made to the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code if the taxpayer elected a refundable credit under section 150.07 of the Revised Code.

(B) For any credit except the credits enumerated in divisions (A)~~(30)~~, (31), ~~and~~ (32), and (33) of this section, the amount of the credit for a tax year shall not exceed the tax due after allowing for any other credit that precedes it in the order required under this section. Any excess amount of a particular credit may be carried forward if authorized under the section creating that credit.

Sec. 5737.03. An annual excise tax is hereby levied on the handling of grain, in lieu of all taxes on grain as property of any person engaged in such business, for all the purposes for which taxes would otherwise be levied on such grain as property in the taxing district in which any such business is carried on, measured as follows:

~~One-half~~ (A) For the statement due in 2005, one-half mill per bushel upon all wheat and flax handled at one or more places in this state in any such business during the taxable year, as defined in section 5737.04 of the Revised Code, and one-fourth mill per bushel upon all other grain handled. ~~The~~

(B) For the statement due in 2006, one-fourth mill per bushel upon all wheat and flax handled at one or more places in this state in any such business during the taxable year, as defined in section 5737.04 of the Revised Code, and one-eighth mill per bushel upon all other grain handled.

(C) No statement or tax is due in 2007 or any year thereafter.

The tax imposed by this section shall not be paid by a track buyer, who shall be liable for the personal property taxes only, as levied by sections 5711.01 to 5711.36, ~~inclusive~~, of the Revised Code.

All grain included in the statements required by section 5737.04 of the Revised Code, upon the handling of which a tax is imposed by this section, is exempt from taxation as personal property. Any grain that would be included in such statements for taxable year 2007 or any year thereafter is exempt from taxation as personal property.

Sec. 5739.01. As used in this chapter:

(A) "Person" includes individuals, receivers, assignees, trustees in bankruptcy, estates, firms, partnerships, associations, joint-stock companies, joint ventures, clubs, societies, corporations, the state and its political subdivisions, and combinations of individuals of any form.

(B) "Sale" and "selling" include all of the following transactions for a consideration in any manner, whether absolutely or conditionally, whether for a price or rental, in money or by exchange, and by any means whatsoever:

(1) All transactions by which title or possession, or both, of tangible personal property, is or is to be transferred, or a license to use or consume tangible personal property is or is to be granted;

(2) All transactions by which lodging by a hotel is or is to be furnished to transient guests;

(3) All transactions by which:

(a) An item of tangible personal property is or is to be repaired, except property, the purchase of which would not be subject to the tax imposed by section 5739.02 of the Revised Code;

(b) An item of tangible personal property is or is to be installed, except property, the purchase of which would not be subject to the tax imposed by section 5739.02 of the Revised Code or property that is or is to be incorporated into and will become a part of a production, transmission, transportation, or distribution system for the delivery of a public utility service;

(c) The service of washing, cleaning, waxing, polishing, or painting a motor vehicle is or is to be furnished;

(d) Until August 1, 2003, industrial laundry cleaning services are or are

to be provided and, on and after August 1, 2003, laundry and dry cleaning services are or are to be provided;

(e) Automatic data processing, computer services, or electronic information services are or are to be provided for use in business when the true object of the transaction is the receipt by the consumer of automatic data processing, computer services, or electronic information services rather than the receipt of personal or professional services to which automatic data processing, computer services, or electronic information services are incidental or supplemental. Notwithstanding any other provision of this chapter, such transactions that occur between members of an affiliated group are not sales. An affiliated group means two or more persons related in such a way that one person owns or controls the business operation of another member of the group. In the case of corporations with stock, one corporation owns or controls another if it owns more than fifty per cent of the other corporation's common stock with voting rights.

(f) ~~Telecommunications service, other than mobile telecommunications service after July 31, 2002 including prepaid calling service, prepaid wireless calling service, or ancillary service, is or is to be provided, but does not include transactions by which local telecommunications service is obtained from a~~ including coin-operated telephone ~~and paid for by using coin service;~~

(g) Landscaping and lawn care service is or is to be provided;

(h) Private investigation and security service is or is to be provided;

(i) Information services or tangible personal property is provided or ordered by means of a nine hundred telephone call;

(j) Building maintenance and janitorial service is or is to be provided;

(k) Employment service is or is to be provided;

(l) Employment placement service is or is to be provided;

(m) Exterminating service is or is to be provided;

(n) Physical fitness facility service is or is to be provided;

(o) Recreation and sports club service is or is to be provided.

(p) ~~After July 31, 2002, mobile telecommunications service is or is to be provided when that service is situated to this state pursuant to the "Mobile Telecommunications Sourcing Act," Pub. L. No. 106-252, 114 Stat. 626 to 632 (2000), 4 U.S.C.A. 116 to 126, as amended.~~

~~(q)~~ On and after August 1, 2003, satellite broadcasting service is or is to be provided;

~~(r)~~(q) On and after August 1, 2003, personal care service is or is to be provided to an individual. As used in this division, "personal care service" includes skin care, the application of cosmetics, manicuring, pedicuring, hair

removal, tattooing, body piercing, tanning, massage, and other similar services. "Personal care service" does not include a service provided by or on the order of a licensed physician or licensed chiropractor, or the cutting, coloring, or styling of an individual's hair.

~~(s)~~(r) On and after August 1, 2003, the transportation of persons by motor vehicle or aircraft is or is to be provided, when the transportation is entirely within this state, except for transportation provided by an ambulance service, by a transit bus, as defined in section 5735.01 of the Revised Code, and transportation provided by a citizen of the United States holding a certificate of public convenience and necessity issued under 49 U.S.C. 41102;

~~(t)~~(s) On and after August 1, 2003, motor vehicle towing service is or is to be provided. As used in this division, "motor vehicle towing service" means the towing or conveyance of a wrecked, disabled, or illegally parked motor vehicle.

~~(t)~~(t) On and after August 1, 2003, snow removal service is or is to be provided. As used in this division, "snow removal service" means the removal of snow by any mechanized means, but does not include the providing of such service by a person that has less than five thousand dollars in sales of such service during the calendar year.

(4) All transactions by which printed, imprinted, overprinted, lithographic, multilithic, blueprinted, photostatic, or other productions or reproductions of written or graphic matter are or are to be furnished or transferred;

(5) The production or fabrication of tangible personal property for a consideration for consumers who furnish either directly or indirectly the materials used in the production of fabrication work; and include the furnishing, preparing, or serving for a consideration of any tangible personal property consumed on the premises of the person furnishing, preparing, or serving such tangible personal property. Except as provided in section 5739.03 of the Revised Code, a construction contract pursuant to which tangible personal property is or is to be incorporated into a structure or improvement on and becoming a part of real property is not a sale of such tangible personal property. The construction contractor is the consumer of such tangible personal property, provided that the sale and installation of carpeting, the sale and installation of agricultural land tile, the sale and erection or installation of portable grain bins, or the provision of landscaping and lawn care service and the transfer of property as part of such service is never a construction contract.

As used in division (B)(5) of this section:

(a) "Agricultural land tile" means fired clay or concrete tile, or flexible or rigid perforated plastic pipe or tubing, incorporated or to be incorporated into a subsurface drainage system appurtenant to land used or to be used directly in production by farming, agriculture, horticulture, or floriculture. The term does not include such materials when they are or are to be incorporated into a drainage system appurtenant to a building or structure even if the building or structure is used or to be used in such production.

(b) "Portable grain bin" means a structure that is used or to be used by a person engaged in farming or agriculture to shelter the person's grain and that is designed to be disassembled without significant damage to its component parts.

(6) All transactions in which all of the shares of stock of a closely held corporation are transferred, if the corporation is not engaging in business and its entire assets consist of boats, planes, motor vehicles, or other tangible personal property operated primarily for the use and enjoyment of the shareholders;

(7) All transactions in which a warranty, maintenance or service contract, or similar agreement by which the vendor of the warranty, contract, or agreement agrees to repair or maintain the tangible personal property of the consumer is or is to be provided;

(8) ~~;~~(9) The transfer of copyrighted motion picture films used solely for advertising purposes, except that the transfer of such films for exhibition purposes is not a sale.

(9) On and after August 1, 2003, all transactions by which tangible personal property is or is to be stored, except such property that the consumer of the storage holds for sale in the regular course of business.

Except ~~Other than~~ as provided in this section, "sale" and "selling" do not include transfers of interest in leased property where the original lessee and the terms of the original lease agreement remain unchanged, or professional, insurance, or personal service transactions that involve the transfer of tangible personal property as an inconsequential element, for which no separate charges are made.

(C) "Vendor" means the person providing the service or by whom the transfer effected or license given by a sale is or is to be made or given and, for sales described in division (B)(3)(i) of this section, the telecommunications service vendor that provides the nine hundred telephone service; if two or more persons are engaged in business at the same place of business under a single trade name in which all collections on account of sales by each are made, such persons shall constitute a single vendor.

Physicians, dentists, hospitals, and veterinarians who are engaged in



selling tangible personal property as received from others, such as eyeglasses, mouthwashes, dentifrices, or similar articles, are vendors. Veterinarians who are engaged in transferring to others for a consideration drugs, the dispensing of which does not require an order of a licensed veterinarian or physician under federal law, are vendors.

(D)(1) "Consumer" means the person for whom the service is provided, to whom the transfer effected or license given by a sale is or is to be made or given, to whom the service described in division (B)(3)(f) or (i) of this section is charged, or to whom the admission is granted.

(2) Physicians, dentists, hospitals, and blood banks operated by nonprofit institutions and persons licensed to practice veterinary medicine, surgery, and dentistry are consumers of all tangible personal property and services purchased by them in connection with the practice of medicine, dentistry, the rendition of hospital or blood bank service, or the practice of veterinary medicine, surgery, and dentistry. In addition to being consumers of drugs administered by them or by their assistants according to their direction, veterinarians also are consumers of drugs that under federal law may be dispensed only by or upon the order of a licensed veterinarian or physician, when transferred by them to others for a consideration to provide treatment to animals as directed by the veterinarian.

(3) A person who performs a facility management, or similar service contract for a contractee is a consumer of all tangible personal property and services purchased for use in connection with the performance of such contract, regardless of whether title to any such property vests in the contractee. The purchase of such property and services is not subject to the exception for resale under division (E)(1) of this section.

(4)(a) In the case of a person who purchases printed matter for the purpose of distributing it or having it distributed to the public or to a designated segment of the public, free of charge, that person is the consumer of that printed matter, and the purchase of that printed matter for that purpose is a sale.

(b) In the case of a person who produces, rather than purchases, printed matter for the purpose of distributing it or having it distributed to the public or to a designated segment of the public, free of charge, that person is the consumer of all tangible personal property and services purchased for use or consumption in the production of that printed matter. That person is not entitled to claim exemption under division (B)~~(43)~~(42)(f) of section 5739.02 of the Revised Code for any material incorporated into the printed matter or any equipment, supplies, or services primarily used to produce the printed matter.

(c) The distribution of printed matter to the public or to a designated segment of the public, free of charge, is not a sale to the members of the public to whom the printed matter is distributed or to any persons who purchase space in the printed matter for advertising or other purposes.

(5) A person who makes sales of any of the services listed in division (B)(3) of this section is the consumer of any tangible personal property used in performing the service. The purchase of that property is not subject to the resale exception under division (E)(1) of this section.

(6) A person who engages in highway transportation for hire is the consumer of all packaging materials purchased by that person and used in performing the service, except for packaging materials sold by such person in a transaction separate from the service.

(E) "Retail sale" and "sales at retail" include all sales, except those in which the purpose of the consumer is to resell the thing transferred or benefit of the service provided, by a person engaging in business, in the form in which the same is, or is to be, received by the person.

(F) "Business" includes any activity engaged in by any person with the object of gain, benefit, or advantage, either direct or indirect. "Business" does not include the activity of a person in managing and investing the person's own funds.

(G) "Engaging in business" means commencing, conducting, or continuing in business, and liquidating a business when the liquidator thereof holds itself out to the public as conducting such business. Making a casual sale is not engaging in business.

(H)(1)(a) "Price," except as provided in divisions (H)(2) and (3) of this section, means the total amount of consideration, including cash, credit, property, and services, for which tangible personal property or services are sold, leased, or rented, valued in money, whether received in money or otherwise, without any deduction for any of the following:

- (i) The vendor's cost of the property sold;
- (ii) The cost of materials used, labor or service costs, interest, losses, all costs of transportation to the vendor, all taxes imposed on the vendor, including the tax imposed under Chapter 5751. of the Revised Code, and any other expense of the vendor;
- (iii) Charges by the vendor for any services necessary to complete the sale;
- (iv) On and after August 1, 2003, delivery charges. As used in this division, "delivery charges" means charges by the vendor for preparation and delivery to a location designated by the consumer of tangible personal property or a service, including transportation, shipping, postage, handling,

crating, and packing.

(v) Installation charges;

(vi) ~~The value of exempt tangible personal property given to the consumer where taxable and exempt tangible personal property have been bundled together and sold by the vendor as a single product or piece of merchandise~~ Credit for any trade-in.

(b) "Price" includes consideration received by the vendor from a third party, if the vendor actually receives the consideration from a party other than the consumer, and the consideration is directly related to a price reduction or discount on the sale; the vendor has an obligation to pass the price reduction or discount through to the consumer; the amount of the consideration attributable to the sale is fixed and determinable by the vendor at the time of the sale of the item to the consumer; and one of the following criteria is met:

(i) The consumer presents a coupon, certificate, or other document to the vendor to claim a price reduction or discount where the coupon, certificate, or document is authorized, distributed, or granted by a third party with the understanding that the third party will reimburse any vendor to whom the coupon, certificate, or document is presented;

(ii) The consumer identifies the consumer's self to the seller as a member of a group or organization entitled to a price reduction or discount. A preferred customer card that is available to any patron does not constitute membership in such a group or organization.

(iii) The price reduction or discount is identified as a third party price reduction or discount on the invoice received by the consumer, or on a coupon, certificate, or other document presented by the consumer.

(c) "Price" does not include any of the following:

(i) Discounts, including cash, term, or coupons that are not reimbursed by a third party that are allowed by a vendor and taken by a consumer on a sale;

(ii) Interest, financing, and carrying charges from credit extended on the sale of tangible personal property or services, if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser;

(iii) Any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of sale, or similar document given to the consumer. For the purpose of this division, the tax imposed under Chapter 5751. of the Revised Code is not a tax directly on the consumer, even if the tax or a portion thereof is separately stated.

(iv) Notwithstanding divisions (H)(1)(b)(i) to (iii) of this section, any

discount allowed by an automobile manufacturer to its employee, or to the employee of a supplier, on the purchase of a new motor vehicle from a new motor vehicle dealer in this state.

(2) In the case of a sale of any new motor vehicle by a new motor vehicle dealer, as defined in section 4517.01 of the Revised Code, in which another motor vehicle is accepted by the dealer as part of the consideration received, "price" has the same meaning as in division (H)(1) of this section, reduced by the credit afforded the consumer by the dealer for the motor vehicle received in trade.

(3) In the case of a sale of any watercraft or outboard motor by a watercraft dealer licensed in accordance with section 1547.543 of the Revised Code, in which another watercraft, watercraft and trailer, or outboard motor is accepted by the dealer as part of the consideration received, "price" has the same meaning as in division (H)(1) of this section, reduced by the credit afforded the consumer by the dealer for the watercraft, watercraft and trailer, or outboard motor received in trade. As used in this division, "watercraft" includes an outdrive unit attached to the watercraft.

~~(4) In the case of a transaction in which telecommunications service, mobile telecommunications service, or cable television service is sold in a bundled transaction with other distinct services for a single price that is not itemized, the entire price is subject to the taxes levied under sections 5739.02, 5739.021, 5739.023, and 5739.026 of the Revised Code, unless the vendor can reasonably identify the nontaxable portion from its books and records kept in the regular course of business. Upon the request of the consumer, the vendor shall disclose to the consumer the selling price for the taxable services included in the selling price for the taxable and nontaxable services billed on an aggregated basis. The burden of proving any nontaxable charges is on the vendor.~~

(I) "Receipts" means the total amount of the prices of the sales of vendors, provided that cash discounts allowed and taken on sales at the time they are consummated are not included, minus any amount deducted as a bad debt pursuant to section 5739.121 of the Revised Code. "Receipts" does not include the sale price of property returned or services rejected by consumers when the full sale price and tax are refunded either in cash or by credit.

(J) "Place of business" means any location at which a person engages in business.

(K) "Premises" includes any real property or portion thereof upon which any person engages in selling tangible personal property at retail or making retail sales and also includes any real property or portion thereof designated

for, or devoted to, use in conjunction with the business engaged in by such person.

(L) "Casual sale" means a sale of an item of tangible personal property that was obtained by the person making the sale, through purchase or otherwise, for the person's own use and was previously subject to any state's taxing jurisdiction on its sale or use, and includes such items acquired for the seller's use that are sold by an auctioneer employed directly by the person for such purpose, provided the location of such sales is not the auctioneer's permanent place of business. As used in this division, "permanent place of business" includes any location where such auctioneer has conducted more than two auctions during the year.

(M) "Hotel" means every establishment kept, used, maintained, advertised, or held out to the public to be a place where sleeping accommodations are offered to guests, in which five or more rooms are used for the accommodation of such guests, whether the rooms are in one or several structures.

(N) "Transient guests" means persons occupying a room or rooms for sleeping accommodations for less than thirty consecutive days.

(O) "Making retail sales" means the effecting of transactions wherein one party is obligated to pay the price and the other party is obligated to provide a service or to transfer title to or possession of the item sold. "Making retail sales" does not include the preliminary acts of promoting or soliciting the retail sales, other than the distribution of printed matter which displays or describes and prices the item offered for sale, nor does it include delivery of a predetermined quantity of tangible personal property or transportation of property or personnel to or from a place where a service is performed, regardless of whether the vendor is a delivery vendor.

(P) "Used directly in the rendition of a public utility service" means that property that is to be incorporated into and will become a part of the consumer's production, transmission, transportation, or distribution system and that retains its classification as tangible personal property after such incorporation; fuel or power used in the production, transmission, transportation, or distribution system; and tangible personal property used in the repair and maintenance of the production, transmission, transportation, or distribution system, including only such motor vehicles as are specially designed and equipped for such use. Tangible personal property and services used primarily in providing highway transportation for hire are not used directly in the rendition of a public utility service.

(Q) "Refining" means removing or separating a desirable product from raw or contaminated materials by distillation or physical, mechanical, or

chemical processes.

(R) "Assembly" and "assembling" mean attaching or fitting together parts to form a product, but do not include packaging a product.

(S) "Manufacturing operation" means a process in which materials are changed, converted, or transformed into a different state or form from which they previously existed and includes refining materials, assembling parts, and preparing raw materials and parts by mixing, measuring, blending, or otherwise committing such materials or parts to the manufacturing process. "Manufacturing operation" does not include packaging.

(T) "Fiscal officer" means, with respect to a regional transit authority, the secretary-treasurer thereof, and with respect to a county that is a transit authority, the fiscal officer of the county transit board if one is appointed pursuant to section 306.03 of the Revised Code or the county auditor if the board of county commissioners operates the county transit system.

(U) "Transit authority" means a regional transit authority created pursuant to section 306.31 of the Revised Code or a county in which a county transit system is created pursuant to section 306.01 of the Revised Code. For the purposes of this chapter, a transit authority must extend to at least the entire area of a single county. A transit authority that includes territory in more than one county must include all the area of the most populous county that is a part of such transit authority. County population shall be measured by the most recent census taken by the United States census bureau.

(V) "Legislative authority" means, with respect to a regional transit authority, the board of trustees thereof, and with respect to a county that is a transit authority, the board of county commissioners.

(W) "Territory of the transit authority" means all of the area included within the territorial boundaries of a transit authority as they from time to time exist. Such territorial boundaries must at all times include all the area of a single county or all the area of the most populous county that is a part of such transit authority. County population shall be measured by the most recent census taken by the United States census bureau.

(X) "Providing a service" means providing or furnishing anything described in division (B)(3) of this section for consideration.

(Y)(1)(a) "Automatic data processing" means processing of others' data, including keypunching or similar data entry services together with verification thereof, or providing access to computer equipment for the purpose of processing data.

(b) "Computer services" means providing services consisting of specifying computer hardware configurations and evaluating technical

processing characteristics, computer programming, and training of computer programmers and operators, provided in conjunction with and to support the sale, lease, or operation of taxable computer equipment or systems.

(c) "Electronic information services" means providing access to computer equipment by means of telecommunications equipment for the purpose of either of the following:

(i) Examining or acquiring data stored in or accessible to the computer equipment;

(ii) Placing data into the computer equipment to be retrieved by designated recipients with access to the computer equipment.

(d) "Automatic data processing, computer services, or electronic information services" shall not include personal or professional services.

(2) As used in divisions (B)(3)(e) and (Y)(1) of this section, "personal and professional services" means all services other than automatic data processing, computer services, or electronic information services, including but not limited to:

(a) Accounting and legal services such as advice on tax matters, asset management, budgetary matters, quality control, information security, and auditing and any other situation where the service provider receives data or information and studies, alters, analyzes, interprets, or adjusts such material;

(b) Analyzing business policies and procedures;

(c) Identifying management information needs;

(d) Feasibility studies, including economic and technical analysis of existing or potential computer hardware or software needs and alternatives;

(e) Designing policies, procedures, and custom software for collecting business information, and determining how data should be summarized, sequenced, formatted, processed, controlled, and reported so that it will be meaningful to management;

(f) Developing policies and procedures that document how business events and transactions are to be authorized, executed, and controlled;

(g) Testing of business procedures;

(h) Training personnel in business procedure applications;

(i) Providing credit information to users of such information by a consumer reporting agency, as defined in the "Fair Credit Reporting Act," 84 Stat. 1114, 1129 (1970), 15 U.S.C. 1681a(f), or as hereafter amended, including but not limited to gathering, organizing, analyzing, recording, and furnishing such information by any oral, written, graphic, or electronic medium;

(j) Providing debt collection services by any oral, written, graphic, or electronic means.

The services listed in divisions (Y)(2)(a) to (j) of this section are not automatic data processing or computer services.

(Z) "Highway transportation for hire" means the transportation of personal property belonging to others for consideration by any of the following:

(1) The holder of a permit or certificate issued by this state or the United States authorizing the holder to engage in transportation of personal property belonging to others for consideration over or on highways, roadways, streets, or any similar public thoroughfare;

(2) A person who engages in the transportation of personal property belonging to others for consideration over or on highways, roadways, streets, or any similar public thoroughfare but who could not have engaged in such transportation on December 11, 1985, unless the person was the holder of a permit or certificate of the types described in division (Z)(1) of this section;

(3) A person who leases a motor vehicle to and operates it for a person described by division (Z)(1) or (2) of this section.

(AA)(1) "Telecommunications service" means the ~~transmission of any interactive, two-way electromagnetic communications, including voice, image, data, and information, through the use of any medium such as wires, cables, microwaves, cellular radio, radio waves, light waves, or any combination of those or similar media.~~ "Telecommunications service" includes message toll service even though the vendor provides the message toll service by means of wide area transmission type service or private communications service purchased from another telecommunications service provider, and other related fees and ancillary services, including universal service fees, detailed billing service, directory assistance, service initiation, voice mail service, and vertical services, such as caller ID and three-way calling electronic transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points. "Telecommunications service" includes such transmission, conveyance, or routing in which computer processing applications are used to act on the form, code, or protocol of the content for purposes of transmission, conveyance, or routing without regard to whether the service is referred to as voice-over internet protocol service or is classified by the federal communications commission as enhanced or value-added. "Telecommunications service" does not include any of the following:

~~(1) Sales of telecommunications service billed to persons before January 1, 2004, by telephone companies subject to the excise tax imposed by Chapter 5727. of the Revised Code;~~



~~(2) Sales of telecommunications service to a provider of telecommunications service or of mobile telecommunications service, including access services, for use in providing telecommunications service or mobile telecommunications service;~~

~~(3) Value-added nonvoice services in which computer processing applications are used to act on the form, content, code, or protocol of the information to be transmitted;~~

~~(4) Transmission of interactive video programming by a cable television system as defined in section 505.90 of the Revised Code;~~

~~(5) After July 31, 2002, mobile telecommunications service (a) Data processing and information services that allow data to be generated, acquired, stored, processed, or retrieved and delivered by an electronic transmission to a consumer where the consumer's primary purpose for the underlying transaction is the processed data or information;~~

~~(b) Installation or maintenance of wiring or equipment on a customer's premises;~~

~~(c) Tangible personal property;~~

~~(d) Advertising, including directory advertising;~~

~~(e) Billing and collection services provided to third parties;~~

~~(f) Internet access service;~~

~~(g) Radio and television audio and video programming services, regardless of the medium, including the furnishing of transmission, conveyance, and routing of such services by the programming service provider. Radio and television audio and video programming services include, but are not limited to, cable service, as defined in 47 U.S.C. 522(6), and audio and video programming services delivered by commercial mobile radio service providers, as defined in 47 C.F.R. 20.3;~~

~~(h) Ancillary service;~~

~~(i) Digital products delivered electronically, including software, music, video, reading materials, or ring tones.~~

~~(2) "Ancillary service" means a service that is associated with or incidental to the provision of telecommunications service, including conference bridging service, detailed telecommunications billing service, directory assistance, vertical service, and voice mail service. As used in this division:~~

~~(a) "Conference bridging service" means an ancillary service that links two or more participants of an audio or video conference call, including providing a telephone number. "Conference bridging service" does not include telecommunications services used to reach the conference bridge.~~

~~(b) "Detailed telecommunications billing service" means an ancillary~~

service of separately stating information pertaining to individual calls on a customer's billing statement.

(c) "Directory assistance" means an ancillary service of providing telephone number or address information.

(d) "Vertical service" means an ancillary service that is offered in connection with one or more telecommunications services, which offers advanced calling features that allow customers to identify callers and manage multiple calls and call connections, including conference bridging service.

(e) "Voice mail service" means an ancillary service that enables the customer to store, send, or receive recorded messages. "Voice mail service" does not include any vertical services that the customer may be required to have in order to utilize the voice mail service.

(3) "900 service" means an inbound toll telecommunications service purchased by a subscriber that allows the subscriber's customers to call in to the subscriber's prerecorded announcement or live service, and which is typically marketed under the name "900" service and any subsequent numbers designated by the federal communications commission. "900 service" does not include the charge for collection services provided by the seller of the telecommunications service to the subscriber, or services or products sold by the subscriber to the subscriber's customer.

(4) "Prepaid calling service" means the right to access exclusively telecommunications services, which must be paid for in advance and which enables the origination of calls using an access number or authorization code, whether manually or electronically dialed, and that is sold in predetermined units of dollars of which the number declines with use in a known amount.

(5) "Prepaid wireless calling service" means a telecommunications service that provides the right to utilize mobile telecommunications service as well as other non-telecommunications services, including the download of digital products delivered electronically, and content and ancillary services, that must be paid for in advance and that is sold in predetermined units of dollars of which the number declines with use in a known amount.

(6) "Value-added non-voice data service" means a telecommunications service in which computer processing applications are used to act on the form, content, code, or protocol of the information or data primarily for a purpose other than transmission, conveyance, or routing.

(7) "Coin-operated telephone service" means a telecommunications service paid for by inserting money into a telephone accepting direct deposits of money to operate.

(8) "Customer" has the same meaning as in section 5739.034 of the Revised Code.

(BB) "Laundry and dry cleaning services" means removing soil or dirt from towels, linens, articles of clothing, or other fabric items that belong to others and supplying towels, linens, articles of clothing, or other fabric items. "Laundry and dry cleaning services" does not include the provision of self-service facilities for use by consumers to remove soil or dirt from towels, linens, articles of clothing, or other fabric items.

(CC) "Magazines distributed as controlled circulation publications" means magazines containing at least twenty-four pages, at least twenty-five per cent editorial content, issued at regular intervals four or more times a year, and circulated without charge to the recipient, provided that such magazines are not owned or controlled by individuals or business concerns which conduct such publications as an auxiliary to, and essentially for the advancement of the main business or calling of, those who own or control them.

(DD) "Landscaping and lawn care service" means the services of planting, seeding, sodding, removing, cutting, trimming, pruning, mulching, aerating, applying chemicals, watering, fertilizing, and providing similar services to establish, promote, or control the growth of trees, shrubs, flowers, grass, ground cover, and other flora, or otherwise maintaining a lawn or landscape grown or maintained by the owner for ornamentation or other nonagricultural purpose. However, "landscaping and lawn care service" does not include the providing of such services by a person who has less than five thousand dollars in sales of such services during the calendar year.

(EE) "Private investigation and security service" means the performance of any activity for which the provider of such service is required to be licensed pursuant to Chapter 4749. of the Revised Code, or would be required to be so licensed in performing such services in this state, and also includes the services of conducting polygraph examinations and of monitoring or overseeing the activities on or in, or the condition of, the consumer's home, business, or other facility by means of electronic or similar monitoring devices. "Private investigation and security service" does not include special duty services provided by off-duty police officers, deputy sheriffs, and other peace officers regularly employed by the state or a political subdivision.

(FF) "Information services" means providing conversation, giving consultation or advice, playing or making a voice or other recording, making or keeping a record of the number of callers, and any other service provided

to a consumer by means of a nine hundred telephone call, except when the nine hundred telephone call is the means by which the consumer makes a contribution to a recognized charity.

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

(HH) "Qualified research and development equipment" means capitalized tangible personal property, and leased personal property that would be capitalized if purchased, used by a person primarily to perform research and development. Tangible personal property primarily used in testing, as defined in division (A)(4) of section 5739.011 of the Revised Code, or used for recording or storing test results, is not qualified research and development equipment unless such property is primarily used by the consumer in testing the product, equipment, or manufacturing process being created, designed, or formulated by the consumer in the research and development activity or in recording or storing such test results.

(II) "Building maintenance and janitorial service" means cleaning the interior or exterior of a building and any tangible personal property located therein or thereon, including any services incidental to such cleaning for which no separate charge is made. However, "building maintenance and janitorial service" does not include the providing of such service by a person who has less than five thousand dollars in sales of such service during the calendar year.

(JJ) "Employment service" means providing or supplying personnel, on a temporary or long-term basis, to perform work or labor under the supervision or control of another, when the personnel so supplied receive their wages, salary, or other compensation from the provider of the service. "Employment service" does not include:

(1) Acting as a contractor or subcontractor, where the personnel performing the work are not under the direct control of the purchaser.

(2) Medical and health care services.

(3) Supplying personnel to a purchaser pursuant to a contract of at least one year between the service provider and the purchaser that specifies that each employee covered under the contract is assigned to the purchaser on a permanent basis.

(4) Transactions between members of an affiliated group, as defined in division (B)(3)(e) of this section.

(KK) "Employment placement service" means locating or finding employment for a person or finding or locating an employee to fill an available position.

(LL) "Exterminating service" means eradicating or attempting to eradicate vermin infestations from a building or structure, or the area surrounding a building or structure, and includes activities to inspect, detect, or prevent vermin infestation of a building or structure.

(MM) "Physical fitness facility service" means all transactions by which a membership is granted, maintained, or renewed, including initiation fees, membership dues, renewal fees, monthly minimum fees, and other similar fees and dues, by a physical fitness facility such as an athletic club, health spa, or gymnasium, which entitles the member to use the facility for physical exercise.

(NN) "Recreation and sports club service" means all transactions by which a membership is granted, maintained, or renewed, including initiation fees, membership dues, renewal fees, monthly minimum fees, and other similar fees and dues, by a recreation and sports club, which entitles the member to use the facilities of the organization. "Recreation and sports club" means an organization that has ownership of, or controls or leases on a continuing, long-term basis, the facilities used by its members and includes an aviation club, gun or shooting club, yacht club, card club, swimming club, tennis club, golf club, country club, riding club, amateur sports club, or similar organization.

(OO) "Livestock" means farm animals commonly raised for food or food production, and includes but is not limited to cattle, sheep, goats, swine, and poultry. "Livestock" does not include invertebrates, fish, amphibians, reptiles, horses, domestic pets, animals for use in laboratories or for exhibition, or other animals not commonly raised for food or food production.

(PP) "Livestock structure" means a building or structure used exclusively for the housing, raising, feeding, or sheltering of livestock, and includes feed storage or handling structures and structures for livestock waste handling.

(QQ) "Horticulture" means the growing, cultivation, and production of flowers, fruits, herbs, vegetables, sod, mushrooms, and nursery stock. As used in this division, "nursery stock" has the same meaning as in section 927.51 of the Revised Code.

(RR) "Horticulture structure" means a building or structure used exclusively for the commercial growing, raising, or overwintering of horticultural products, and includes the area used for stocking, storing, and

packing horticultural products when done in conjunction with the production of those products.

(SS) "Newspaper" means an unbound publication bearing a title or name that is regularly published, at least as frequently as biweekly, and distributed from a fixed place of business to the public in a specific geographic area, and that contains a substantial amount of news matter of international, national, or local events of interest to the general public.

(TT) "Professional racing team" means a person that employs at least twenty full-time employees for the purpose of conducting a motor vehicle racing business for profit. The person must conduct the business with the purpose of racing one or more motor racing vehicles in at least ten competitive professional racing events each year that comprise all or part of a motor racing series sanctioned by one or more motor racing sanctioning organizations. A "motor racing vehicle" means a vehicle for which the chassis, engine, and parts are designed exclusively for motor racing, and does not include a stock or production model vehicle that may be modified for use in racing. For the purposes of this division:

(1) A "competitive professional racing event" is a motor vehicle racing event sanctioned by one or more motor racing sanctioning organizations, at which aggregate cash prizes in excess of eight hundred thousand dollars are awarded to the competitors.

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

(UU)(1) "Lease" or "rental" means any transfer of the possession or control of tangible personal property for a fixed or indefinite term, for consideration. "Lease" or "rental" includes future options to purchase or extend, and agreements described in 26 U.S.C. 7701(h)(1) covering motor vehicles and trailers where the amount of consideration may be increased or decreased by reference to the amount realized upon the sale or disposition of the property. "Lease" or "rental" does not include:

(a) A transfer of possession or control of tangible personal property under a security agreement or a deferred payment plan that requires the transfer of title upon completion of the required payments;

(b) A transfer of possession or control of tangible personal property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price that does not exceed the greater of one hundred dollars or one per cent of the total required payments;

(c) Providing tangible personal property along with an operator for a fixed or indefinite period of time, if the operator is necessary for the property to perform as designed. For purposes of this division, the operator must do more than maintain, inspect, or set-up the tangible personal property.

(2) "Lease" and "rental," as defined in division (UU) of this section, shall not apply to leases or rentals that exist before ~~the effective date of this amendment~~ June 26, 2003.

(3) "Lease" and "rental" have the same meaning as in division (UU)(1) of this section regardless of whether a transaction is characterized as a lease or rental under generally accepted accounting principles, the Internal Revenue Code, Title XIII of the Revised Code, or other federal, state, or local laws.

(VV) "Mobile telecommunications service" has the same meaning as in the "Mobile Telecommunications Sourcing Act," Pub. L. No. 106-252, 114 Stat. 631 (2000), 4 U.S.C.A. 124(7), as amended, and, on and after August 1, 2003, includes related fees and ancillary services, including universal service fees, detailed billing service, directory assistance, service initiation, voice mail service, and vertical services, such as caller ID and three-way calling.

(WW) "Certified service provider" has the same meaning as in section 5740.01 of the Revised Code.

(XX) "Satellite broadcasting service" means the distribution or broadcasting of programming or services by satellite directly to the subscriber's receiving equipment without the use of ground receiving or distribution equipment, except the subscriber's receiving equipment or equipment used in the uplink process to the satellite, and includes all service and rental charges, premium channels or other special services, installation and repair service charges, and any other charges having any connection with the provision of the satellite broadcasting service.

(YY) "Tangible personal property" means personal property that can be seen, weighed, measured, felt, or touched, or that is in any other manner perceptible to the senses. For purposes of this chapter and Chapter 5741. of the Revised Code, "tangible personal property" includes motor vehicles, electricity, water, gas, steam, and prewritten computer software.

(ZZ) "Direct mail" means printed material delivered or distributed by United States mail or other delivery service to a mass audience or to addressees on a mailing list provided by the consumer or at the direction of the consumer when the cost of the items are not billed directly to the recipients. "Direct mail" includes tangible personal property supplied

directly or indirectly by the consumer to the direct mail vendor for inclusion in the package containing the printed material. "Direct mail" does not include multiple items of printed material delivered to a single address.

(AAA) "Computer" means an electronic device that accepts information in digital or similar form and manipulates it for a result based on a sequence of instructions.

(BBB) "Computer software" means a set of coded instructions designed to cause a computer or automatic data processing equipment to perform a task.

(CCC) "Delivered electronically" means delivery of computer software from the seller to the purchaser by means other than tangible storage media.

(DDD) "Prewritten computer software" means computer software, including prewritten upgrades, that is not designed and developed by the author or other creator to the specifications of a specific purchaser. The combining of two or more prewritten computer software programs or prewritten portions thereof does not cause the combination to be other than prewritten computer software. "Prewritten computer software" includes software designed and developed by the author or other creator to the specifications of a specific purchaser when it is sold to a person other than the purchaser. If a person modifies or enhances computer software of which the person is not the author or creator, the person shall be deemed to be the author or creator only of such person's modifications or enhancements. Prewritten computer software or a prewritten portion thereof that is modified or enhanced to any degree, where such modification or enhancement is designed and developed to the specifications of a specific purchaser, remains prewritten computer software; provided, however, that where there is a reasonable, separately stated charge or an invoice or other statement of the price given to the purchaser for the modification or enhancement, the modification or enhancement shall not constitute prewritten computer software.

(EEE)(1) ~~Prior to July 1, 2004, "food" means cereals and cereal products, milk and milk products including ice cream, meat and meat products, fish and fish products, eggs and egg products, vegetables and vegetable products, fruits, fruit products, and pure fruit juices, condiments, sugar and sugar products, coffee and coffee substitutes, tea, and cocoa and cocoa products. "Food" does not include spirituous liquors, wine, mixed beverages, or beer; soft drinks; sodas and beverages that are ordinarily dispensed at or in connection with bars and soda fountains, other than coffee, tea, and cocoa; root beer and root beer extracts; malt and malt extracts; mineral oils, cod liver oils, and halibut liver oil; medicines,~~



~~including tonics, vitamin preparations, and other products sold primarily for their medicinal properties; and water, including mineral, bottled, and carbonated waters, and ice.~~

(2) ~~On and after July 1, 2004, "food~~ "Food" means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. "Food" does not include alcoholic beverages, dietary supplements, soft drinks, or tobacco.

~~(3)(2)~~ As used in division (EEE)~~(2)(1)~~ of this section:

(a) "Alcoholic beverages" means beverages that are suitable for human consumption and contain one-half of one per cent or more of alcohol by volume.

(b) "Dietary supplements" means any product, other than tobacco, that is intended to supplement the diet and that is intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form, or, if not intended for ingestion in such a form, is not represented as conventional food for use as a sole item of a meal or of the diet; that is required to be labeled as a dietary supplement, identifiable by the "supplement facts" box found on the label, as required by 21 C.F.R. 101.36; and that contains one or more of the following dietary ingredients:

- (i) A vitamin;
- (ii) A mineral;
- (iii) An herb or other botanical;
- (iv) An amino acid;

(v) A dietary substance for use by humans to supplement the diet by increasing the total dietary intake;

(vi) A concentrate, metabolite, constituent, extract, or combination of any ingredient described in divisions (EEE)~~(3)(2)~~(b)(i) to (v) of this section.

(c) "Soft drinks" means nonalcoholic beverages that contain natural or artificial sweeteners. "Soft drinks" does not include beverages that contain milk or milk products, soy, rice, or similar milk substitutes, or that contains greater than fifty per cent vegetable or fruit juice by volume.

(d) "Tobacco" means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco.

(FFF) "Drug" means a compound, substance, or preparation, and any component of a compound, substance, or preparation, other than food, dietary supplements, or alcoholic beverages that is recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, and supplements to them; is intended for use in the diagnosis, cure, mitigation, treatment, or prevention

of disease; or is intended to affect the structure or any function of the body.

(GGG) "Prescription" means an order, formula, or recipe issued in any form of oral, written, electronic, or other means of transmission by a duly licensed practitioner authorized by the laws of this state to issue a prescription.

(HHH) "Durable medical equipment" means equipment, including repair and replacement parts for such equipment, that can withstand repeated use, is primarily and customarily used to serve a medical purpose, generally is not useful to a person in the absence of illness or injury, and is not worn in or on the body. "Durable medical equipment" does not include mobility enhancing equipment.

(III) "Mobility enhancing equipment" means equipment, including repair and replacement parts for such equipment, that is primarily and customarily used to provide or increase the ability to move from one place to another and is appropriate for use either in a home or a motor vehicle, that is not generally used by persons with normal mobility, and that does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer. "Mobility enhancing equipment" does not include durable medical equipment.

(JJJ) "Prosthetic device" means a replacement, corrective, or supportive device, including repair and replacement parts for the device, worn on or in the human body to artificially replace a missing portion of the body, prevent or correct physical deformity or malfunction, or support a weak or deformed portion of the body. As used in this division, "prosthetic device" does not include corrective eyeglasses, contact lenses, or dental prosthesis.

(KKK)(1) "Fractional aircraft ownership program" means a program in which persons within an affiliated group sell and manage fractional ownership program aircraft, provided that at least one hundred airworthy aircraft are operated in the program and the program meets all of the following criteria:

(a) Management services are provided by at least one program manager within an affiliated group on behalf of the fractional owners.

(b) Each program aircraft is owned or possessed by at least one fractional owner.

(c) Each fractional owner owns or possesses at least a one-sixteenth interest in at least one fixed-wing program aircraft.

(d) A dry-lease aircraft interchange arrangement is in effect among all of the fractional owners.

(e) Multi-year program agreements are in effect regarding the fractional ownership, management services, and dry-lease aircraft interchange

arrangement aspects of the program.

(2) As used in division (KKK)(1) of this section:

(a) "Affiliated group" has the same meaning as in division (B)(3)(e) of this section.

(b) "Fractional owner" means a person that owns or possesses at least a one-sixteenth interest in a program aircraft and has entered into the agreements described in division (KKK)(1)(e) of this section.

(c) "Fractional ownership program aircraft" or "program aircraft" means a turbojet aircraft that is owned or possessed by a fractional owner and that has been included in a dry-lease aircraft interchange arrangement and agreement under divisions (KKK)(1)(d) and (e) of this section, or an aircraft a program manager owns or possesses primarily for use in a fractional aircraft ownership program.

(d) "Management services" means administrative and aviation support services furnished under a fractional aircraft ownership program in accordance with a management services agreement under division (KKK)(1)(e) of this section, and offered by the program manager to the fractional owners, including, at a minimum, the establishment and implementation of safety guidelines; the coordination of the scheduling of the program aircraft and crews; program aircraft maintenance; program aircraft insurance; crew training for crews employed, furnished, or contracted by the program manager or the fractional owner; the satisfaction of record-keeping requirements; and the development and use of an operations manual and a maintenance manual for the fractional aircraft ownership program.

(e) "Program manager" means the person that offers management services to fractional owners pursuant to a management services agreement under division (KKK)(1)(e) of this section.

Sec. 5739.012. (A) As used in this section:

(1) "Bundled transaction" means the retail sale of two or more products, except real property and services to real property, where the products are otherwise distinct and identifiable products and are sold for one non-itemized price. "Bundled transaction" does not include the sale of any products in which the sales price varies, or is negotiable, based on the selection by the consumer of the products included in the transaction.

As used in division (A)(1) of this section:

(a) "Distinct and identifiable products" does not include any of the following:

(i) Packaging, including containers, boxes, sacks, bags, and bottles, and packaging materials, including wrapping, labels, tags, and instruction guides

that accompany the retail sale of the products and are incidental or immaterial to the retail sale thereof;

(ii) A product provided free of charge with the required purchase of another product. A product is provided free of charge if the sales price of the product purchased does not vary depending on the inclusion of the product provided free of charge.

(iii) Items included in the definition of "price" under division (H) of section 5739.01 of the Revised Code.

(b) "One non-itemized price" does not include a price that is separately identified by product on binding sales or other supporting sales-related documents made available to the consumer in paper or electronic form, including, but not limited to, an invoice, bill of sale, receipt, contract, service agreement, lease agreement, periodic notice of rates and services, rate card, or price list.

(2) "De minimis" means the vendor's or seller's purchase price or sales price of taxable products is ten per cent or less of the total purchase price or sales price of bundled products. Vendors and sellers shall use either the purchase price or the sales price of the products to determine if the taxable products are de minimis, and shall use the full term of a service contract to determine if the taxable products are de minimis. Vendors and sellers shall not use a combination of the purchase price and sales price of the products to determine if the taxable products are de minimis.

(3) "Over-the-counter drug" means a drug that contains a label that identifies the product as a drug as required by 21 C.F.R. 201.66, and the label includes either a "Drug Facts" panel or a statement of the active ingredients with a list of those ingredients contained in the drug.

(B) A transaction that otherwise meets the definition of a bundled transaction is not a bundled transaction if it is any of the following:

(1) A retail sale of tangible personal property and a service where the tangible personal property is essential to the use of the service, and is provided exclusively in connection with the service, and the true object of the transaction is the service;

(2) A retail sale of services where one service is provided that is essential to the use or receipt of a second service, the first service is provided exclusively in connection with the second service, and the true object of the transaction is the second service;

(3) A transaction that includes taxable products and nontaxable products, and the purchase price or sales price of the taxable products is de minimis;

(4) A retail sale of exempt tangible personal property and taxable

tangible personal property where the transaction includes food and food ingredients, drugs, durable medical equipment, mobility enhancing equipment, over-the-counter drugs, prosthetic devices, or medical supplies, and the vendor's or seller's purchase price or sales price of the taxable tangible personal property is fifty per cent or less of the total purchase price or sales price of the bundled tangible personal property. Vendors and sellers may not use a combination of the purchase price and sales price of the tangible personal property when making the fifty per cent determination for a transaction.

(C) In the case of a bundled transaction that includes telecommunications service, ancillary service, internet access, or audio or video programming service:

(1) If the price is attributable to products that are taxable and products that are nontaxable, the portion of the price attributable to the nontaxable products shall be subject to tax unless the provider, by reasonable and verifiable standards, can identify the portion from its books and records that are kept in the regular course of business for other purposes, including, but not limited to, non-tax purposes.

(2) If the price is attributable to products that are subject to tax at different tax rates, the total price shall be treated as attributable to the products subject to tax at the highest tax rate unless the provider can identify by reasonable and verifiable standards the portion of the price attributable to the products subject to tax at the lower rate from its books and records that are kept in the regular course of business for other purposes, including, but not limited to, non-tax purposes.

(D) In all other cases of bundled transactions, the taxability of the transaction shall be determined by the true object of the consumer entering into the transaction.

Sec. 5739.02. For the purpose of providing revenue with which to meet the needs of the state, for the use of the general revenue fund of the state, for the purpose of securing a thorough and efficient system of common schools throughout the state, for the purpose of affording revenues, in addition to those from general property taxes, permitted under constitutional limitations, and from other sources, for the support of local governmental functions, and for the purpose of reimbursing the state for the expense of administering this chapter, an excise tax is hereby levied on each retail sale made in this state.

(A)(1) The tax shall be collected as provided in section 5739.025 of the Revised Code, provided that on and after July 1, 2003, and on or before June 30, 2005, the rate of tax shall be six per cent. On and after July 1, 2005, the

rate of the tax shall be five and one-half per cent. The tax applies and is collectible when the sale is made, regardless of the time when the price is paid or delivered.

(2) In the case of the lease or rental, with a fixed term of more than thirty days or an indefinite term with a minimum period of more than thirty days, of any motor vehicles designed by the manufacturer to carry a load of not more than one ton, watercraft, outboard motor, or aircraft, or of any tangible personal property, other than motor vehicles designed by the manufacturer to carry a load of more than one ton, to be used by the lessee or renter primarily for business purposes, the tax shall be collected by the vendor at the time the lease or rental is consummated and shall be calculated by the vendor on the basis of the total amount to be paid by the lessee or renter under the lease agreement. If the total amount of the consideration for the lease or rental includes amounts that are not calculated at the time the lease or rental is executed, the tax shall be calculated and collected by the vendor at the time such amounts are billed to the lessee or renter. In the case of an open-end lease or rental, the tax shall be calculated by the vendor on the basis of the total amount to be paid during the initial fixed term of the lease or rental, and for each subsequent renewal period as it comes due. As used in this division, "motor vehicle" has the same meaning as in section 4501.01 of the Revised Code, and "watercraft" includes an outdrive unit attached to the watercraft.

A lease with a renewal clause and a termination penalty or similar provision that applies if the renewal clause is not exercised is presumed to be a sham transaction. In such a case, the tax shall be calculated and paid on the basis of the entire length of the lease period, including any renewal periods, until the termination penalty or similar provision no longer applies. The taxpayer shall bear the burden, by a preponderance of the evidence, that the transaction or series of transactions is not a sham transaction.

(3) Except as provided in division (A)(2) of this section, in the case of a sale, the price of which consists in whole or in part of the lease or rental of tangible personal property, the tax shall be measured by the installments of that lease or rental.

(4) In the case of a sale of a physical fitness facility service or recreation and sports club service, the price of which consists in whole or in part of a membership for the receipt of the benefit of the service, the tax applicable to the sale shall be measured by the installments thereof.

(B) The tax does not apply to the following:

(1) Sales to the state or any of its political subdivisions, or to any other state or its political subdivisions if the laws of that state exempt from

taxation sales made to this state and its political subdivisions;

(2) Sales of food for human consumption off the premises where sold;

(3) Sales of food sold to students only in a cafeteria, dormitory, fraternity, or sorority maintained in a private, public, or parochial school, college, or university;

(4) Sales of newspapers and of magazine subscriptions and sales or transfers of magazines distributed as controlled circulation publications;

(5) The furnishing, preparing, or serving of meals without charge by an employer to an employee provided the employer records the meals as part compensation for services performed or work done;

(6) Sales of motor fuel upon receipt, use, distribution, or sale of which in this state a tax is imposed by the law of this state, but this exemption shall not apply to the sale of motor fuel on which a refund of the tax is allowable under division (A) of section 5735.14 of the Revised Code; and the tax commissioner may deduct the amount of tax levied by this section applicable to the price of motor fuel when granting a refund of motor fuel tax pursuant to division (A) of section 5735.14 of the Revised Code and shall cause the amount deducted to be paid into the general revenue fund of this state;

(7) Sales of natural gas by a natural gas company, of water by a water-works company, or of steam by a heating company, if in each case the thing sold is delivered to consumers through pipes or conduits, and all sales of communications services by a telegraph company, all terms as defined in section 5727.01 of the Revised Code, and sales of electricity delivered through wires;

(8) Casual sales by a person, or auctioneer employed directly by the person to conduct such sales, except as to such sales of motor vehicles, watercraft or outboard motors required to be titled under section 1548.06 of the Revised Code, watercraft documented with the United States coast guard, snowmobiles, and all-purpose vehicles as defined in section 4519.01 of the Revised Code;

(9) Sales of services or tangible personal property, other than motor vehicles, mobile homes, and manufactured homes, by churches, organizations exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986, or nonprofit organizations operated exclusively for charitable purposes as defined in division (B)(12) of this section, provided that the number of days on which such tangible personal property or services, other than items never subject to the tax, are sold does not exceed six in any calendar year. If the number of days on which such sales are made exceeds six in any calendar year, the church or organization shall be

considered to be engaged in business and all subsequent sales by it shall be subject to the tax. In counting the number of days, all sales by groups within a church or within an organization shall be considered to be sales of that church or organization, except that sales made by separate student clubs and other groups of students of a primary or secondary school, and sales made by a parent-teacher association, booster group, or similar organization that raises money to support or fund curricular or extracurricular activities of a primary or secondary school, shall not be considered to be sales of such school, and sales by each such club, group, association, or organization shall be counted separately for purposes of the six-day limitation. This division does not apply to sales by a noncommercial educational radio or television broadcasting station.

(10) Sales not within the taxing power of this state under the Constitution of the United States;

(11) Except for transactions that are sales under division (B)(3)~~(s)~~(r) of section 5739.01 of the Revised Code, the transportation of persons or property, unless the transportation is by a private investigation and security service;

(12) Sales of tangible personal property or services to churches, to organizations exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986, and to any other nonprofit organizations operated exclusively for charitable purposes in this state, no part of the net income of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which consists of carrying on propaganda or otherwise attempting to influence legislation; sales to offices administering one or more homes for the aged or one or more hospital facilities exempt under section 140.08 of the Revised Code; and sales to organizations described in division (D) of section 5709.12 of the Revised Code.

"Charitable purposes" means the relief of poverty; the improvement of health through the alleviation of illness, disease, or injury; the operation of an organization exclusively for the provision of professional, laundry, printing, and purchasing services to hospitals or charitable institutions; the operation of a home for the aged, as defined in section 5701.13 of the Revised Code; the operation of a radio or television broadcasting station that is licensed by the federal communications commission as a noncommercial educational radio or television station; the operation of a nonprofit animal adoption service or a county humane society; the promotion of education by an institution of learning that maintains a faculty of qualified instructors, teaches regular continuous courses of study, and confers a recognized



diploma upon completion of a specific curriculum; the operation of a parent-teacher association, booster group, or similar organization primarily engaged in the promotion and support of the curricular or extracurricular activities of a primary or secondary school; the operation of a community or area center in which presentations in music, dramatics, the arts, and related fields are made in order to foster public interest and education therein; the production of performances in music, dramatics, and the arts; or the promotion of education by an organization engaged in carrying on research in, or the dissemination of, scientific and technological knowledge and information primarily for the public.

Nothing in this division shall be deemed to exempt sales to any organization for use in the operation or carrying on of a trade or business, or sales to a home for the aged for use in the operation of independent living facilities as defined in division (A) of section 5709.12 of the Revised Code.

(13) Building and construction materials and services sold to construction contractors for incorporation into a structure or improvement to real property under a construction contract with this state or a political subdivision of this state, or with the United States government or any of its agencies; building and construction materials and services sold to construction contractors for incorporation into a structure or improvement to real property that are accepted for ownership by this state or any of its political subdivisions, or by the United States government or any of its agencies at the time of completion of the structures or improvements; building and construction materials sold to construction contractors for incorporation into a horticulture structure or livestock structure for a person engaged in the business of horticulture or producing livestock; building materials and services sold to a construction contractor for incorporation into a house of public worship or religious education, or a building used exclusively for charitable purposes under a construction contract with an organization whose purpose is as described in division (B)(12) of this section; building materials and services sold to a construction contractor for incorporation into a building under a construction contract with an organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986 when the building is to be used exclusively for the organization's exempt purposes; building and construction materials sold for incorporation into the original construction of a sports facility under section 307.696 of the Revised Code; and building and construction materials and services sold to a construction contractor for incorporation into real property outside this state if such materials and services, when sold to a construction contractor in the state in which the real property is located for incorporation

into real property in that state, would be exempt from a tax on sales levied by that state;

(14) Sales of ships or vessels or rail rolling stock used or to be used principally in interstate or foreign commerce, and repairs, alterations, fuel, and lubricants for such ships or vessels or rail rolling stock;

(15) Sales to persons primarily engaged in any of the activities mentioned in division (B)~~(43)~~(42)(a) or (g) of this section, to persons engaged in making retail sales, or to persons who purchase for sale from a manufacturer tangible personal property that was produced by the manufacturer in accordance with specific designs provided by the purchaser, of packages, including material, labels, and parts for packages, and of machinery, equipment, and material for use primarily in packaging tangible personal property produced for sale, including any machinery, equipment, and supplies used to make labels or packages, to prepare packages or products for labeling, or to label packages or products, by or on the order of the person doing the packaging, or sold at retail. "Packages" includes bags, baskets, cartons, crates, boxes, cans, bottles, bindings, wrappings, and other similar devices and containers, but does not include motor vehicles or bulk tanks, trailers, or similar devices attached to motor vehicles. "Packaging" means placing in a package. Division (B)~~(14)~~(15) of this section does not apply to persons engaged in highway transportation for hire.

(16) Sales of food to persons using food stamp benefits to purchase the food. As used in this division, "food" has the same meaning as in the "Food Stamp Act of 1977," 91 Stat. 958, 7 U.S.C. 2012, as amended, and federal regulations adopted pursuant to that act.

(17) Sales to persons engaged in farming, agriculture, horticulture, or floriculture, of tangible personal property for use or consumption directly in the production by farming, agriculture, horticulture, or floriculture of other tangible personal property for use or consumption directly in the production of tangible personal property for sale by farming, agriculture, horticulture, or floriculture; or material and parts for incorporation into any such tangible personal property for use or consumption in production; and of tangible personal property for such use or consumption in the conditioning or holding of products produced by and for such use, consumption, or sale by persons engaged in farming, agriculture, horticulture, or floriculture, except where such property is incorporated into real property;

(18) Sales of drugs for a human being; that may be dispensed only pursuant to a prescription; insulin as recognized in the official United States pharmacopoeia; urine and blood testing materials when used by diabetics or persons with hypoglycemia to test for glucose or acetone; hypodermic

syringes and needles when used by diabetics for insulin injections; epoetin alfa when purchased for use in the treatment of persons with medical disease; hospital beds when purchased ~~for use by persons with medical problems for medical purposes~~ by hospitals, nursing homes, or other medical facilities; and medical oxygen and medical oxygen-dispensing equipment when purchased ~~for use by persons with medical problems for medical purposes~~ by hospitals, nursing homes, or other medical facilities;

(19) Sales of prosthetic devices, durable medical equipment for home use, or mobility enhancing equipment, when made pursuant to a prescription and when such devices or equipment are for use by a human being.

(20) Sales of emergency and fire protection vehicles and equipment to nonprofit organizations for use solely in providing fire protection and emergency services, including trauma care and emergency medical services, for political subdivisions of the state;

(21) Sales of tangible personal property manufactured in this state, if sold by the manufacturer in this state to a retailer for use in the retail business of the retailer outside of this state and if possession is taken from the manufacturer by the purchaser within this state for the sole purpose of immediately removing the same from this state in a vehicle owned by the purchaser;

(22) Sales of services provided by the state or any of its political subdivisions, agencies, instrumentalities, institutions, or authorities, or by governmental entities of the state or any of its political subdivisions, agencies, instrumentalities, institutions, or authorities;

(23) Sales of motor vehicles to nonresidents of this state upon the presentation of an affidavit executed in this state by the nonresident purchaser affirming that the purchaser is a nonresident of this state, that possession of the motor vehicle is taken in this state for the sole purpose of immediately removing it from this state, that the motor vehicle will be permanently titled and registered in another state, and that the motor vehicle will not be used in this state;

(24) Sales to persons engaged in the preparation of eggs for sale of tangible personal property used or consumed directly in such preparation, including such tangible personal property used for cleaning, sanitizing, preserving, grading, sorting, and classifying by size; packages, including material and parts for packages, and machinery, equipment, and material for use in packaging eggs for sale; and handling and transportation equipment and parts therefor, except motor vehicles licensed to operate on public highways, used in intraplant or interplant transfers or shipment of eggs in the process of preparation for sale, when the plant or plants within or

between which such transfers or shipments occur are operated by the same person. "Packages" includes containers, cases, baskets, flats, fillers, filler flats, cartons, closure materials, labels, and labeling materials, and "packaging" means placing therein.

(25)(a) Sales of water to a consumer for residential use, except the sale of bottled water, distilled water, mineral water, carbonated water, or ice;

(b) Sales of water by a nonprofit corporation engaged exclusively in the treatment, distribution, and sale of water to consumers, if such water is delivered to consumers through pipes or tubing.

(26) Fees charged for inspection or reinspection of motor vehicles under section 3704.14 of the Revised Code;

(27) Sales to persons licensed to conduct a food service operation pursuant to section 3717.43 of the Revised Code, of tangible personal property primarily used directly for the following:

(a) To prepare food for human consumption for sale;

(b) To preserve food that has been or will be prepared for human consumption for sale by the food service operator, not including tangible personal property used to display food for selection by the consumer;

(c) To clean tangible personal property used to prepare or serve food for human consumption for sale.

(28) Sales of animals by nonprofit animal adoption services or county humane societies;

(29) Sales of services to a corporation described in division (A) of section 5709.72 of the Revised Code, and sales of tangible personal property that qualifies for exemption from taxation under section 5709.72 of the Revised Code;

(30) Sales and installation of agricultural land tile, as defined in division (B)(5)(a) of section 5739.01 of the Revised Code;

(31) Sales and erection or installation of portable grain bins, as defined in division (B)(5)(b) of section 5739.01 of the Revised Code;

(32) The sale, lease, repair, and maintenance of, parts for, or items attached to or incorporated in, motor vehicles that are primarily used for transporting tangible personal property belonging to others by a person engaged in highway transportation for hire, except for packages and packaging used for the transportation of tangible personal property;

(33) Sales to the state headquarters of any veterans' organization in this state that is either incorporated and issued a charter by the congress of the United States or is recognized by the United States veterans administration, for use by the headquarters;

(34) Sales to a telecommunications service vendor, mobile

telecommunications service vendor, or satellite broadcasting service vendor of tangible personal property and services used directly and primarily in transmitting, receiving, switching, or recording any interactive, one- or two-way electromagnetic communications, including voice, image, data, and information, through the use of any medium, including, but not limited to, poles, wires, cables, switching equipment, computers, and record storage devices and media, and component parts for the tangible personal property. The exemption provided in this division shall be in lieu of all other exemptions under division (B)(43)(42)(a) of this section to which the vendor may otherwise be entitled, based upon the use of the thing purchased in providing the telecommunications, mobile telecommunications, or satellite broadcasting service.

~~(35) Sales of investment metal bullion and investment coins. "Investment metal bullion" means any elementary precious metal that has been put through a process of smelting or refining, including, but not limited to, gold, silver, platinum, and palladium, and which is in such state or condition that its value depends upon its content and not upon its form. "Investment metal bullion" does not include fabricated precious metal that has been processed or manufactured for one or more specific and customary industrial, professional, or artistic uses. "Investment coins" means numismatic coins or other forms of money and legal tender manufactured of gold, silver, platinum, palladium, or other metal under the laws of the United States or any foreign nation with a fair market value greater than any statutory or nominal value of such coins.~~

~~(36)~~(35)(a) Sales where the purpose of the consumer is to use or consume the things transferred in making retail sales and consisting of newspaper inserts, catalogues, coupons, flyers, gift certificates, or other advertising material that prices and describes tangible personal property offered for retail sale.

(b) Sales to direct marketing vendors of preliminary materials such as photographs, artwork, and typesetting that will be used in printing advertising material; of printed matter that offers free merchandise or chances to win sweepstake prizes and that is mailed to potential customers with advertising material described in division (B)(36)(35)(a) of this section; and of equipment such as telephones, computers, facsimile machines, and similar tangible personal property primarily used to accept orders for direct marketing retail sales.

(c) Sales of automatic food vending machines that preserve food with a shelf life of forty-five days or less by refrigeration and dispense it to the consumer.

For purposes of division (B)~~(36)~~(35) of this section, "direct marketing" means the method of selling where consumers order tangible personal property by United States mail, delivery service, or telecommunication and the vendor delivers or ships the tangible personal property sold to the consumer from a warehouse, catalogue distribution center, or similar fulfillment facility by means of the United States mail, delivery service, or common carrier.

~~(37)~~(36) Sales to a person engaged in the business of horticulture or producing livestock of materials to be incorporated into a horticulture structure or livestock structure;

~~(38)~~(37) Sales of personal computers, computer monitors, computer keyboards, modems, and other peripheral computer equipment to an individual who is licensed or certified to teach in an elementary or a secondary school in this state for use by that individual in preparation for teaching elementary or secondary school students;

~~(39)~~(38) Sales to a professional racing team of any of the following:

(a) Motor racing vehicles;

(b) Repair services for motor racing vehicles;

(c) Items of property that are attached to or incorporated in motor racing vehicles, including engines, chassis, and all other components of the vehicles, and all spare, replacement, and rebuilt parts or components of the vehicles; except not including tires, consumable fluids, paint, and accessories consisting of instrumentation sensors and related items added to the vehicle to collect and transmit data by means of telemetry and other forms of communication.

~~(40)~~(39) Sales of used manufactured homes and used mobile homes, as defined in section 5739.0210 of the Revised Code, made on or after January 1, 2000;

~~(41)~~(40) Sales of tangible personal property and services to a provider of electricity used or consumed directly and primarily in generating, transmitting, or distributing electricity for use by others, including property that is or is to be incorporated into and will become a part of the consumer's production, transmission, or distribution system and that retains its classification as tangible personal property after incorporation; fuel or power used in the production, transmission, or distribution of electricity; and tangible personal property and services used in the repair and maintenance of the production, transmission, or distribution system, including only those motor vehicles as are specially designed and equipped for such use. The exemption provided in this division shall be in lieu of all other exemptions in division (B)~~(43)~~(42)(a) of this section to which a provider of electricity

may otherwise be entitled based on the use of the tangible personal property or service purchased in generating, transmitting, or distributing electricity.

~~(42)~~(41) Sales to a person providing services under division (B)(3)~~(s)~~(r) of section 5739.01 of the Revised Code of tangible personal property and services used directly and primarily in providing taxable services under that section.

~~(43)~~(42) Sales where the purpose of the purchaser is to do any of the following:

(a) To incorporate the thing transferred as a material or a part into tangible personal property to be produced for sale by manufacturing, assembling, processing, or refining; or to use or consume the thing transferred directly in producing tangible personal property for sale by mining, including, without limitation, the extraction from the earth of all substances that are classed geologically as minerals, production of crude oil and natural gas, farming, agriculture, horticulture, or floriculture, or directly in the rendition of a public utility service, except that the sales tax levied by this section shall be collected upon all meals, drinks, and food for human consumption sold when transporting persons. Persons engaged in rendering farming, agricultural, horticultural, or floricultural services, and services in the exploration for, and production of, crude oil and natural gas, for others are deemed engaged directly in farming, agriculture, horticulture, and floriculture, or exploration for, and production of, crude oil and natural gas. This paragraph does not exempt from "retail sale" or "sales at retail" the sale of tangible personal property that is to be incorporated into a structure or improvement to real property.

(b) To hold the thing transferred as security for the performance of an obligation of the vendor;

(c) To resell, hold, use, or consume the thing transferred as evidence of a contract of insurance;

(d) To use or consume the thing directly in commercial fishing;

(e) To incorporate the thing transferred as a material or a part into, or to use or consume the thing transferred directly in the production of, magazines distributed as controlled circulation publications;

(f) To use or consume the thing transferred in the production and preparation in suitable condition for market and sale of printed, imprinted, overprinted, lithographic, multilithic, blueprinted, photostatic, or other productions or reproductions of written or graphic matter;

(g) To use the thing transferred, as described in section 5739.011 of the Revised Code, primarily in a manufacturing operation to produce tangible personal property for sale;

(h) To use the benefit of a warranty, maintenance or service contract, or similar agreement, as described in division (B)(7) of section 5739.01 of the Revised Code, to repair or maintain tangible personal property, if all of the property that is the subject of the warranty, contract, or agreement would not be subject to the tax imposed by this section;

(i) To use the thing transferred as qualified research and development equipment;

(j) To use or consume the thing transferred primarily in storing, transporting, mailing, or otherwise handling purchased sales inventory in a warehouse, distribution center, or similar facility when the inventory is primarily distributed outside this state to retail stores of the person who owns or controls the warehouse, distribution center, or similar facility, to retail stores of an affiliated group of which that person is a member, or by means of direct marketing. This division does not apply to motor vehicles registered for operation on the public highways. As used in this division, "affiliated group" has the same meaning as in division (B)(3)(e) of section 5739.01 of the Revised Code and "direct marketing" has the same meaning as in division (B)~~(36)~~(35) of this section.

(k) To use or consume the thing transferred to fulfill a contractual obligation incurred by a warrantor pursuant to a warranty provided as a part of the price of the tangible personal property sold or by a vendor of a warranty, maintenance or service contract, or similar agreement the provision of which is defined as a sale under division (B)(7) of section 5739.01 of the Revised Code;

(l) To use or consume the thing transferred in the production of a newspaper for distribution to the public;

(m) To use tangible personal property to perform a service listed in division (B)(3) of section 5739.01 of the Revised Code, if the property is or is to be permanently transferred to the consumer of the service as an integral part of the performance of the service.

As used in division (B)~~(43)~~(42) of this section, "thing" includes all transactions included in divisions (B)(3)(a), (b), and (e) of section 5739.01 of the Revised Code.

~~(44)~~(43) Sales conducted through a coin operated device that activates vacuum equipment or equipment that dispenses water, whether or not in combination with soap or other cleaning agents or wax, to the consumer for the consumer's use on the premises in washing, cleaning, or waxing a motor vehicle, provided no other personal property or personal service is provided as part of the transaction.

~~(45)~~(44) Sales of replacement and modification parts for engines,



airframes, instruments, and interiors in, and paint for, aircraft used primarily in a fractional aircraft ownership program, and sales of services for the repair, modification, and maintenance of such aircraft, and machinery, equipment, and supplies primarily used to provide those services.

~~(46)~~(45) Sales of telecommunications service that is used directly and primarily to perform the functions of a call center. As used in this division, "call center" means any physical location where telephone calls are placed or received in high volume for the purpose of making sales, marketing, customer service, technical support, or other specialized business activity, and that employs at least fifty individuals that engage in call center activities on a full-time basis, or sufficient individuals to fill fifty full-time equivalent positions.

(46) Sales by a telecommunications service vendor of 900 service to a subscriber. This division does not apply to information services, as defined in division (FF) of section 5739.01 of the Revised Code.

(47) Sales of value-added non-voice data service. This division does not apply to any similar service that is not otherwise a telecommunications service.

(C) For the purpose of the proper administration of this chapter, and to prevent the evasion of the tax, it is presumed that all sales made in this state are subject to the tax until the contrary is established.

~~(D)(E)~~(D) The levy of this tax on retail sales of recreation and sports club service shall not prevent a municipal corporation from levying any tax on recreation and sports club dues or on any income generated by recreation and sports club dues.

(E) The tax collected by the vendor from the consumer under this chapter is not part of the price, but is a tax collection for the benefit of the state, and of counties levying an additional sales tax pursuant to section 5739.021 or 5739.026 of the Revised Code and of transit authorities levying an additional sales tax pursuant to section 5739.023 of the Revised Code. Except for the discount authorized under section 5739.12 of the Revised Code and the effects of any rounding pursuant to section 5703.055 of the Revised Code, no person other than the state or such a county or transit authority shall derive any benefit from the collection or payment of the tax levied by this section or section 5739.021, 5739.023, or 5739.026 of the Revised Code.

Sec. 5739.025. As used in this section, "local tax" means a tax imposed pursuant to section 5739.021, 5739.023, 5739.026, 5741.021, 5741.022, or 5741.023 of the Revised Code.

(A) The taxes levied by sections 5739.02 and 5741.02 of the Revised

Code shall be collected as follows:

(1) On and after July 1, 2003, and on or before June 30, 2005, in accordance with the following schedule:

If the price is at least	But not more than	The amount of the tax is
\$ .01	\$ .15	No tax
.16	.16	1¢
.17	.33	2¢
.34	.50	3¢
.51	.66	4¢
.67	.83	5¢
.84	1.00	6¢

If the price exceeds one dollar, the tax is six cents on each one dollar. If the price exceeds one dollar or a multiple thereof by not more than seventeen cents, the amount of tax is six cents for each one dollar plus one cent. If the price exceeds one dollar or a multiple thereof by more than seventeen cents, the amount of tax is six cents for each one dollar plus the amount of tax for prices eighteen cents through ninety-nine cents in accordance with the schedule above.

(2) On and after July 1, 2005, and on and before December 31, 2005, in accordance with the following schedule:

If the price is at least	But not more than	The amount of the tax is
\$ .01	\$ .15	No tax
.16	<del>.20</del>	1¢
	<u>.18</u>	
<del>.24</del>	<del>.40</del>	2¢
<u>.19</u>	<u>.36</u>	
<del>.44</del>	<del>.60</del>	3¢
<u>.37</u>	<u>.54</u>	
<del>.64</del>	<del>.80</del>	4¢
<u>.55</u>	<u>.72</u>	
<del>.84</del>	<del>1.00</del>	5¢
<u>.73</u>	<u>.90</u>	
<u>.91</u>	<u>1.09</u>	6¢
<u>1.10</u>	<u>1.27</u>	7¢
<u>1.28</u>	<u>1.46</u>	8¢
<u>1.47</u>	<u>1.64</u>	9¢
<u>1.65</u>	<u>1.82</u>	10¢
<u>1.83</u>	<u>2.00</u>	11¢

If the price exceeds ~~one dollar~~ two dollars, the tax is ~~five~~ eleven cents on each ~~one dollar~~ two dollars. If the price exceeds ~~one dollar~~ two dollars or a multiple thereof by not more than ~~twenty~~ eighteen cents, the amount of tax is ~~five~~ eleven cents for each ~~one dollar~~ two dollars plus one cent. If the price exceeds ~~one dollar~~ two dollars or a multiple thereof by more than ~~twenty~~ eighteen cents, the amount of tax is ~~five~~ eleven cents for each ~~one dollar~~ two dollars plus the amount of tax for prices ~~twenty-one~~ nineteen cents through one dollar and ninety-nine cents in accordance with the schedule above.

(B) On and after July 1, 2003, and on and before June 30, 2005, the combined taxes levied by sections 5739.02 and 5741.02 and pursuant to sections 5739.021, 5739.023, 5739.026, 5741.021, 5741.022, and 5741.023 of the Revised Code shall be collected in accordance with the following schedules:

(1) When the combined rate of state and local tax is six and one-fourth per cent:

If the price is at least	But not more than	The amount of the tax is
\$ .01	\$ .15	No tax
.16	.16	1¢
.17	.32	2¢
.33	.48	3¢
.49	.64	4¢
.65	.80	5¢
.81	.96	6¢
.97	1.12	7¢
1.13	1.28	8¢
1.29	1.44	9¢
1.45	1.60	10¢
1.61	1.76	11¢
1.77	1.92	12¢
1.93	2.08	13¢
2.09	2.24	14¢
2.25	2.40	15¢
2.41	2.56	16¢
2.57	2.72	17¢
2.73	2.88	18¢
2.89	3.04	19¢
3.05	3.20	20¢
3.21	3.36	21¢
3.37	3.52	22¢

3.53	3.68	23¢
3.69	3.84	24¢
3.85	4.00	25¢

If the price exceeds four dollars, the tax is twenty-five cents on each four dollars. If the price exceeds four dollars or a multiple thereof by not more than sixteen cents, the amount of tax is twenty-five cents for each four dollars plus one cent. If the price exceeds four dollars or a multiple thereof by more than sixteen cents, the amount of tax is twenty-five cents for each four dollars plus the amount of tax for prices seventeen cents through three dollars and ninety-nine cents in accordance with the schedule above.

(2) When the combined rate of state and local tax is six and one-half per cent:

If the price is at least	But not more than	The amount of the tax is
\$ .01	\$ .15	No tax
.16	.30	2¢
.31	.46	3¢
.47	.61	4¢
.62	.76	5¢
.77	.92	6¢
.93	1.07	7¢
1.08	1.23	8¢
1.24	1.38	9¢
1.39	1.53	10¢
1.54	1.69	11¢
1.70	1.84	12¢
1.85	2.00	13¢

If the price exceeds two dollars, the tax is thirteen cents on each two dollars. If the price exceeds two dollars or a multiple thereof by not more than fifteen cents, the amount of tax is thirteen cents for each two dollars plus one cent. If the price exceeds two dollars or a multiple thereof by more than fifteen cents, the amount of tax is thirteen cents for each two dollars plus the amount of tax for prices sixteen cents through one dollar and ninety-nine cents in accordance with the schedule above.

(3) When the combined rate of state and local tax is six and three-fourths per cent:

If the price is at least	But not more than	The amount of the tax is
\$ .01	\$ .15	No tax
.16	.29	2¢

.30	.44	3¢
.45	.59	4¢
.60	.74	5¢
.75	.88	6¢
.89	1.03	7¢
1.04	1.18	8¢
1.19	1.33	9¢
1.34	1.48	10¢
1.49	1.62	11¢
1.63	1.77	12¢
1.78	1.92	13¢
1.93	2.07	14¢
2.08	2.22	15¢
2.23	2.37	16¢
2.38	2.51	17¢
2.52	2.66	18¢
2.67	2.81	19¢
2.82	2.96	20¢
2.97	3.11	21¢
3.12	3.25	22¢
3.26	3.40	23¢
3.41	3.55	24¢
3.56	3.70	25¢
3.71	3.85	26¢
3.86	4.00	27¢

If the price exceeds four dollars, the tax is twenty-seven cents on each four dollars. If the price exceeds four dollars or a multiple thereof by not more than fourteen cents, the amount of tax is twenty-seven cents for each four dollars plus one cent. If the price exceeds four dollars or a multiple thereof by more than fourteen but by not more than twenty-nine cents, the amount of tax is twenty-seven cents for each four dollars plus two cents. If the price exceeds four dollars or a multiple thereof by more than twenty-nine cents the amount of tax is twenty-seven cents for each four dollars plus the amount of tax for prices thirty cents through three dollars and ninety-nine cents in accordance with the schedule above.

(4) When the combined rate of state and local tax is seven per cent:

If the price is at least	But not more than	The amount of the tax is
\$ .01	\$ .15	No tax
.16	.28	2¢

.29	.42	3¢
.43	.57	4¢
.58	.71	5¢
.72	.85	6¢
.86	1.00	7¢

If the price exceeds one dollar, the tax is seven cents on each one dollar. If the price exceeds one dollar or a multiple thereof by not more than fifteen cents, the amount of tax is seven cents for each one dollar plus one cent. If the price exceeds one dollar or a multiple thereof by more than fifteen cents, the amount of tax is seven cents for each one dollar plus the amount of tax for prices sixteen cents through ninety-nine cents in accordance with the schedule above.

(5) When the combined rate of state and local tax is seven and one-fourth per cent:

If the price is at least	But not more than	The amount of the tax is
\$ .01	\$ .15	No tax
.16	.27	2¢
.28	.41	3¢
.42	.55	4¢
.56	.68	5¢
.69	.82	6¢
.83	.96	7¢
.97	1.10	8¢
1.11	1.24	9¢
1.25	1.37	10¢
1.38	1.51	11¢
1.52	1.65	12¢
1.66	1.79	13¢
1.80	1.93	14¢
1.94	2.06	15¢
2.07	2.20	16¢
2.21	2.34	17¢
2.35	2.48	18¢
2.49	2.62	19¢
2.63	2.75	20¢
2.76	2.89	21¢
2.90	3.03	22¢
3.04	3.17	23¢
3.18	3.31	24¢

3.32	3.44	25¢
3.45	3.58	26¢
3.59	3.72	27¢
3.73	3.86	28¢
3.87	4.00	29¢

If the price exceeds four dollars, the tax is twenty-nine cents on each four dollars. If the price exceeds four dollars or a multiple thereof by not more than thirteen cents, the amount of tax is twenty-nine cents for each four dollars plus one cent. If the price exceeds four dollars or a multiple thereof by more than thirteen cents but by not more than twenty-seven cents, the amount of tax is twenty-nine cents for each four dollars plus two cents. If the price exceeds four dollars or a multiple thereof by more than twenty-seven cents, the amount of tax is twenty-nine cents for each four dollars plus the amount of tax for prices twenty-eight cents through three dollars and ninety-nine cents in accordance with the schedule above.

(6) When the combined rate of state and local tax is seven and one-half per cent:

If the price is at least	But not more than	The amount of the tax is
\$ .01	\$ .15	No tax
.16	.26	2¢
.27	.40	3¢
.41	.53	4¢
.54	.65	5¢
.66	.80	6¢
.81	.93	7¢
.94	1.06	8¢
1.07	1.20	9¢
1.21	1.33	10¢
1.34	1.46	11¢
1.47	1.60	12¢
1.61	1.73	13¢
1.74	1.86	14¢
1.87	2.00	15¢

If the price exceeds two dollars, the tax is fifteen cents on each two dollars. If the price exceeds two dollars or a multiple thereof by not more than fifteen cents, the amount of tax is fifteen cents for each two dollars plus one cent. If the price exceeds two dollars or a multiple thereof by more than fifteen cents, the amount of tax is fifteen cents for each two dollars plus the amount of tax for prices sixteen cents through one dollar and ninety-nine

cents in accordance with the schedule above.

(7) When the combined rate of state and local tax is seven and three-fourths per cent:

If the price is at least	But not more than	The amount of the tax is
\$ .01	\$ .15	No tax
.16	.25	2¢
.26	.38	3¢
.39	.51	4¢
.52	.64	5¢
.65	.77	6¢
.78	.90	7¢
.91	1.03	8¢
1.04	1.16	9¢
1.17	1.29	10¢
1.30	1.41	11¢
1.42	1.54	12¢
1.55	1.67	13¢
1.68	1.80	14¢
1.81	1.93	15¢
1.94	2.06	16¢
2.07	2.19	17¢
2.20	2.32	18¢
2.33	2.45	19¢
2.46	2.58	20¢
2.59	2.70	21¢
2.71	2.83	22¢
2.84	2.96	23¢
2.97	3.09	24¢
3.10	3.22	25¢
3.23	3.35	26¢
3.36	3.48	27¢
3.49	3.61	28¢
3.62	3.74	29¢
3.75	3.87	30¢
3.88	4.00	31¢

If the price exceeds four dollars, the tax is thirty-one cents on each four dollars. If the price exceeds four dollars or a multiple thereof by not more than twelve cents, the amount of tax is thirty-one cents for each four dollars plus one cent. If the price exceeds four dollars or a multiple thereof by more



than twelve cents but by not more than twenty-five cents, the amount of tax is thirty-one cents for each four dollars plus two cents. If the price exceeds four dollars or a multiple thereof by more than twenty-five cents, the amount of tax is thirty-one cents for each four dollars plus the amount of tax for prices twenty-six cents through three dollars and ninety-nine cents in accordance with the schedule above.

(8) When the combined rate of state and local tax is eight per cent:

If the price is at least	But not more than	The amount of the tax is
\$ .01	\$ .15	No tax
.16	.25	2¢
.26	.37	3¢
.38	.50	4¢
.51	.62	5¢
.63	.75	6¢
.76	.87	7¢
.88	1.00	8¢

If the price exceeds one dollar, the tax is eight cents on each one dollar.

If the price exceeds one dollar or a multiple thereof by not more than twelve cents, the amount of tax is eight cents for each one dollar plus one cent. If the price exceeds one dollar or a multiple thereof by more than twelve cents but not more than twenty-five cents, the amount of tax is eight cents for each one dollar plus two cents. If the price exceeds one dollar or a multiple thereof by more than twenty-five cents, the amount of tax is eight cents for each one dollar plus the amount of tax for prices twenty-six cents through ninety-nine cents in accordance with the schedule above.

(9) When the combined rate of state and local tax is eight and one-fourth per cent:

If the price is at least	But not more than	The amount of the tax is
\$ .01	\$ .15	No tax
.16	.24	2¢
.25	.36	3¢
.37	.48	4¢
.49	.60	5¢
.61	.72	6¢
.73	.84	7¢
.85	.96	8¢
.97	1.09	9¢
1.10	1.21	10¢

1.22	1.33	11¢
1.34	1.45	12¢
1.46	1.57	13¢
1.58	1.69	14¢
1.70	1.81	15¢
1.82	1.93	16¢
1.94	2.06	17¢
2.07	2.18	18¢
2.19	2.30	19¢
2.31	2.42	20¢
2.43	2.54	21¢
2.55	2.66	22¢
2.67	2.78	23¢
2.79	2.90	24¢
2.91	3.03	25¢
3.04	3.15	26¢
3.16	3.27	27¢
3.28	3.39	28¢
3.40	3.51	29¢
3.52	3.63	30¢
3.64	3.75	31¢
3.76	3.87	32¢
3.88	4.00	33¢

If the price exceeds four dollars, the tax is thirty-three cents on each four dollars. If the price exceeds four dollars or a multiple thereof by not more than eleven cents, the amount of tax is thirty-three cents for each four dollars plus one cent. If the price exceeds four dollars or a multiple thereof by more than eleven cents but by not more than twenty-four cents, the amount of tax is thirty-three cents for each four dollars plus two cents. If the price exceeds four dollars or a multiple thereof by more than twenty-four cents, the amount of tax is thirty-three cents for each four dollars plus the amount of tax for prices twenty-six cents through three dollars and ninety-nine cents in accordance with the schedule above.

(10) When the combined rate of state and local tax is eight and one-half per cent:

If the price is at least	But not more than	The amount of the tax is
\$ .01	\$ .15	No tax
.16	.23	2¢
.24	.35	3¢

.36	.47	4¢
.48	.58	5¢
.59	.70	6¢
.71	.82	7¢
.83	.94	8¢
.95	1.05	9¢
1.06	1.17	10¢
1.18	1.29	11¢
1.30	1.41	12¢
1.42	1.52	13¢
1.53	1.64	14¢
1.65	1.76	15¢
1.77	1.88	16¢
1.89	2.00	17¢

If the price exceeds two dollars, the tax is seventeen cents on each two dollars. If the price exceeds two dollars or a multiple thereof by not more than eleven cents, the amount of tax is seventeen cents for each two dollars plus one cent. If the price exceeds two dollars or a multiple thereof by more than eleven cents but by not more than twenty-three cents, the amount of tax is seventeen cents for each two dollars plus two cents. If the price exceeds two dollars or a multiple thereof by more than twenty-three cents, the amount of tax is seventeen cents for each two dollars plus the amount of tax for prices twenty-four cents through one dollar and ninety-nine cents in accordance with the schedule above.

(11) When the combined rate of state and local tax is eight and three-fourths per cent:

If the price is at least	But not more than	The amount of the tax is
\$ .01	\$ .15	No tax
.16	.22	2¢
.23	.34	3¢
.35	.45	4¢
.46	.57	5¢
.58	.68	6¢
.69	.80	7¢
.81	.91	8¢
.92	1.02	9¢
1.03	1.14	10¢
1.15	1.25	11¢
1.26	1.37	12¢

1.38	1.48	13¢
1.49	1.60	14¢
1.61	1.71	15¢
1.72	1.82	16¢
1.83	1.94	17¢
1.95	2.05	18¢
2.06	2.17	19¢
2.18	2.28	20¢
2.29	2.40	21¢
2.41	2.51	22¢
2.52	2.62	23¢
2.63	2.74	24¢
2.75	2.85	25¢
2.86	2.97	26¢
2.98	3.08	27¢
3.09	3.20	28¢
3.21	3.31	29¢
3.32	3.42	30¢
3.43	3.54	31¢
	3.65	32¢
3.66	3.77	33¢
3.78	3.88	34¢
3.89	4.00	35¢

If the price exceeds four dollars, the tax is thirty-five cents on each four dollars. If the price exceeds four dollars or a multiple thereof by not more than eleven cents, the amount of tax is thirty-five cents for each four dollars plus one cent. If the price exceeds four dollars or a multiple thereof by more than eleven cents but by not more than twenty-two cents, the amount of tax is thirty-five cents for each four dollars plus two cents. If the price exceeds four dollars or a multiple thereof by more than twenty-two cents, the amount of tax is thirty-five cents for each four dollars plus the amount of tax for prices twenty-three cents through three dollars and ninety-nine cents in accordance with the schedule above.

(12) When the combined rate of state and local tax is nine per cent:

If the price is at least	But not more than	The amount of the tax is
\$ .01	\$ .15	No tax
.16	.22	2¢
.23	.33	3¢
.34	.44	4¢

.45	.55	5¢
.56	.66	6¢
.67	.77	7¢
.78	.88	8¢
.89	1.00	9¢

If the price exceeds one dollar, the tax is nine cents on each one dollar. If the price exceeds one dollar or a multiple thereof by not more than eleven cents, the amount of tax is nine cents for each one dollar plus one cent. If the price exceeds one dollar or a multiple thereof by more than eleven cents but by not more than twenty-two cents, the amount of tax is nine cents for each one dollar plus two cents. If the price exceeds one dollar or a multiple thereof by more than twenty-two cents, the amount of tax is nine cents for each one dollar plus the amount of tax for prices twenty-three cents through ninety-nine cents in accordance with the schedule above.

(C) On and after July 1, 2005, and on and before December 31, 2005, the combined taxes levied by sections 5739.02 and 5741.02 and pursuant to sections 5739.021, 5739.023, 5739.026, 5741.021, 5741.022, and 5741.023 of the Revised Code shall be collected in accordance with the following schedules:

(1) When the total rate of local tax is one-fourth per cent:

If the price is at least	But not more than	The amount of the tax is
<del>\$ .01</del>	<del>\$ .15</del>	No tax
<del>.16</del>	<del>.19</del>	<del>1¢</del>
<del>.20</del>	<del>.38</del>	<del>2¢</del>
<del>.39</del>	<del>.57</del>	<del>3¢</del>
<del>.58</del>	<del>.76</del>	<del>4¢</del>
<del>.77</del>	<del>.95</del>	<del>5¢</del>
<del>.96</del>	<del>1.14</del>	<del>6¢</del>
<del>1.15</del>	<del>1.33</del>	<del>7¢</del>
<del>1.34</del>	<del>1.52</del>	<del>8¢</del>
<del>1.53</del>	<del>1.71</del>	<del>9¢</del>
<del>1.72</del>	<del>1.90</del>	<del>10¢</del>
<del>1.91</del>	<del>2.09</del>	<del>11¢</del>
<del>2.10</del>	<del>2.28</del>	<del>12¢</del>
<del>2.29</del>	<del>2.47</del>	<del>13¢</del>
<del>2.48</del>	<del>2.66</del>	<del>14¢</del>
<del>2.67</del>	<del>2.85</del>	<del>15¢</del>
<del>2.86</del>	<del>3.04</del>	<del>16¢</del>
<del>3.05</del>	<del>3.23</del>	<del>17¢</del>

3.24	3.42	18¢
3.43	3.61	19¢
3.62	3.80	20¢
3.81	4.00	21¢

If the price exceeds four dollars, the tax is twenty one cents on each four dollars. If the price exceeds four dollars or a multiple thereof by not more than nineteen cents, the amount of tax is twenty one cents for each four dollars plus one cent. If the price exceeds four dollars or a multiple thereof by more than nineteen cents, the amount of tax is twenty one cents for each four dollars plus the amount of tax for prices twenty cents through three dollars and ninety nine cents in accordance with the schedule above.

(2) When the combined rate of local tax is one half per cent:

If the price is at least	But not more than	The amount of the tax is
\$ .01	\$ .15	No tax
.16	.18	1¢
.19	.36	2¢
.37	.54	3¢
.55	.72	4¢
.73	.90	5¢
.91	1.09	6¢
1.10	1.27	7¢
1.28	1.46	8¢
1.47	1.64	9¢
1.65	1.82	10¢
1.83	2.00	11¢

If the price exceeds two dollars, the tax is eleven cents on each two dollars. If the price exceeds two dollars or a multiple thereof by not more than eighteen cents, the amount of tax is eleven cents for each two dollars plus one cent. If the price exceeds two dollars or a multiple thereof by more than eighteen cents, the amount of tax is eleven cents for each two dollars plus the amount of tax for prices nineteen cents through one dollar and ninety nine cents in accordance with the schedule above.

(3) When the combined rate of local tax is three-fourths per cent:

If the price is at least	But not more than	The amount of the tax is
\$ .01	\$ .15	No tax
.16	.17	1¢
.18	.34	2¢
.35	.52	3¢

.53	.69	4¢
.70	.86	5¢
.87	1.04	6¢
1.05	1.21	7¢
1.22	1.39	8¢
1.40	1.56	9¢
1.57	1.73	10¢
1.74	1.91	11¢
1.92	2.08	12¢
2.09	2.26	13¢
2.27	2.43	14¢
2.44	2.60	15¢
2.61	2.78	16¢
2.79	2.95	17¢
2.96	3.13	18¢
3.14	3.30	19¢
3.31	3.47	20¢
3.48	3.65	21¢
3.66	3.82	22¢
3.83	4.00	23¢

If the price exceeds four dollars, the tax is twenty-three cents on each four dollars. If the price exceeds four dollars or a multiple thereof by not more than seventeen cents, the amount of tax is twenty-three cents for each four dollars plus one cent. If the price exceeds four dollars or a multiple thereof by more than seventeen cents, the amount of tax is twenty-three cents for each four dollars plus the amount of tax for prices eighteen cents through three dollars and ninety-nine cents in accordance with the schedule above.

(4)(2) When the combined rate of local tax is ~~one~~ one-half per cent:

If the price is at least	But not more than	The amount of the tax is
\$ .01	\$ .15	No tax
.16	.17	1¢
.18	.34	2¢
.35	.50	3¢
.51	.67	4¢
.68	.83	5¢
.84	1.00	6¢

If the price exceeds one dollar, the tax is six cents on each one dollar. If the price exceeds one dollar or a multiple thereof by not more than

seventeen cents, the amount of tax is six cents for each one dollar plus one cent. If the price exceeds one dollar or a multiple thereof by more than seventeen cents, the amount of tax is six cents for each one dollar plus the amount of tax for prices eighteen cents through ninety-nine cents in accordance with the schedule above.

~~(5)(3)~~ When the combined rate of local tax is ~~one and one-fourth~~ three-fourths per cent:

If the price is at least	But not more than	The amount of the tax is
\$ .01	\$ .15	No tax
.16	.16	1¢
.17	.32	2¢
.33	.48	3¢
.49	.64	4¢
.65	.80	5¢
.81	.96	6¢
.97	1.12	7¢
1.13	1.28	8¢
1.29	1.44	9¢
1.45	1.60	10¢
1.61	1.76	11¢
1.77	1.92	12¢
1.93	2.08	13¢
2.09	2.24	14¢
2.25	2.40	15¢
2.41	2.56	16¢
2.57	2.72	17¢
2.73	2.88	18¢
2.89	3.04	19¢
3.05	3.20	20¢
3.21	3.36	21¢
3.37	3.52	22¢
3.53	3.68	23¢
3.69	3.84	24¢
3.85	4.00	25¢

If the price exceeds four dollars, the tax is twenty-five cents on each four dollars. If the price exceeds four dollars or a multiple thereof by not more than sixteen cents, the amount of tax is twenty-five cents for each four dollars plus one cent. If the price exceeds four dollars or a multiple thereof by more than sixteen cents, the amount of tax is twenty-five cents for each



four dollars plus the amount of tax for prices seventeen cents through three dollars and ninety-nine cents in accordance with the schedule above.

~~(6)~~(4) When the combined rate of local tax is one ~~and one-half~~ per cent:

If the price is at least	But not more than	The amount of the tax is
\$ .01	\$ .15	No tax
.16	.30	2¢
.31	.46	3¢
.47	.61	4¢
.62	.76	5¢
.77	.92	6¢
.93	1.07	7¢
1.08	1.23	8¢
1.24	1.38	9¢
1.39	1.53	10¢
1.54	1.69	11¢
1.70	1.84	12¢
1.85	2.00	13¢

If the price exceeds two dollars, the tax is thirteen cents on each two dollars. If the price exceeds two dollars or a multiple thereof by not more than fifteen cents, the amount of tax is thirteen cents for each two dollars plus one cent. If the price exceeds two dollars or a multiple thereof by more than fifteen cents, the amount of tax is thirteen cents for each two dollars plus the amount of tax for prices sixteen cents through one dollar and ninety-nine cents in accordance with the schedule above.

~~(7)~~(5) When the combined rate of local tax is one and ~~three-fourths~~ one-fourth per cent:

If the price is at least	But not more than	The amount of the tax is
\$ .01	\$ .15	No tax
.16	.29	2¢
.30	.44	3¢
.45	.59	4¢
.60	.74	5¢
.75	.88	6¢
.89	1.03	7¢
1.04	1.18	8¢
1.19	1.33	9¢
1.34	1.48	10¢
1.49	1.62	11¢

1.63	1.77	12¢
1.78	1.92	13¢
1.93	2.07	14¢
2.08	2.22	15¢
2.23	2.37	16¢
2.38	2.51	17¢
2.52	2.66	18¢
2.67	2.81	19¢
2.82	2.96	20¢
2.97	3.11	21¢
3.12	3.25	22¢
3.26	3.40	23¢
3.41	3.55	24¢
3.56	3.70	25¢
3.71	3.85	26¢
3.86	4.00	27¢

If the price exceeds four dollars, the tax is twenty-seven cents on each four dollars. If the price exceeds four dollars or a multiple thereof by not more than fourteen cents, the amount of tax is twenty-seven cents for each four dollars plus one cent. If the price exceeds four dollars or a multiple thereof by more than fourteen but by not more than twenty-nine cents, the amount of tax is twenty-seven cents for each four dollars plus two cents. If the price exceeds four dollars or a multiple thereof by more than twenty-nine cents the amount of tax is twenty-seven cents for each four dollars plus the amount of tax for prices thirty cents through three dollars and ninety-nine cents in accordance with the schedule above.

~~(8)(6)~~ When the combined rate of local tax is ~~two~~ one and one-half per cent:

If the price is at least	But not more than	The amount of the tax is
\$ .01	\$ .15	No tax
.16	.28	2¢
.29	.42	3¢
.43	.57	4¢
.58	.71	5¢
.72	.85	6¢
.86	1.00	7¢

If the price exceeds one dollar, the tax is seven cents on each one dollar. If the price exceeds one dollar or a multiple thereof by not more than fifteen cents, the amount of tax is seven cents for each one dollar plus one cent. If

the price exceeds one dollar or a multiple thereof by more than fifteen cents, the amount of tax is seven cents for each one dollar plus the amount of tax for prices sixteen cents through ninety-nine cents in accordance with the schedule above.

~~(9)(7)~~ When the combined rate of local tax is ~~two one~~ one and ~~one-fourth~~ three-fourths per cent:

If the price is at least	But not more than	The amount of the tax is
\$ .01	\$ .15	No tax
.16	.27	2¢
.28	.41	3¢
.42	.55	4¢
.56	.68	5¢
.69	.82	6¢
.83	.96	7¢
.97	1.10	8¢
1.11	1.24	9¢
1.25	1.37	10¢
1.38	1.51	11¢
1.52	1.65	12¢
1.66	1.79	13¢
1.80	1.93	14¢
1.94	2.06	15¢
2.07	2.20	16¢
2.21	2.34	17¢
2.35	2.48	18¢
2.49	2.62	19¢
2.63	2.75	20¢
2.76	2.89	21¢
2.90	3.03	22¢
3.04	3.17	23¢
3.18	3.31	24¢
3.32	3.44	25¢
3.45	3.58	26¢
3.59	3.72	27¢
3.73	3.86	28¢
3.87	4.00	29¢

If the price exceeds four dollars, the tax is twenty-nine cents on each four dollars. If the price exceeds four dollars or a multiple thereof by not more than thirteen cents, the amount of tax is twenty-nine cents for each

four dollars plus one cent. If the price exceeds four dollars or a multiple thereof by more than thirteen cents but by not more than twenty-seven cents, the amount of tax is twenty-nine cents for each four dollars plus two cents. If the price exceeds four dollars or a multiple thereof by more than twenty-seven cents, the amount of tax is twenty-nine cents for each four dollars plus the amount of tax for prices twenty-eight cents through three dollars and ninety-nine cents in accordance with the schedule above.

~~(10)~~(8) When the combined rate of local tax is two ~~and one-half~~ per cent:

If the price is at least	But not more than	The amount of the tax is
\$ .01	\$ .15	No tax
.16	.26	2¢
.27	.40	3¢
.41	.53	4¢
.54	.65	5¢
.66	.80	6¢
.81	.93	7¢
.94	1.06	8¢
1.07	1.20	9¢
1.21	1.33	10¢
1.34	1.46	11¢
1.47	1.60	12¢
1.61	1.73	13¢
1.74	1.86	14¢
1.87	2.00	15¢

If the price exceeds two dollars, the tax is fifteen cents on each two dollars. If the price exceeds two dollars or a multiple thereof by not more than fifteen cents, the amount of tax is fifteen cents for each two dollars plus one cent. If the price exceeds two dollars or a multiple thereof by more than fifteen cents, the amount of tax is fifteen cents for each two dollars plus the amount of tax for prices sixteen cents through one dollar and ninety-nine cents in accordance with the schedule above.

~~(11)~~(9) When the combined rate of local tax is two and ~~three-fourths~~ one-fourth per cent:

If the price is at least	But not more than	The amount of the tax is
\$ .01	\$ .15	No tax
.16	.25	2¢
.26	.38	3¢

.39	.51	4¢
.52	.64	5¢
.65	.77	6¢
.78	.90	7¢
.91	1.03	8¢
1.04	1.16	9¢
1.17	1.29	10¢
1.30	1.41	11¢
1.42	1.54	12¢
1.55	1.67	13¢
1.68	1.80	14¢
1.81	1.93	15¢
1.94	2.06	16¢
2.07	2.19	17¢
2.20	2.32	18¢
2.33	2.45	19¢
2.46	2.58	20¢
2.59	2.70	21¢
2.71	2.83	22¢
2.84	2.96	23¢
2.97	3.09	24¢
3.10	3.22	25¢
3.23	3.35	26¢
3.36	3.48	27¢
3.49	3.61	28¢
3.62	3.74	29¢
3.75	3.87	30¢
3.88	4.00	31¢

If the price exceeds four dollars, the tax is thirty-one cents on each four dollars. If the price exceeds four dollars or a multiple thereof by not more than twelve cents, the amount of tax is thirty-one cents for each four dollars plus one cent. If the price exceeds four dollars or a multiple thereof by more than twelve cents but not more than twenty-five cents, the amount of tax is thirty-one cents for each four dollars plus two cents. If the price exceeds four dollars or a multiple thereof by more than twenty-five cents, the amount of tax is thirty-one cents for each four dollars plus the amount of tax for prices twenty-six cents through three dollars and ninety-nine cents in accordance with the schedule above.

(12)(10) When the combined rate of local tax is ~~three~~ two and one-half per cent:

If the price is at least	But not more than	The amount of the tax is
\$ .01	\$ .15	No tax
.16	.25	2¢
.26	.37	3¢
.38	.50	4¢
.51	.62	5¢
.63	.75	6¢
.76	.87	7¢
.88	1.00	8¢

If the price exceeds one dollar, the tax is eight cents on each one dollar. If the price exceeds one dollar or a multiple thereof by not more than twelve cents, the amount of tax is eight cents for each one dollar plus one cent. If the price exceeds one dollar or a multiple thereof by more than twelve cents but not more than twenty-five cents, the amount of tax is eight cents for each one dollar plus two cents. If the price exceeds one dollar or a multiple thereof by more than twenty-five cents, the amount of tax is eight cents for each one dollar plus the amount of tax for prices twenty-six cents through ninety-nine cents in accordance with the schedule above.

(11) When the combined rate of local tax is two and three-fourths per cent:

<u>If the price is at least</u>	<u>But not more than</u>	<u>The amount of the tax is</u>
<u>\$ .01</u>	<u>\$ .15</u>	<u>No tax</u>
<u>.16</u>	<u>.24</u>	<u>2¢</u>
<u>.25</u>	<u>.36</u>	<u>3¢</u>
<u>.37</u>	<u>.48</u>	<u>4¢</u>
<u>.49</u>	<u>.60</u>	<u>5¢</u>
<u>.61</u>	<u>.72</u>	<u>6¢</u>
<u>.73</u>	<u>.84</u>	<u>7¢</u>
<u>.85</u>	<u>.96</u>	<u>8¢</u>
<u>.97</u>	<u>1.09</u>	<u>9¢</u>
<u>1.10</u>	<u>1.21</u>	<u>10¢</u>
<u>1.22</u>	<u>1.33</u>	<u>11¢</u>
<u>1.34</u>	<u>1.45</u>	<u>12¢</u>
<u>1.46</u>	<u>1.57</u>	<u>13¢</u>
<u>1.58</u>	<u>1.69</u>	<u>14¢</u>
<u>1.70</u>	<u>1.81</u>	<u>15¢</u>
<u>1.82</u>	<u>1.93</u>	<u>16¢</u>
<u>1.94</u>	<u>2.06</u>	<u>17¢</u>

<u>2.07</u>	<u>2.18</u>	<u>18¢</u>
<u>2.19</u>	<u>2.30</u>	<u>19¢</u>
<u>2.31</u>	<u>2.42</u>	<u>20¢</u>
<u>2.43</u>	<u>2.54</u>	<u>21¢</u>
<u>2.55</u>	<u>2.66</u>	<u>22¢</u>
<u>2.67</u>	<u>2.78</u>	<u>23¢</u>
<u>2.79</u>	<u>2.90</u>	<u>24¢</u>
<u>2.91</u>	<u>3.03</u>	<u>25¢</u>
<u>3.04</u>	<u>3.15</u>	<u>26¢</u>
<u>3.16</u>	<u>3.27</u>	<u>27¢</u>
<u>3.28</u>	<u>3.39</u>	<u>28¢</u>
<u>3.40</u>	<u>3.51</u>	<u>29¢</u>
<u>3.52</u>	<u>3.63</u>	<u>30¢</u>
<u>3.64</u>	<u>3.75</u>	<u>31¢</u>
<u>3.76</u>	<u>3.87</u>	<u>32¢</u>
<u>3.88</u>	<u>4.00</u>	<u>33¢</u>

If the price exceeds four dollars, the tax is thirty-three cents on each four dollars. If the price exceeds four dollars or a multiple thereof by not more than eleven cents, the amount of tax is thirty-three cents for each four dollars plus one cent. If the price exceeds four dollars or a multiple thereof by more than eleven cents but not more than twenty-four cents, the amount of tax is thirty-three cents for each four dollars plus two cents. If the price exceeds four dollars or a multiple thereof by more than twenty-four cents, the amount of tax is thirty-three cents for each four dollars plus the amount of tax for prices twenty-six cents through three dollars and ninety-nine cents in accordance with the schedule above.

(12) When the combined rate of local tax is three per cent:

<u>If the price</u> <u>is at least</u>	<u>But not</u> <u>more than</u>	<u>The amount</u> <u>of the tax is</u>
<u>\$ .01</u>	<u>\$ .15</u>	<u>No tax</u>
<u>.16</u>	<u>.23</u>	<u>2¢</u>
<u>.24</u>	<u>.35</u>	<u>3¢</u>
<u>.36</u>	<u>.47</u>	<u>4¢</u>
<u>.48</u>	<u>.58</u>	<u>5¢</u>
<u>.59</u>	<u>.70</u>	<u>6¢</u>
<u>.71</u>	<u>.82</u>	<u>7¢</u>
<u>.83</u>	<u>.94</u>	<u>8¢</u>
<u>.95</u>	<u>1.05</u>	<u>9¢</u>
<u>1.06</u>	<u>1.17</u>	<u>10¢</u>
<u>1.18</u>	<u>1.29</u>	<u>11¢</u>

<u>1.30</u>	<u>1.41</u>	<u>12¢</u>
<u>1.42</u>	<u>1.52</u>	<u>13¢</u>
<u>1.53</u>	<u>1.64</u>	<u>14¢</u>
<u>1.65</u>	<u>1.76</u>	<u>15¢</u>
<u>1.77</u>	<u>1.88</u>	<u>16¢</u>
<u>1.89</u>	<u>2.00</u>	<u>17¢</u>

If the price exceeds two dollars, the tax is seventeen cents on each two dollars. If the price exceeds two dollars or a multiple thereof by not more than eleven cents, the amount of tax is seventeen cents for each two dollars plus one cent. If the price exceeds two dollars or a multiple thereof by more than eleven cents but not more than twenty-three cents, the amount of tax is seventeen cents for each two dollars plus two cents. If the price exceeds two dollars or a multiple thereof by more than twenty-three cents, the amount of tax is seventeen cents for each two dollars plus the amount of tax for prices twenty-four cents through one dollar and ninety-nine cents in accordance with the schedule above.

(D) In lieu of collecting the tax pursuant to the schedules set forth in divisions (A), (B), and (C) of this section, a vendor may compute the tax on each sale as follows:

(1) On sales of fifteen cents or less, no tax shall apply.

(2) On sales in excess of fifteen cents, multiply the price by the aggregate rate of taxes in effect under sections 5739.02 and 5741.02 and sections 5739.021, 5739.023, 5739.026, 5741.021, 5741.022, and 5741.023 of the Revised Code. The computation shall be carried out to six decimal places. If the result is a fractional amount of a cent, the calculated tax shall be increased to the next highest cent and that amount shall be collected by the vendor.

(E) On and after January 1, 2006, a vendor shall compute the tax on each sale by multiplying the price by the aggregate rate of taxes in effect under sections 5739.02 and 5741.02, and sections 5739.021, 5739.023, 5739.026, 5741.021, 5741.022, and 5741.023 of the Revised Code. The computation shall be carried out to three decimal places. If the result is a fractional amount of a cent, the calculated tax shall be rounded to a whole cent using a method that rounds up to the next cent whenever the third decimal place is greater than four. A vendor may elect to compute the tax due on a transaction on an item or an invoice basis.

(F) In auditing a vendor, the tax commissioner shall consider the method prescribed by this section that was used by the vendor in determining and collecting the tax due under this chapter on taxable transactions. If the vendor correctly collects and remits the tax due under



this chapter in accordance with the schedules in divisions (A), (B), and (C) of this section or in accordance with the computation prescribed in division (D) or (E) of this section, the commissioner shall not assess any additional tax on those transactions.

(G)(1) With respect to a sale of a fractional ownership program aircraft used primarily in a fractional aircraft ownership program, including all accessories attached to such aircraft, the tax shall be calculated pursuant to divisions (A) to (E) of this section, provided that the tax commissioner shall modify those calculations so that the maximum tax on each program aircraft is eight hundred dollars. In the case of a sale of a fractional interest that is less than one hundred per cent of the program aircraft, the tax charged on the transaction shall be eight hundred dollars multiplied by a fraction, the numerator of which is the percentage of ownership or possession in the aircraft being purchased in the transaction, and the denominator of which is one hundred per cent.

(2) Notwithstanding any other provision of law to the contrary, the tax calculated under division (G)(1) of this section and paid with respect to the sale of a fractional ownership program aircraft used primarily in a fractional aircraft ownership program shall be credited to the general revenue fund.

Sec. 5739.026. (A) A board of county commissioners may levy a tax of one-fourth or one-half of one per cent on every retail sale in the county, except sales of watercraft and outboard motors required to be titled pursuant to Chapter 1548. of the Revised Code and sales of motor vehicles, and may increase an existing rate of one-fourth of one per cent to one-half of one per cent, to pay the expenses of administering the tax and, except as provided in division (A)(6) of this section, for any one or more of the following purposes provided that the aggregate levy for all such purposes does not exceed one-half of one per cent:

(1) To provide additional revenues for the payment of bonds or notes issued in anticipation of bonds issued by a convention facilities authority established by the board of county commissioners under Chapter 351. of the Revised Code and to provide additional operating revenues for the convention facilities authority;

(2) To provide additional revenues for a transit authority operating in the county;

(3) To provide additional revenue for the county's general fund;

(4) To provide additional revenue for permanent improvements within the county to be distributed by the community improvements board in accordance with section 307.283 and to pay principal, interest, and premium on bonds issued under section 307.284 of the Revised Code;

(5) To provide additional revenue for the acquisition, construction, equipping, or repair of any specific permanent improvement or any class or group of permanent improvements, which improvement or class or group of improvements shall be enumerated in the resolution required by division (D) of this section, and to pay principal, interest, premium, and other costs associated with the issuance of bonds or notes in anticipation of bonds issued pursuant to Chapter 133. of the Revised Code for the acquisition, construction, equipping, or repair of the specific permanent improvement or class or group of permanent improvements;

(6) To provide revenue for the implementation and operation of a 9-1-1 system in the county. If the tax is levied or the rate increased exclusively for such purpose, the tax shall not be levied or the rate increased for more than five years. At the end of the last year the tax is levied or the rate increased, any balance remaining in the special fund established for such purpose shall remain in that fund and be used exclusively for such purpose until the fund is completely expended, and, notwithstanding section 5705.16 of the Revised Code, the board of county commissioners shall not petition for the transfer of money from such special fund, and the tax commissioner shall not approve such a petition.

If the tax is levied or the rate increased for such purpose for more than five years, the board of county commissioners also shall levy the tax or increase the rate of the tax for one or more of the purposes described in divisions (A)(1) to (5) of this section and shall prescribe the method for allocating the revenues from the tax each year in the manner required by division (C) of this section.

(7) To provide additional revenue for the operation or maintenance of a detention facility, as that term is defined under division (F) of section 2921.01 of the Revised Code;

(8) To provide revenue to finance the construction or renovation of a sports facility, but only if the tax is levied for that purpose in the manner prescribed by section 5739.028 of the Revised Code.

As used in division (A)(8) of this section:

(a) "Sports facility" means a facility intended to house major league professional athletic teams.

(b) "Constructing" or "construction" includes providing fixtures, furnishings, and equipment.

(9) To provide additional revenue for the acquisition of agricultural easements, as defined in section 5301.67 of the Revised Code; to pay principal, interest, and premium on bonds issued under section 133.60 of the Revised Code; and for the supervision and enforcement of agricultural

easements held by the county;

(10) To provide revenue for the provision of ambulance, paramedic, or other emergency medical services.

Pursuant to section 755.171 of the Revised Code, a board of county commissioners may pledge and contribute revenue from a tax levied for the purpose of division (A)(5) of this section to the payment of debt charges on bonds issued under section 755.17 of the Revised Code.

The rate of tax shall be a multiple of one-fourth of one per cent, unless a portion of the rate of an existing tax levied under section 5739.023 of the Revised Code has been reduced, and the rate of tax levied under this section has been increased, pursuant to section 5739.028 of the Revised Code, in which case the aggregate of the rates of tax levied under this section and section 5739.023 of the Revised Code shall be a multiple of one-fourth of one per cent. The tax shall be levied and the rate increased pursuant to a resolution adopted by a majority of the members of the board. The board shall deliver a certified copy of the resolution to the tax commissioner, not later than the sixty-fifth day prior to the date on which the tax is to become effective, which shall be the first day of a calendar quarter.

Prior to the adoption of any resolution to levy the tax or to increase the rate of tax exclusively for the purpose set forth in division (A)(3) of this section, the board of county commissioners shall conduct two public hearings on the resolution, the second hearing to be no fewer than three nor more than ten days after the first. Notice of the date, time, and place of the hearings shall be given by publication in a newspaper of general circulation in the county once a week on the same day of the week for two consecutive weeks, the second publication being no fewer than ten nor more than thirty days prior to the first hearing. Except as provided in division (E) of this section, the resolution shall be subject to a referendum as provided in sections 305.31 to 305.41 of the Revised Code. Unless the resolution is adopted as an emergency measure, or is to be submitted to the electors of the county under division (D)(2)(a) of this section, the resolution shall be adopted at least one hundred twenty days prior to the date on which the tax or the increased rate of tax is to go into effect. If the resolution is adopted as an emergency measure necessary for the immediate preservation of the public peace, health, or safety, it must receive an affirmative vote of all of the members of the board of county commissioners and shall state the reasons for the necessity.

If the tax is for more than one of the purposes set forth in divisions (A)(1) to (7), (9), and (10) of this section, or is exclusively for one of the purposes set forth in division (A)(1), (2), (4), (5), (6), (7), (9), or (10) of this

section, the resolution shall not go into effect unless it is approved by a majority of the electors voting on the question of the tax.

(B) The board of county commissioners shall adopt a resolution under section 351.02 of the Revised Code creating the convention facilities authority, or under section 307.283 of the Revised Code creating the community improvements board, before adopting a resolution levying a tax for the purpose of a convention facilities authority under division (A)(1) of this section or for the purpose of a community improvements board under division (A)(4) of this section.

(C)(1) If the tax is to be used for more than one of the purposes set forth in divisions (A)(1) to (7), (9), and (10) of this section, the board of county commissioners shall establish the method that will be used to determine the amount or proportion of the tax revenue received by the county during each year that will be distributed for each of those purposes, including, if applicable, provisions governing the reallocation of a convention facilities authority's allocation if the authority is dissolved while the tax is in effect. The allocation method may provide that different proportions or amounts of the tax shall be distributed among the purposes in different years, but it shall clearly describe the method that will be used for each year. Except as otherwise provided in division (C)(2) of this section, the allocation method established by the board is not subject to amendment during the life of the tax.

(2) Subsequent to holding a public hearing on the proposed amendment, the board of county commissioners may amend the allocation method established under division (C)(1) of this section for any year, if the amendment is approved by the governing board of each entity whose allocation for the year would be reduced by the proposed amendment. In the case of a tax that is levied for a continuing period of time, the board may not so amend the allocation method for any year before the sixth year that the tax is in effect.

(a) If the additional revenues provided to the convention facilities authority are pledged by the authority for the payment of convention facilities authority revenue bonds for as long as such bonds are outstanding, no reduction of the authority's allocation of the tax shall be made for any year except to the extent that the reduced authority allocation, when combined with the authority's other revenues pledged for that purpose, is sufficient to meet the debt service requirements for that year on such bonds.

(b) If the additional revenues provided to the county are pledged by the county for the payment of bonds or notes described in division (A)(4) or (5) of this section, for as long as such bonds or notes are outstanding, no

reduction of the county's or the community improvements board's allocation of the tax shall be made for any year, except to the extent that the reduced county or community improvements board allocation is sufficient to meet the debt service requirements for that year on such bonds or notes.

(c) If the additional revenues provided to the transit authority are pledged by the authority for the payment of revenue bonds issued under section 306.37 of the Revised Code, for as long as such bonds are outstanding, no reduction of the authority's allocation of tax shall be made for any year, except to the extent that the authority's reduced allocation, when combined with the authority's other revenues pledged for that purpose, is sufficient to meet the debt service requirements for that year on such bonds.

(d) If the additional revenues provided to the county are pledged by the county for the payment of bonds or notes issued under section 133.60 of the Revised Code, for so long as the bonds or notes are outstanding, no reduction of the county's allocation of the tax shall be made for any year, except to the extent that the reduced county allocation is sufficient to meet the debt service requirements for that year on the bonds or notes.

(D)(1) The resolution levying the tax or increasing the rate of tax shall state the rate of the tax or the rate of the increase; the purpose or purposes for which it is to be levied; the number of years for which it is to be levied or that it is for a continuing period of time; the allocation method required by division (C) of this section; and if required to be submitted to the electors of the county under division (A) of this section, the date of the election at which the proposal shall be submitted to the electors of the county, which shall be not less than seventy-five days after the certification of a copy of the resolution to the board of elections and, if the tax is to be levied exclusively for the purpose set forth in division (A)(3) of this section, shall not occur in February or August of any year. Upon certification of the resolution to the board of elections, the board of county commissioners shall notify the tax commissioner in writing of the levy question to be submitted to the electors. If approved by a majority of the electors, the tax shall become effective on the first day of a calendar quarter next following the sixty-fifth day following the date the board of county commissioners and tax commissioner receive from the board of elections the certification of the results of the election, except as provided in division (E) of this section.

(2)(a) A resolution specifying that the tax is to be used exclusively for the purpose set forth in division (A)(3) of this section that is not adopted as an emergency measure may direct the board of elections to submit the question of levying the tax or increasing the rate of the tax to the electors of

the county at a special election held on the date specified by the board of county commissioners in the resolution, provided that the election occurs not less than seventy-five days after the resolution is certified to the board of elections and the election is not held in February or August of any year. Upon certification of the resolution to the board of elections, the board of county commissioners shall notify the tax commissioner in writing of the levy question to be submitted to the electors. No resolution adopted under division (D)(2)(a) of this section shall go into effect unless approved by a majority of those voting upon it and, except as provided in division (E) of this section, not until the first day of a calendar quarter following the expiration of sixty-five days from the date the tax commissioner receives notice from the board of elections of the affirmative vote.

(b) A resolution specifying that the tax is to be used exclusively for the purpose set forth in division (A)(3) of this section that is adopted as an emergency measure shall become effective as provided in division (A) of this section, but may direct the board of elections to submit the question of repealing the tax or increase in the rate of the tax to the electors of the county at the next general election in the county occurring not less than seventy-five days after the resolution is certified to the board of elections. Upon certification of the resolution to the board of elections, the board of county commissioners shall notify the tax commissioner in writing of the levy question to be submitted to the electors. The ballot question shall be the same as that prescribed in section 5739.022 of the Revised Code. The board of elections shall notify the board of county commissioners and the tax commissioner of the result of the election immediately after the result has been declared. If a majority of the qualified electors voting on the question of repealing the tax or increase in the rate of the tax vote for repeal of the tax or repeal of the increase, the board of county commissioners, on the first day of a calendar quarter following the expiration of sixty-five days after the date the board and tax commissioner received notice of the result of the election, shall, in the case of a repeal of the tax, cease to levy the tax, or, in the case of a repeal of an increase in the rate of the tax, cease to levy the increased rate and levy the tax at the rate at which it was imposed immediately prior to the increase in rate.

(c) A board of county commissioners, by resolution, may reduce the rate of a tax levied exclusively for the purpose set forth in division (A)(3) of this section to a lower rate authorized by this section. Any such reduction shall be made effective on the first day of the calendar quarter next following the sixty-fifth day after the tax commissioner receives a certified copy of the resolution from the board.

(E) If a vendor that is registered with the central electronic registration system provided for in section 5740.05 of the Revised Code makes a sale in this state by printed catalog and the consumer computed the tax on the sale based on local rates published in the catalog, any tax levied or repealed or rate changed under this section shall not apply to such a sale until the first day of a calendar quarter following the expiration of one hundred twenty days from the date of notice by the tax commissioner pursuant to division (G) of this section.

(F) The tax levied pursuant to this section shall be in addition to the tax levied by section 5739.02 of the Revised Code and any tax levied pursuant to section 5739.021 or 5739.023 of the Revised Code.

A county that levies a tax pursuant to this section shall levy a tax at the same rate pursuant to section 5741.023 of the Revised Code.

The additional tax levied by the county shall be collected pursuant to section 5739.025 of the Revised Code.

Any tax levied pursuant to this section is subject to the exemptions provided in section 5739.02 of the Revised Code and in addition shall not be applicable to sales not within the taxing power of a county under the Constitution of the United States or the Ohio Constitution.

(G) Upon receipt from a board of county commissioners of a certified copy of a resolution required by division (A) of this section, or from the board of elections a notice of the results of an election required by division (D)(1), (2)(a), (b), or (c) of this section, the tax commissioner shall provide notice of a tax rate change in a manner that is reasonably accessible to all affected vendors. The commissioner shall provide this notice at least sixty days prior to the effective date of the rate change. The commissioner, by rule, may establish the method by which notice will be provided.

Sec. 5739.03. (A) Except as provided in section 5739.05 of the Revised Code, the tax imposed by or pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code shall be paid by the consumer to the vendor, and each vendor shall collect from the consumer, as a trustee for the state of Ohio, the full and exact amount of the tax payable on each taxable sale, in the manner and at the times provided as follows:

(1) If the price is, at or prior to the provision of the service or the delivery of possession of the thing sold to the consumer, paid in currency passed from hand to hand by the consumer or the consumer's agent to the vendor or the vendor's agent, the vendor or the vendor's agent shall collect the tax with and at the same time as the price;

(2) If the price is otherwise paid or to be paid, the vendor or the vendor's agent shall, at or prior to the provision of the service or the delivery of

possession of the thing sold to the consumer, charge the tax imposed by or pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code to the account of the consumer, which amount shall be collected by the vendor from the consumer in addition to the price. Such sale shall be reported on and the amount of the tax applicable thereto shall be remitted with the return for the period in which the sale is made, and the amount of the tax shall become a legal charge in favor of the vendor and against the consumer.

(B)(1)(a) If any sale is claimed to be exempt under division (E) of section 5739.01 of the Revised Code or under section 5739.02 of the Revised Code, with the exception of divisions (B)(1) to (11) or (28) of section 5739.02 of the Revised Code, the consumer must provide to the vendor, and the vendor must obtain from the consumer, a certificate specifying the reason that the sale is not legally subject to the tax. The certificate shall be in such form, and shall be provided either in a hard copy form or electronic form, as ~~prescribed by the tax commissioner prescribes.~~ ~~If the transaction is claimed to be exempt under division (B)(13) of section 5739.02 of the Revised Code, the exemption certificate shall be provided by both the contractor and the contractee. Such contractee shall be deemed to be the consumer of all items purchased under such claim of exemption, if it is subsequently determined that the exemption is not properly claimed. The certificate shall be in such form as the tax commissioner by regulation prescribes.~~

(b) A vendor that obtains a fully completed exemption certificate from a consumer is relieved of liability for collecting and remitting tax on any sale covered by that certificate. If it is determined the exemption was improperly claimed, the consumer shall be liable for any tax due on that sale under section 5739.02, 5739.021, 5739.023, or 5739.026 or Chapter 5741. of the Revised Code. Relief under this division from liability does not apply to any of the following:

(i) A vendor that fraudulently fails to collect tax;

(ii) A vendor that solicits consumers to participate in the unlawful claim of an exemption;

(iii) A vendor that accepts an exemption certificate from a consumer that claims an exemption based on who purchases or who sells property or a service, when the subject of the transaction sought to be covered by the exemption certificate is actually received by the consumer at a location operated by the vendor in this state, and this state has posted to its web site an exemption certificate form that clearly and affirmatively indicates that the claimed exemption is not available in this state;



(iv) A vendor that accepts an exemption certificate from a consumer who claims a multiple points of use exemption under division (B) of section 5739.033 of the Revised Code, if the item purchased is tangible personal property, other than prewritten computer software.

(2) The vendor shall maintain records, including exemption certificates, of all sales on which a consumer has claimed an exemption, and provide them to the tax commissioner on request.

(3) The tax commissioner may establish an identification system whereby the commissioner issues an identification number to a consumer that is exempt from payment of the tax. The consumer must present the number to the vendor, if any sale is claimed to be exempt as provided in this section.

~~(4) If no certificate is provided or obtained within the period for filing the return for the period in ninety days after the date on which such sale is consummated, it shall be presumed that the tax applies. Failure to have so provided or obtained a certificate shall not prevent preclude a vendor or consumer, within one hundred twenty days after the tax commissioner gives written notice of intent to levy an assessment, from either establishing that the sale is not subject to the tax within one hundred twenty days of the giving of notice by the commissioner of intention to levy an assessment, in which event the tax shall not apply, or obtaining, in good faith, a fully completed exemption certificate.~~

(5) Certificates need not be obtained nor provided where the identity of the consumer is such that the transaction is never subject to the tax imposed or where the item of tangible personal property sold or the service provided is never subject to the tax imposed, regardless of use, or when the sale is in interstate commerce.

(6) If a transaction is claimed to be exempt under division (B)(13) of section 5739.02 of the Revised Code, the contractor shall obtain certification of the claimed exemption from the contractee. This certification shall be in addition to an exemption certificate provided by the contractor to the vendor. A contractee that provides a certification under this division shall be deemed to be the consumer of all items purchased by the contractor under the claim of exemption, if it is subsequently determined that the exemption is not properly claimed. The certification shall be in such form as the tax commissioner prescribes.

(C) As used in this division, "contractee" means a person who seeks to enter or enters into a contract or agreement with a contractor or vendor for the construction of real property or for the sale and installation onto real property of tangible personal property.

Any contractor or vendor may request from any contractee a certification of what portion of the property to be transferred under such contract or agreement is to be incorporated into the realty and what portion will retain its status as tangible personal property after installation is completed. The contractor or vendor shall request the certification by certified mail delivered to the contractee, return receipt requested. Upon receipt of such request and prior to entering into the contract or agreement, the contractee shall provide to the contractor or vendor a certification sufficiently detailed to enable the contractor or vendor to ascertain the resulting classification of all materials purchased or fabricated by the contractor or vendor and transferred to the contractee. This requirement applies to a contractee regardless of whether the contractee holds a direct payment permit under section 5739.031 of the Revised Code or provides to the contractor or vendor an exemption certificate as provided under this section.

For the purposes of the taxes levied by this chapter and Chapter 5741. of the Revised Code, the contractor or vendor may in good faith rely on the contractee's certification. Notwithstanding division (B) of section 5739.01 of the Revised Code, if the tax commissioner determines that certain property certified by the contractee as tangible personal property pursuant to this division is, in fact, real property, the contractee shall be considered to be the consumer of all materials so incorporated into that real property and shall be liable for the applicable tax, and the contractor or vendor shall be excused from any liability on those materials.

If a contractee fails to provide such certification upon the request of the contractor or vendor, the contractor or vendor shall comply with the provisions of this chapter and Chapter 5741. of the Revised Code without the certification. If the tax commissioner determines that such compliance has been performed in good faith and that certain property treated as tangible personal property by the contractor or vendor is, in fact, real property, the contractee shall be considered to be the consumer of all materials so incorporated into that real property and shall be liable for the applicable tax, and the construction contractor or vendor shall be excused from any liability on those materials.

This division does not apply to any contract or agreement where the tax commissioner determines as a fact that a certification under this division was made solely on the decision or advice of the contractor or vendor.

(D) Notwithstanding division (B) of section 5739.01 of the Revised Code, whenever the total rate of tax imposed under this chapter is increased after the date after a construction contract is entered into, the contractee

shall reimburse the construction contractor for any additional tax paid on tangible property consumed or services received pursuant to the contract.

(E) A vendor who files a petition for reassessment contesting the assessment of tax on sales for which the vendor obtained no valid exemption certificates and for which the vendor failed to establish that the sales were properly not subject to the tax during the one-hundred-twenty-day period allowed under division (B) of this section, may present to the tax commissioner additional evidence to prove that the sales were properly subject to a claim of exception or exemption. The vendor shall file such evidence within ninety days of the receipt by the vendor of the notice of assessment, except that, upon application and for reasonable cause, the period for submitting such evidence shall be extended thirty days.

The commissioner shall consider such additional evidence in reaching the final determination on the assessment and petition for reassessment.

(F) Whenever a vendor refunds to the consumer the full price of an item of tangible personal property on which the tax imposed under this chapter has been paid, the vendor shall also refund the full amount of the tax paid.

Sec. 5739.033. This section applies to sales made on and after July 1, 2005. Sales made before July 1, 2005, are subject to section 5739.035 of the Revised Code. On and after January 1, 2005, any vendor may irrevocably elect to comply with this section for all of the vendor's sales and places of business in this state.

The amount of tax due pursuant to sections 5739.02, 5739.021, 5739.023, and 5739.026 of the Revised Code is the sum of the taxes imposed pursuant to those sections at the sourcing location of the sale as determined under this section or, if applicable, under division (C) of section 5739.031 or section 5739.034 or 5739.035 of the Revised Code. This section applies only to a vendor's or seller's obligation to collect and remit sales taxes under section 5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code or use taxes under section 5741.02, 5741.021, 5741.022, or 5741.023 of the Revised Code. This section does not affect the obligation of a consumer to remit use taxes on the storage, use, or other consumption of tangible personal property or on the benefit realized of any service provided, to the jurisdiction of that storage, use, or consumption, or benefit realized.

(A) Except for sales, other than leases, of titled motor vehicles, titled watercraft, or titled outboard motors as provided in section 5741.05 of the Revised Code, or as otherwise provided in this section and section 5739.034 or 5740.10 of the Revised Code, all sales shall be sourced as follows:

(1) If the consumer or a donee designated by the consumer receives tangible personal property or a service at a vendor's place of business, the

sale shall be sourced to that place of business.

(2) When the tangible personal property or service is not received at a vendor's place of business, the sale shall be sourced to the location known to the vendor where the consumer or the donee designated by the consumer receives the tangible personal property or service, including the location indicated by instructions for delivery to the consumer or the consumer's donee.

(3) If divisions (A)(1) and (2) of this section do not apply, the sale shall be sourced to the location indicated by an address for the consumer that is available from the vendor's business records that are maintained in the ordinary course of the vendor's business, when use of that address does not constitute bad faith.

(4) If divisions (A)(1), (2), and (3) of this section do not apply, the sale shall be sourced to the location indicated by an address for the consumer obtained during the consummation of the sale, including the address associated with the consumer's payment instrument, if no other address is available, when use of that address does not constitute bad faith.

(5) If divisions (A)(1), (2), (3), and (4) of this section do not apply, including in the circumstance where the vendor is without sufficient information to apply any of those divisions, the sale shall be sourced to the address from which tangible personal property was shipped, or from which the service was provided, disregarding any location that merely provided the electronic transfer of the property sold or service provided.

(6) As used in division (A) of this section, "receive" means taking possession of tangible personal property or making first use of a service. "Receive" does not include possession by a shipping company on behalf of a consumer.

(B)(1)(a) Notwithstanding divisions (A)(1) to (5) of this section, a business consumer that is not a holder of a direct payment permit granted under section 5739.031 of the Revised Code, that purchases a digital good, computer software delivered electronically, except computer software received in person by a business consumer at a vendor's place of business, or a service for use in business, and that knows at the time of purchase that such digital good, software, or service will be concurrently available for use in more than one taxing jurisdiction shall deliver to the vendor in conjunction with its purchase a an exemption certificate claiming multiple points of use exemption form prescribed by the tax commissioner disclosing this fact, or shall meet the requirements of division (B)(2) of this section. On receipt of the exemption certificate claiming multiple points of use exemption form, the vendor is relieved of its obligation to collect, pay, or

remit the tax due, and the business consumer must pay the tax directly to the state.

~~(2)(b)~~ A business consumer that delivers ~~such form~~ the exemption certificate claiming multiple points of use to a vendor may use any reasonable, consistent, and uniform method of apportioning the tax due on the digital good, computer software ~~delivered electronically~~, or service ~~for use in business~~ that is supported by the consumer's business records as they existed at the time of the sale. The business consumer shall report and pay the appropriate tax to each jurisdiction where concurrent use occurs. The tax due shall be calculated as if the apportioned amount of the digital good, computer software, or service had been delivered to each jurisdiction to which the sale is apportioned under this division.

~~(3)(c)~~ The exemption certificate claiming multiple points of use ~~exemption form~~ shall remain in effect for all future sales by the vendor to the business consumer until it is revoked in writing by the business consumer, except as to the business consumer's specific apportionment of a subsequent sale under division (B)~~(2)~~(1)(b) of this section and the facts existing at the time of the sale.

(2) When the vendor knows that a digital good, computer software, or service sold will be concurrently available for use by the business consumer in more than one jurisdiction, but the business consumer does not provide an exemption certificate claiming multiple points of use as required by division (B)(1) of this section, the vendor may work with the business consumer to produce the correct apportionment. Governed by the principles of division (B)(1)(b) of this section, the vendor and business consumer may use any reasonable, but consistent and uniform, method of apportionment that is supported by the vendor's and business consumer's books and records as they exist at the time the sale is reported for purposes of the taxes levied under this chapter. If the business consumer certifies to the accuracy of the apportionment and the vendor accepts the certification, the vendor shall collect and remit the tax accordingly. In the absence of bad faith, the vendor is relieved of any further obligation to collect tax on any transaction where the vendor has collected tax pursuant to the information certified by the business consumer.

(3) When the vendor knows that the digital good, computer software, or service will be concurrently available for use in more than one jurisdiction, and the business consumer does not have a direct pay permit and does not provide to the vendor an exemption certificate claiming multiple points of use as required in division (B)(1) of this section, or certification pursuant to division (B)(2) of this section, the vendor shall collect and remit the tax

based on division (A) of this section.

(4) Nothing in this section shall limit a person's obligation for sales or use tax to any state in which a digital good, computer software, or service is concurrently available for use, nor limit a person's ability under local, state, or federal law, to claim a credit for sales or use taxes legally due and paid to other jurisdictions.

(C) A person who holds a direct payment permit issued under section 5739.031 of the Revised Code is not required to deliver ~~a~~ an exemption certificate claiming multiple points of use ~~exemption form~~ to a vendor. But such permit holder shall comply with division (B)~~(2)~~(1)(b) of this section in apportioning the tax due on a digital good, computer software ~~delivered electronically~~, or a service ~~used~~ for use in business that will be concurrently available for use in more than one taxing jurisdiction.

(D)(1) Notwithstanding divisions (A)(1) to (5) of this section, the ~~purchaser~~ consumer of direct mail that is not a holder of a direct payment permit shall provide to the vendor in conjunction with the ~~purchase~~ sale either ~~a~~ an exemption certificate claiming direct mail ~~form~~ prescribed by the tax commissioner, or information to show the jurisdictions to which the direct mail is delivered to recipients.

(2) Upon receipt of ~~a direct mail form~~ such exemption certificate, the vendor is relieved of all obligations to collect, pay, or remit the applicable tax and the ~~purchaser~~ consumer is obligated to pay that tax on a direct pay basis. ~~A~~ An exemption certificate claiming direct mail ~~form~~ shall remain in effect for all future sales of direct mail by the vendor to the ~~purchaser~~ consumer until it is revoked in writing.

(3) Upon receipt of information from the ~~purchaser~~ consumer showing the jurisdictions to which the direct mail is delivered to recipients, the vendor shall collect the tax according to the delivery information provided by the ~~purchaser~~ consumer. In the absence of bad faith, the vendor is relieved of any further obligation to collect tax on any transaction where the vendor has collected tax pursuant to the delivery information provided by the ~~purchaser~~ consumer.

(4) If the ~~purchaser~~ consumer of direct mail does not have a direct payment permit and does not provide the vendor with either ~~a~~ an exemption certificate claiming direct mail ~~form~~ or delivery information as required by division (D)(1) of this section, the vendor shall collect the tax according to division (A)(5) of this section. Nothing in division (D)(4) of this section shall limit a ~~purchaser's~~ consumer's obligation to pay sales or use tax to any state to which the direct mail is delivered.

(5) If a ~~purchaser~~ consumer of direct mail provides the vendor with

documentation of direct payment authority, the ~~purchaser~~ consumer shall not be required to provide ~~a~~ an exemption certificate claiming direct mail ~~form~~ or delivery information to the vendor.

(E) If the vendor provides lodging to transient guests as specified in division (B)(2) of section 5739.01 of the Revised Code, the sale shall be sourced to the location where the lodging is located.

(F)(1) As used in this division and division (G) of this section, "transportation equipment" means any of the following:

(a) Locomotives and railcars that are utilized for the carriage of persons or property in interstate commerce.

(b) Trucks and truck-tractors with a gross vehicle weight rating of greater than ten thousand pounds, trailers, semi-trailers, or passenger buses that are registered through the international registration plan and are operated under authority of a carrier authorized and certificated by the United States department of transportation or another federal authority to engage in the carriage of persons or property in interstate commerce.

(c) Aircraft that are operated by air carriers authorized and certificated by the United States department of transportation or another federal authority to engage in the carriage of persons or property in interstate or foreign commerce.

(d) Containers designed for use on and component parts attached to or secured on the items set forth in division (F)(1)(a), (b), or (c) of this section.

(2) A sale, lease, or rental of transportation equipment shall be sourced pursuant to division (A) of this section.

(G)(1) A lease or rental of tangible personal property that does not require recurring periodic payments shall be sourced pursuant to division (A) of this section.

(2) A lease or rental of tangible personal property that requires recurring periodic payments shall be sourced as follows:

(a) In the case of a motor vehicle, other than a motor vehicle that is transportation equipment, or an aircraft, other than an aircraft that is transportation equipment, such lease or rental shall be sourced ~~to the primary property location~~ as follows:

(i) ~~For An accelerated tax payment on a lease or rental taxed pursuant to division (A)(2) of section 5739.02 of the Revised Code; shall be sourced to the primary property location is the address of the lessee or renter used for titling the motor vehicle pursuant to section 4505.06 of the Revised Code at the time the lease or rental is consummated. Any subsequent taxable charges on the lease or rental shall be sourced to the primary property location for the period in which the charges are incurred.~~

(ii) For a lease or rental taxed pursuant to division (A)(3) of section 5739.02 of the Revised Code, ~~the primary property location for each lease or rental installment is~~ shall be sourced to the primary property location for the period covered by the installment.

~~(b) In the case of an aircraft, other than an aircraft that is transportation equipment, such lease or rental shall be sourced to the primary property location as follows:~~

~~(i) For a lease or rental taxed pursuant to division (A)(2) of section 5739.02 of the Revised Code, the primary property location is the primary property location at the time the lease or rental is consummated.~~

~~(ii) For a lease or rental taxed pursuant to division (A)(3) of section 5739.02 of the Revised Code, the primary property location for each lease or rental installment is the primary property location for the period covered by the installment.~~

~~(c) In the case of a watercraft or an outboard motor required to be titled in this state pursuant to Chapter 1548. of the Revised Code, such lease or rental shall be sourced to the primary property location as follows:~~

~~(i) For a lease or rental taxed pursuant to division (A)(2) of section 5739.02 of the Revised Code, the primary property location is the address of the lessee or renter shown on the title.~~

~~(ii) For a lease or rental taxed pursuant to division (A)(3) of section 5739.02 of the Revised Code, the primary property location for the initial lease or rental installment is the address of the lessee or renter shown on the title. For each subsequent installment, the primary property location is the primary property location for the period covered by the installment.~~

~~(d)(b)~~ In the case of a lease or rental of all other tangible personal property, other than transportation equipment, such lease or rental shall be sourced as follows:

(i) ~~For~~ An accelerated tax payment on a lease or rental that is taxed pursuant to division (A)(2) of section 5739.02 of the Revised Code, ~~the lease or rental~~ shall be sourced pursuant to division (A) of this section at the time the lease or rental is consummated. Any subsequent taxable charges on the lease or rental shall be sourced to the primary property location for the period in which the charges are incurred.

(ii) For a lease or rental that is taxed pursuant to division (A)(3) of section 5739.02 of the Revised Code, the initial lease or rental installment shall be sourced pursuant to division (A) of this section. Each subsequent installment shall be sourced to the primary property location for the period covered by the installment.

(3) As used in division (G) of this section, "primary property location"



means an address for tangible personal property provided by the lessee or renter that is available to the lessor or owner from its records maintained in the ordinary course of business, when use of that address does not constitute bad faith.

Sec. 5739.034. (A) As used in this section:

(1) "Air-to-ground radiotelephone service" means a radio service, as defined in 47 C.F.R. 22.99, in which common carriers are authorized to offer and provide radio telecommunications service for hire to subscribers in aircraft.

(2) "Call-by-call basis" means any method of charging for telecommunications services where the price is measured by individual calls.

(3) "Customer" means the person or entity that contracts with a seller of telecommunications service. If the end user of telecommunications service is not the contracting party, the end user of the telecommunications service is the customer of the telecommunications service. "Customer" does not include a reseller of telecommunications service or of mobile telecommunications service of a serving carrier under an agreement to serve the customer outside the home service provider's licensed service area.

(4) "End user" means the person who utilizes the telecommunications service. In the case of a person other than an individual, "end user" means the individual who utilizes the service on behalf of the person.

(5) "Home service provider" has the same meaning as in the "Mobile Telecommunications Sourcing Act," Pub. L. No. 106-252, 114 Stat. 631 (2000), 4 U.S.C. 124(5), as amended.

(6) "Place of primary use" means the street address representative of where the customer's use of the telecommunications service primarily occurs, which must be the residential street address or the primary business street address of the customer. In the case of mobile telecommunications services, "place of primary use" must be within the licensed service area of the home service provider.

(7) "Post-paid calling service" means the telecommunications service obtained by making a payment on a call-by-call basis either through the use of a credit card or payment mechanism such as a bank card, travel card, credit card, or debit card, or by charge made to a telephone number that is not associated with the origination or termination of the telecommunications service. "Post-paid calling service" includes a telecommunications service, except a prepaid wireless calling service, that would be a prepaid calling service, but for the fact that it is not exclusively a telecommunications service.

(8) ~~"Prepaid calling service" means the right to access exclusively a telecommunications service that must be paid for in advance, that enables the origination of calls using an access number or authorization code, whether manually or electronically dialed, and that is sold in predetermined units or dollars of which the number declines with use in a known amount and "prepaid wireless calling service" have the same meanings as in section 5739.01 of the Revised Code.~~

(9) "Service address" means:

(a) The location of the telecommunications equipment to which a customer's call is charged and from which the call originates or terminates, regardless of where the call is billed or paid.

(b) If the location in division (A)(9)(a) of this section is not known, "service address" means the origination point of the signal of the telecommunications service first identified by either the seller's telecommunications system or in information received by the seller from its service provider, where the system used to transport such signals is not that of the seller.

(c) If the locations in divisions (A)(9)(a) and (b) of this section are not known, "service address" means the location of the customer's place of primary use.

(10) "Private communication service" means a telecommunications service that entitles a customer to exclusive or priority use of a communications channel or group of channels between or among termination points, regardless of the manner in which the channel or channels are connected, and includes switching capacity, extension lines, stations, and any other associated services that are provided in connection with the use of such channel or channels.

(B) The amount of tax due pursuant to sections 5739.02, 5739.021, 5739.023, and 5739.026 of the Revised Code on sales of telecommunications service, information service, or mobile telecommunications service, is the sum of the taxes imposed pursuant to those sections at the sourcing location of the sale as determined under this section.

(C) Except for the telecommunications services described in division (E) of this section, the sale of telecommunications service sold on a call-by-call basis shall be sourced to each level of taxing jurisdiction where the call originates and terminates in that jurisdiction, or each level of taxing jurisdiction where the call either originates or terminates and in which the service address also is located.

(D) Except for the telecommunications services described in division

(E) of this section, a sale of telecommunications services sold on a basis other than a call-by-call basis shall be sourced to the customer's place of primary use.

(E) The sale of the following telecommunications services shall be sourced to each level of taxing jurisdiction, as follows:

(1) A sale of mobile telecommunications service, other than air-to-ground radiotelephone service and prepaid calling service, shall be sourced to the customer's place of primary use as required by the Mobile Telecommunications Sourcing Act.

(2) A sale of post-paid calling service shall be sourced to the origination point of the telecommunications signal as first identified by the service provider's telecommunications system, or information received by the seller from its service provider, where the system used to transport such signals is not that of the seller.

(3) A sale of ~~mobile telecommunications service that is a prepaid telecommunications calling service or prepaid wireless calling service~~ shall be sourced under division (A) of section 5739.033 of the Revised Code, ~~but~~. But in the case of prepaid wireless calling service, in lieu of sourcing the sale of the service under division (A)(5) of that section 5739.033 of the Revised Code, it may be sourced the service provider may elect to source the sale to the location associated with the mobile telephone number.

(4) A sale of a private communication service shall be sourced as follows:

(a) Service for a separate charge related to a customer channel termination point shall be sourced to each level of jurisdiction in which the customer channel termination point is located;

(b) Service where all customer channel termination points are located entirely within one jurisdiction or level of jurisdiction shall be sourced in the jurisdiction in which the customer channel termination points are located;

(c) Service for segments of a channel between two customer channel termination points located in different jurisdictions and which segments of a channel are separately charged shall be sourced fifty per cent in each level of jurisdiction in which the customer channel termination points are located;

(d) Service for segments of a channel located in more than one jurisdiction or level of jurisdiction and which segments are not separately billed shall be sourced in each jurisdiction based on the percentage determined by dividing the number of customer channel termination points in the jurisdiction by the total number of customer channel termination points.

Sec. 5739.035. This section only applies to sales that are required to be

situated under this section pursuant to section 5739.033 of the Revised Code.

(A) Except as otherwise provided in this section, the situs of all sales is the vendor's place of business.

(1) If the consumer or the consumer's agent takes possession of the tangible personal property at a place of business of the vendor where the purchase contract or agreement was made, the situs of the sale is that place of business.

(2) If the consumer or the consumer's agent takes possession of the tangible personal property other than at a place of business of the vendor, or takes possession at a warehouse or similar facility of the vendor, the situs of the sale is the vendor's place of business where the purchase contract or agreement was made or the purchase order was received.

(3) If the vendor provides a service specified in division (B)(3)(a), (b), (c), (d), (n), (o), (q), (r), or (s), ~~or (t)~~ of section 5739.01 or makes a sale specified in division (B)(8) of section 5739.01 of the Revised Code, the situs of the sale is the vendor's place of business where the service is performed or the contract or agreement for the service was made or the purchase order was received.

(B) If the vendor is a transient vendor as specified in division (B) of section 5739.17 of the Revised Code, the situs of the sale is the vendor's temporary place of business or, if the transient vendor is the lessor of titled motor vehicles, titled watercraft, or titled outboard motors, at the location where the lessee keeps the leased property.

(C) If the vendor makes sales of tangible personal property from a stock of goods carried in a motor vehicle, from which the purchaser makes selection and takes possession, or from which the vendor sells tangible personal property the quantity of which has not been determined prior to the time the purchaser takes possession, the situs of the sale is the location of the motor vehicle when the sale is made.

(D) If the vendor is a delivery vendor as specified in division (D) of section 5739.17 of the Revised Code, the situs of the sale is the place where the tangible personal property is delivered, where the leased property is used, or where the service is performed or received.

(E) If the vendor provides a service specified in division (B)(3)(e), (g), (h), (j), (k), (l), (m), ~~(p)~~, or (t) of section 5739.01 of the Revised Code, the situs of the sale is the location of the consumer where the service is performed or received.

(F) If the vendor provides lodging to transient guests as specified in division (B)(2) of section 5739.01 of the Revised Code, the situs of the sale is the location where the lodging is located.

(G) If the vendor sells a warranty, maintenance or service contract, or similar agreement as specified in division (B)(7) of section 5739.01 of the Revised Code and the vendor is a delivery vendor, the situs of the sale is the location of the consumer. If the vendor is not a delivery vendor, the situs of the sale is the vendor's place of business where the contract or agreement was made, unless the warranty or contract is a component of the sale of a titled motor vehicle, titled watercraft, or titled outboard motor, in which case the situs of the sale is the county of titling.

(H) Except as otherwise provided in this division, if the vendor sells a prepaid authorization number or a prepaid telephone calling card, the situs of the sale is the vendor's place of business and shall be taxed at the time of sale. If the vendor sells a prepaid authorization number or prepaid telephone calling card through a telephone call, electronic commerce, or any other form of remote commerce, the situs of the sale is the consumer's shipping address, or, if there is no item shipped, at the consumer's billing address.

Sec. 5739.08. The levy of an excise tax on transactions by which lodging by a hotel is or is to be furnished to transient guests pursuant to section 5739.02 and division (B) of section 5739.01 of the Revised Code does not prevent any of the following:

(A) A municipal corporation or township from levying an excise tax for any lawful purpose not to exceed three per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests in addition to the tax levied by section 5739.02 of the Revised Code. If a municipal corporation or township repeals a tax imposed under division (A) of this section, and a county in which the municipal corporation or township has territory has a tax imposed under division (C) of section 5739.09 of the Revised Code in effect, the municipal corporation or township may not reimpose its tax as long as that county tax remains in effect. A municipal corporation or township in which a tax is levied under division (B)(2) of section 351.021 of the Revised Code may not increase the rate of its tax levied under division (A) of this section to any rate that would cause the total taxes levied under both of those divisions to exceed three per cent on any lodging transaction within the municipal corporation or township.

(B) A municipal corporation or a township from levying an additional excise tax not to exceed three per cent on such transactions pursuant to division (B) of section 5739.09 of the Revised Code. Such tax is in addition to any tax imposed under division (A) of this section.

(C) A county from levying an excise tax pursuant to division (A) of section 5739.09 of the Revised Code;

(D) A county from levying an excise tax not to exceed three per cent of

such transactions pursuant to division (C) of section 5739.09 of the Revised Code. Such a tax is in addition to any tax imposed under division (C) of this section.

(E) A convention facilities authority, as defined in division (A) of section 351.01 of the Revised Code, from levying the excise taxes provided for in ~~division~~ divisions (B) and (C) of section 351.021 of the Revised Code;

(F) A county from levying an excise tax not to exceed one and one-half per cent of such transactions pursuant to division (D) of section 5739.09 of the Revised Code. Such tax is in addition to any tax imposed under division (C) or (D) of this section.

(G) A county from levying an excise tax not to exceed one and one-half per cent of such transactions pursuant to division (E) of section 5739.09 of the Revised Code. Such a tax is in addition to any tax imposed under division (C), (D), or (F) of this section.

Sec. 5739.09. (A)(1) A board of county commissioners may, by resolution adopted by a majority of the members of the board, levy an excise tax not to exceed three per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests. The board shall establish all regulations necessary to provide for the administration and allocation of the tax. The regulations may prescribe the time for payment of the tax, and may provide for the imposition of a penalty or interest, or both, for late payments, provided that the penalty does not exceed ten per cent of the amount of tax due, and the rate at which interest accrues does not exceed the rate per annum prescribed pursuant to section 5703.47 of the Revised Code. Except as provided in divisions (A)(2), (3), (4), and (5) of this section, the regulations shall provide, after deducting the real and actual costs of administering the tax, for the return to each municipal corporation or township that does not levy an excise tax on the transactions, a uniform percentage of the tax collected in the municipal corporation or in the unincorporated portion of the township from each transaction, not to exceed thirty-three and one-third per cent. The remainder of the revenue arising from the tax shall be deposited in a separate fund and shall be spent solely to make contributions to the convention and visitors' bureau operating within the county, including a pledge and contribution of any portion of the remainder pursuant to an agreement authorized by section 307.695 of the Revised Code. Except as provided in division (A)(2), (3), (4), or (5) or (H) of this section, on and after May 10, 1994, a board of county commissioners may not levy an excise tax pursuant to this division in any municipal corporation or township located wholly or partly within the county that has in effect an ordinance or resolution levying an excise tax pursuant to

division (B) of this section. The board of a county that has levied a tax under division (C) of this section may, by resolution adopted within ninety days after July 15, 1985, by a majority of the members of the board, amend the resolution levying a tax under this division to provide for a portion of that tax to be pledged and contributed in accordance with an agreement entered into under section 307.695 of the Revised Code. A tax, any revenue from which is pledged pursuant to such an agreement, shall remain in effect at the rate at which it is imposed for the duration of the period for which the revenue from the tax has been so pledged.

(2) A board of county commissioners that levies an excise tax under division (A)(1) of this section on June 30, 1997, at a rate of three per cent, and that has pledged revenue from the tax to an agreement entered into under section 307.695 of the Revised Code, may amend the resolution levying that tax to provide for an increase in the rate of the tax up to five per cent on each transaction; to provide that revenue from the increase in the rate shall be spent solely to make contributions to the convention and visitors' bureau operating within the county to be used specifically for promotion, advertising, and marketing of the region in which the county is located; to provide that the rate in excess of the three per cent levied under division (A)(1) of this section shall remain in effect at the rate at which it is imposed for the duration of the period during which any agreement is in effect that was entered into under section 307.695 of the Revised Code by the board of county commissioners levying a tax under division (A)(1) of this section; and to provide that no portion of that revenue need be returned to townships or municipal corporations as would otherwise be required under division (A)(1) of this section.

(3) A board of county commissioners that levies a tax under division (A)(1) of this section on March 18, 1999, at a rate of three per cent may, by resolution adopted not later than forty-five days after March 18, 1999, amend the resolution levying the tax to provide for all of the following:

(a) That the rate of the tax shall be increased by not more than an additional four per cent on each transaction;

(b) That all of the revenue from the increase in the rate shall be pledged and contributed to a convention facilities authority established by the board of county commissioners under Chapter 351. of the Revised Code on or before November 15, 1998, and used to pay costs of constructing, maintaining, operating, and promoting a facility in the county, including paying bonds, or notes issued in anticipation of bonds, as provided by that chapter;

(c) That no portion of the revenue arising from the increase in rate need

be returned to municipal corporations or townships as otherwise required under division (A)(1) of this section;

(d) That the increase in rate shall not be subject to diminution by initiative or referendum or by law while any bonds, or notes in anticipation of bonds, issued by the authority under Chapter 351. of the Revised Code to which the revenue is pledged, remain outstanding in accordance with their terms, unless provision is made by law or by the board of county commissioners for an adequate substitute therefor that is satisfactory to the trustee if a trust agreement secures the bonds.

Division (A)(3) of this section does not apply to the board of county commissioners of any county in which a convention center or facility exists or is being constructed on November 15, 1998, or of any county in which a convention facilities authority levies a tax pursuant to section 351.021 of the Revised Code on that date.

As used in division (A)(3) of this section, "cost" and "facility" have the same meanings as in section 351.01 of the Revised Code, and "convention center" has the same meaning as in section 307.695 of the Revised Code.

(4) A board of county commissioners that levies a tax under division (A)(1) of this section on June 30, 2002, at a rate of three per cent may, by resolution adopted not later than September 30, 2002, amend the resolution levying the tax to provide for all of the following:

(a) That the rate of the tax shall be increased by not more than an additional three and one-half per cent on each transaction;

(b) That all of the revenue from the increase in rate shall be pledged and contributed to a convention facilities authority established by the board of county commissioners under Chapter 351. of the Revised Code on or before May 15, 2002, and be used to pay costs of constructing, expanding, maintaining, operating, or promoting a convention center in the county, including paying bonds, or notes issued in anticipation of bonds, as provided by that chapter;

(c) That no portion of the revenue arising from the increase in rate need be returned to municipal corporations or townships as otherwise required under division (A)(1) of this section;

(d) That the increase in rate shall not be subject to diminution by initiative or referendum or by law while any bonds, or notes in anticipation of bonds, issued by the authority under Chapter 351. of the Revised Code to which the revenue is pledged, remain outstanding in accordance with their terms, unless provision is made by law or by the board of county commissioners for an adequate substitute therefor that is satisfactory to the trustee if a trust agreement secures the bonds.



As used in division (A)(4) of this section, "cost" has the same meaning as in section 351.01 of the Revised Code, and "convention center" has the same meaning as in section 307.695 of the Revised Code.

(5)(a) As used in division (A)(5) of this section:

(i) "Port authority" means a port authority created under Chapter 4582. of the Revised Code.

(ii) "Port authority military-use facility" means port authority facilities on which or adjacent to which is located an installation of the armed forces of the United States, a reserve component thereof, or the national guard and at least part of which is made available for use, for consideration, by the armed forces of the United States, a reserve component thereof, or the national guard.

(b) For the purpose of contributing revenue to pay operating expenses of a port authority that operates a port authority military-use facility, the board of county commissioners of a county that created, participated in the creation of, or has joined such a port authority may do one or both of the following:

(i) Amend a resolution previously adopted under division (A)(1) of this section to designate some or all of the revenue from the tax levied under the resolution to be used for that purpose, notwithstanding that division;

(ii) Amend a resolution previously adopted under division (A)(1) of this section to increase the rate of the tax by not more than an additional two per cent and use the revenue from the increase exclusively for that purpose.

(c) If a board of county commissioners amends a resolution to increase the rate of a tax as authorized in division (A)(5)(b)(ii) of this section, the board also may amend the resolution to specify that the increase in rate of the tax does not apply to "hotels," as otherwise defined in section 5739.01 of the Revised Code, having fewer rooms used for the accommodation of guests than a number of rooms specified by the board.

(B)(1) The legislative authority of a municipal corporation or the board of trustees of a township that is not wholly or partly located in a county that has in effect a resolution levying an excise tax pursuant to division (A)(1) of this section may, by ordinance or resolution, levy an excise tax not to exceed three per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests. The legislative authority of the municipal corporation or the board of trustees of the township shall deposit at least fifty per cent of the revenue from the tax levied pursuant to this division into a separate fund, which shall be spent solely to make contributions to convention and visitors' bureaus operating within the county in which the municipal corporation or township is wholly or partly located, and the

balance of that revenue shall be deposited in the general fund. The municipal corporation or township shall establish all regulations necessary to provide for the administration and allocation of the tax. The regulations may prescribe the time for payment of the tax, and may provide for the imposition of a penalty or interest, or both, for late payments, provided that the penalty does not exceed ten per cent of the amount of tax due, and the rate at which interest accrues does not exceed the rate per annum prescribed pursuant to section 5703.47 of the Revised Code. The levy of a tax under this division is in addition to any tax imposed on the same transaction by a municipal corporation or a township as authorized by division (A) of section 5739.08 of the Revised Code.

(2) The legislative authority of the most populous municipal corporation located wholly or partly in a county in which the board of county commissioners has levied a tax under division (A)(4) of this section may amend, on or before September 30, 2002, that municipal corporation's ordinance or resolution that levies an excise tax on transactions by which lodging by a hotel is or is to be furnished to transient guests, to provide for all of the following:

(a) That the rate of the tax shall be increased by not more than an additional one per cent on each transaction;

(b) That all of the revenue from the increase in rate shall be pledged and contributed to a convention facilities authority established by the board of county commissioners under Chapter 351. of the Revised Code on or before May 15, 2002, and be used to pay costs of constructing, expanding, maintaining, operating, or promoting a convention center in the county, including paying bonds, or notes issued in anticipation of bonds, as provided by that chapter;

(c) That the increase in rate shall not be subject to diminution by initiative or referendum or by law while any bonds, or notes in anticipation of bonds, issued by the authority under Chapter 351. of the Revised Code to which the revenue is pledged, remain outstanding in accordance with their terms, unless provision is made by law, by the board of county commissioners, or by the legislative authority, for an adequate substitute therefor that is satisfactory to the trustee if a trust agreement secures the bonds.

As used in division (B)(2) of this section, "cost" has the same meaning as in section 351.01 of the Revised Code, and "convention center" has the same meaning as in section 307.695 of the Revised Code.

(C) For the purpose of making the payments authorized by section 307.695 of the Revised Code to construct and equip a convention center in

the county and to cover the costs of administering the tax, a board of county commissioners of a county where a tax imposed under division (A)(1) of this section is in effect may, by resolution adopted within ninety days after July 15, 1985, by a majority of the members of the board, levy an additional excise tax not to exceed three per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests. The tax authorized by this division shall be in addition to any tax that is levied pursuant to division (A) of this section, but it shall not apply to transactions subject to a tax levied by a municipal corporation or township pursuant to the authorization granted by division (A) of section 5739.08 of the Revised Code. The board shall establish all regulations necessary to provide for the administration and allocation of the tax. The regulations may prescribe the time for payment of the tax, and may provide for the imposition of a penalty or interest, or both, for late payments, provided that the penalty does not exceed ten per cent of the amount of tax due, and the rate at which interest accrues does not exceed the rate per annum prescribed pursuant to section 5703.47 of the Revised Code. All revenues arising from the tax shall be expended in accordance with section 307.695 of the Revised Code. A tax imposed under this division shall remain in effect at the rate at which it is imposed for the duration of the period for which the revenue from the tax has been pledged pursuant to that section.

(D) For the purpose of providing contributions under division (B)(1) of section 307.671 of the Revised Code to enable the acquisition, construction, and equipping of a port authority educational and cultural facility in the county and, to the extent provided for in the cooperative agreement authorized by that section, for the purpose of paying debt service charges on bonds, or notes in anticipation of bonds, described in division (B)(1)(b) of that section, a board of county commissioners, by resolution adopted within ninety days after December 22, 1992, by a majority of the members of the board, may levy an additional excise tax not to exceed one and one-half per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests. The excise tax authorized by this division shall be in addition to any tax that is levied pursuant to divisions (A), (B), and (C) of this section, to any excise tax levied pursuant to section 5739.08 of the Revised Code, and to any excise tax levied pursuant to section 351.021 of the Revised Code. The board of county commissioners shall establish all regulations necessary to provide for the administration and allocation of the tax that are not inconsistent with this section or section 307.671 of the Revised Code. The regulations may prescribe the time for payment of the tax, and may provide for the imposition of a penalty or interest, or both, for

late payments, provided that the penalty does not exceed ten per cent of the amount of tax due, and the rate at which interest accrues does not exceed the rate per annum prescribed pursuant to section 5703.47 of the Revised Code. All revenues arising from the tax shall be expended in accordance with section 307.671 of the Revised Code and division (D) of this section. The levy of a tax imposed under this division may not commence prior to the first day of the month next following the execution of the cooperative agreement authorized by section 307.671 of the Revised Code by all parties to that agreement. The tax shall remain in effect at the rate at which it is imposed for the period of time described in division (C) of section 307.671 of the Revised Code for which the revenue from the tax has been pledged by the county to the corporation pursuant to that section, but, to any extent provided for in the cooperative agreement, for no lesser period than the period of time required for payment of the debt service charges on bonds, or notes in anticipation of bonds, described in division (B)(1)(b) of that section.

(E) For the purpose of paying the costs of acquiring, constructing, equipping, and improving a municipal educational and cultural facility, including debt service charges on bonds provided for in division (B) of section 307.672 of the Revised Code, and for any additional purposes determined by the county in the resolution levying the tax or amendments to the resolution, including subsequent amendments providing for paying costs of acquiring, constructing, renovating, rehabilitating, equipping, and improving a port authority educational and cultural performing arts facility, as defined in section 307.674 of the Revised Code, and including debt service charges on bonds provided for in division (B) of section 307.674 of the Revised Code, the legislative authority of a county, by resolution adopted within ninety days after June 30, 1993, by a majority of the members of the legislative authority, may levy an additional excise tax not to exceed one and one-half per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests. The excise tax authorized by this division shall be in addition to any tax that is levied pursuant to divisions (A), (B), (C), and (D) of this section, to any excise tax levied pursuant to section 5739.08 of the Revised Code, and to any excise tax levied pursuant to section 351.021 of the Revised Code. The legislative authority of the county shall establish all regulations necessary to provide for the administration and allocation of the tax. The regulations may prescribe the time for payment of the tax, and may provide for the imposition of a penalty or interest, or both, for late payments, provided that the penalty does not exceed ten per cent of the amount of tax due, and the rate at which interest accrues does not exceed the rate per annum prescribed

pursuant to section 5703.47 of the Revised Code. All revenues arising from the tax shall be expended in accordance with section 307.672 of the Revised Code and this division. The levy of a tax imposed under this division shall not commence prior to the first day of the month next following the execution of the cooperative agreement authorized by section 307.672 of the Revised Code by all parties to that agreement. The tax shall remain in effect at the rate at which it is imposed for the period of time determined by the legislative authority of the county, but not to exceed fifteen years.

(F) The legislative authority of a county that has levied a tax under division (E) of this section may, by resolution adopted within one hundred eighty days after January 4, 2001, by a majority of the members of the legislative authority, amend the resolution levying a tax under that division to provide for the use of the proceeds of that tax, to the extent that it is no longer needed for its original purpose as determined by the parties to a cooperative agreement amendment pursuant to division (D) of section 307.672 of the Revised Code, to pay costs of acquiring, constructing, renovating, rehabilitating, equipping, and improving a port authority educational and cultural performing arts facility, including debt service charges on bonds provided for in division (B) of section 307.674 of the Revised Code, and to pay all obligations under any guaranty agreements, reimbursement agreements, or other credit enhancement agreements described in division (C) of section 307.674 of the Revised Code. The resolution may also provide for the extension of the tax at the same rate for the longer of the period of time determined by the legislative authority of the county, but not to exceed an additional twenty-five years, or the period of time required to pay all debt service charges on bonds provided for in division (B) of section 307.672 of the Revised Code and on port authority revenue bonds provided for in division (B) of section 307.674 of the Revised Code. All revenues arising from the amendment and extension of the tax shall be expended in accordance with section 307.674 of the Revised Code, this division, and division (E) of this section.

(G) For purposes of a tax levied by a county, township, or municipal corporation under this section or section 5739.08 of the Revised Code, a board of county commissioners, board of township trustees, or the legislative authority of a municipal corporation may adopt a resolution or ordinance at any time specifying that "hotel," as otherwise defined in section 5739.01 of the Revised Code, includes establishments in which fewer than five rooms are used for the accommodation of guests. The resolution or ordinance may apply to a tax imposed pursuant to this section prior to the adoption of the resolution or ordinance if the resolution or ordinance so

states, but the tax shall not apply to transactions by which lodging by such an establishment is provided to transient guests prior to the adoption of the resolution or ordinance.

(H)(1) As used in this division:

(a) "Convention facilities authority" has the same meaning as in section 351.01 of the Revised Code.

(b) "Convention center" has the same meaning as in section 307.695 of the Revised Code.

(2) Notwithstanding any contrary provision of division (D) of this section, the legislative authority of a county with a population of one million or more according to the most recent federal decennial census that has levied a tax under division (D) of this section may, by resolution adopted by a majority of the members of the legislative authority, provide for the extension of such levy and may provide that the proceeds of that tax, to the extent that they are no longer needed for their original purpose as defined by a cooperative agreement entered into under section 307.671 of the Revised Code, shall be deposited into the county general revenue fund. The resolution shall provide for the extension of the tax at a rate not to exceed the rate specified in division (D) of this section for a period of time determined by the legislative authority of the county, but not to exceed an additional forty years.

(3) The legislative authority of a county with a population of one million or more that has levied a tax under division (A)(1) of this section may, by resolution adopted by a majority of the members of the legislative authority, increase the rate of the tax levied by such county under division (A)(1) of this section to a rate not to exceed five per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests. Notwithstanding any contrary provision of division (A)(1) of this section, the resolution may provide that all collections resulting from the rate levied in excess of three per cent, after deducting the real and actual costs of administering the tax, shall be deposited in the county general fund.

(4) The legislative authority of a county with a population of one million or more that has levied a tax under division (A)(1) of this section may, by resolution adopted on or before August 30, 2004, by a majority of the members of the legislative authority, provide that all or a portion of the proceeds of the tax levied under division (A)(1) of this section, after deducting the real and actual costs of administering the tax and the amounts required to be returned to townships and municipal corporations with respect to the first three per cent levied under division (A)(1) of this section, shall be deposited in the county general fund, provided that such proceeds

shall be used to satisfy any pledges made in connection with an agreement entered into under section 307.695 of the Revised Code.

(5) No amount collected from a tax levied, extended, or required to be deposited in the county general fund under division (H) of this section shall be contributed to a convention facilities authority, corporation, or other entity created after July 1, 2003, for the principal purpose of constructing, improving, expanding, equipping, financing, or operating a convention center unless the mayor of the municipal corporation in which the convention center is to be operated by that convention facilities authority, corporation, or other entity has consented to the creation of that convention facilities authority, corporation, or entity. Notwithstanding any contrary provision of section 351.04 of the Revised Code, if a tax is levied by a county under division (H) of this section, the board of county commissioners of that county may determine the manner of selection, the qualifications, the number, and terms of office of the members of the board of directors of any convention facilities authority, corporation, or other entity described in division (H)(5) of this section.

(6)(a) No amount collected from a tax levied, extended, or required to be deposited in the county general fund under division (H) of this section may be used for any purpose other than paying the direct and indirect costs of constructing, improving, expanding, equipping, financing, or operating a convention center and for the real and actual costs of administering the tax, unless, prior to the adoption of the resolution of the legislative authority of the county authorizing the levy, extension, increase, or deposit, the county and the mayor of the most populous municipal corporation in that county have entered into an agreement as to the use of such amounts, provided that such agreement has been approved by a majority of the mayors of the other municipal corporations in that county. The agreement shall provide that the amounts to be used for purposes other than paying the convention center or administrative costs described in division (H)(6)(a) of this section be used only for the direct and indirect costs of capital improvements, including the financing of capital improvements.

(b) If the county in which the tax is levied has an association of mayors and city managers, the approval of that association of an agreement described in division (H)(6)(a) of this section shall be considered to be the approval of the majority of the mayors of the other municipal corporations for purposes of that division.

(7) Each year, the auditor of state shall conduct an audit of the uses of any amounts collected from taxes levied, extended, or deposited under division (H) of this section and shall prepare a report of the auditor of state's

findings. The auditor of state shall submit the report to the legislative authority of the county that has levied, extended, or deposited the tax, the speaker of the house of representatives, the president of the senate, and the leaders of the minority parties of the house of representatives and the senate.

(D)(1) As used in this division:

(a) "Convention facilities authority" has the same meaning as in section 351.01 of the Revised Code.

(b) "Convention center" has the same meaning as in section 307.695 of the Revised Code.

(2) Notwithstanding any contrary provision of division (D) of this section, the legislative authority of a county with a population of one million two hundred thousand or more according to the most recent federal decennial census or the most recent annual population estimate published or released by the United States census bureau at the time the resolution is adopted placing the levy on the ballot, that has levied a tax under division (D) of this section may, by resolution adopted by a majority of the members of the legislative authority, provide for the extension of such levy and may provide that the proceeds of that tax, to the extent that the proceeds are no longer needed for their original purpose as defined by a cooperative agreement entered into under section 307.671 of the Revised Code and after deducting the real and actual costs of administering the tax, shall be used for paying the direct and indirect costs of constructing, improving, expanding, equipping, financing, or operating a convention center. The resolution shall provide for the extension of the tax at a rate not to exceed the rate specified in division (D) of this section for a period of time determined by the legislative authority of the county, but not to exceed an additional forty years.

(3) The legislative authority of a county with a population of one million two hundred thousand or more that has levied a tax under division (A)(1) of this section may, by resolution adopted by a majority of the members of the legislative authority, increase the rate of the tax levied by such county under division (A)(1) of this section to a rate not to exceed five per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests. Notwithstanding any contrary provision of division (A)(1) of this section, the resolution shall provide that all collections resulting from the rate levied in excess of three per cent, after deducting the real and actual costs of administering the tax, shall be used for paying the direct and indirect costs of constructing, improving, expanding, equipping, financing, or operating a convention center.

(4) The legislative authority of a county with a population of one



million two hundred thousand or more that has levied a tax under division (A)(1) of this section may, by resolution adopted on or before July 1, 2008, by a majority of the members of the legislative authority, provide that all or a portion of the proceeds of the tax levied under division (A)(1) of this section, after deducting the real and actual costs of administering the tax and the amounts required to be returned to townships and municipal corporations with respect to the first three per cent levied under division (A)(1) of this section, shall be used to satisfy any pledges made in connection with an agreement entered into under section 307.695 of the Revised Code or shall otherwise be used for paying the direct and indirect costs of constructing, improving, expanding, equipping, financing, or operating a convention center.

(5) Any amount collected from a tax levied or extended under division (I) of this section may be contributed to a convention facilities authority created before July 1, 2005, but no amount collected from a tax levied or extended under division (I) of this section may be contributed to a convention facilities authority, corporation, or other entity created after July 1, 2005, unless the mayor of the municipal corporation in which the convention center is to be operated by that convention facilities authority, corporation, or other entity has consented to the creation of that convention facilities authority, corporation, or entity.

Sec. 5739.10. (A) In addition to the tax levied by section 5739.02 of the Revised Code and any tax levied pursuant to section 5739.021, 5739.023, or 5739.026 of the Revised Code, and to secure the same objectives specified in those sections, there is hereby levied upon the privilege of engaging in the business of making retail sales, an excise tax ~~of six per cent on and after July 1, 2003, and on and before June 30, 2005, and an excise tax of five per cent on and after July 1, 2005~~ equal to the tax levied by section 5739.02 of the Revised Code, or, in the case of retail sales subject to a tax levied pursuant to section 5739.021, 5739.023, or 5739.026 of the Revised Code, a percentage equal to the aggregate rate of such taxes and the tax levied by section 5739.02 of the Revised Code of the receipts derived from all retail sales, except those to which the excise tax imposed by section 5739.02 of the Revised Code is made inapplicable by division (B) of that section.

(B) For the purpose of this section, no vendor shall be required to maintain records of sales of food for human consumption off the premises where sold, and no assessment shall be made against any vendor for sales of food for human consumption off the premises where sold, solely because the vendor has no records of, or has inadequate records of, such sales; provided that where a vendor does not have adequate records of receipts from the

vendor's sales of food for human consumption on the premises where sold, the tax commissioner may refuse to accept the vendor's return and, upon the basis of test checks of the vendor's business for a representative period, and other information relating to the sales made by such vendor, determine the proportion that taxable retail sales bear to all of the vendor's retail sales. The tax imposed by this section shall be determined by deducting from the sum representing five and one-half or six per cent, as applicable under division (A) of this section, or, in the case of retail sales subject to a tax levied pursuant to section 5739.021, 5739.023, or 5739.026 of the Revised Code, a percentage equal to the aggregate rate of such taxes and the tax levied by section 5739.02 of the Revised Code of the receipts from such retail sales, the amount of tax paid to the state or to a clerk of a court of common pleas. The section does not affect any duty of the vendor under sections 5739.01 to 5739.19 and 5739.26 to 5739.31 of the Revised Code, nor the liability of any consumer to pay any tax imposed by or pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code.

Sec. 5739.12. (A) Each person who has or is required to have a vendor's license, on or before the twenty-third day of each month, shall make and file a return for the preceding month, on forms prescribed by the tax commissioner, and shall pay the tax shown on the return to be due. The commissioner may require a vendor that operates from multiple locations or has multiple vendor's licenses to report all tax liabilities on one consolidated return. The return shall show the amount of tax due from the vendor to the state for the period covered by the return and such other information as the commissioner deems necessary for the proper administration of this chapter. The commissioner may extend the time for making and filing returns and paying the tax, and may require that the return for the last month of any annual or semiannual period, as determined by the commissioner, be a reconciliation return detailing the vendor's sales activity for the preceding annual or semiannual period. The reconciliation return shall be filed by the last day of the month following the last month of the annual or semiannual period. The commissioner may remit all or any part of amounts or penalties that may become due under this chapter and may adopt rules relating thereto. Such return shall be filed by mailing it to the tax commissioner, together with payment of the amount of tax shown to be due thereon after deduction of any discount provided for under this section. Remittance shall be made payable to the treasurer of state. The return shall be considered filed when received by the tax commissioner, and the payment shall be considered made when received by the tax commissioner or when credited to an account designated by the treasurer of state or the tax commissioner.

(B) If the return is filed and the amount of tax shown thereon to be due is paid on or before the date such return is required to be filed, the vendor shall be entitled to the following discount:

(1) On and after July 1, ~~2003~~ 2005, and on and before June 30, ~~2005~~ 2007, nine-tenths of one per cent of the amount shown to be due on the return;

(2) On and after July 1, ~~2005~~ 2007, three-fourths of one per cent of the amount shown to be due on the return.

A vendor that has selected a certified service provider as its agent shall not be entitled to the discount. Amounts paid to the clerk of courts pursuant to section 4505.06 of the Revised Code shall be subject to the applicable discount. The discount shall be in consideration for prompt payment to the clerk of courts and for other services performed by the vendor in the collection of the tax.

(C)(1) Upon application to the commissioner, a vendor who is required to file monthly returns may be relieved of the requirement to report and pay the actual tax due, provided that the vendor agrees to remit to the tax commissioner payment of not less than an amount determined by the commissioner to be the average monthly tax liability of the vendor, based upon a review of the returns or other information pertaining to such vendor for a period of not less than six months nor more than two years immediately preceding the filing of the application. Vendors who agree to the above conditions shall make and file an annual or semiannual reconciliation return, as prescribed by the commissioner. The reconciliation return shall be filed by mailing or delivering it to the tax commissioner, together with payment of the amount of tax shown to be due thereon after deduction of any discount provided in this section. Remittance shall be made payable to the treasurer of state. Failure of a vendor to comply with any of the above conditions may result in immediate reinstatement of the requirement of reporting and paying the actual tax liability on each monthly return, and the commissioner may at the commissioner's discretion deny the vendor the right to report and pay based upon the average monthly liability for a period not to exceed two years. The amount ascertained by the commissioner to be the average monthly tax liability of a vendor may be adjusted, based upon a review of the returns or other information pertaining to the vendor for a period of not less than six months nor more than two years preceding such adjustment.

(2) The commissioner may authorize vendors whose tax liability is not such as to merit monthly returns, as ascertained by the commissioner upon the basis of administrative costs to the state, to make and file returns at less

frequent intervals. When returns are filed at less frequent intervals in accordance with such authorization, the vendor shall be allowed the discount provided in this section in consideration for prompt payment with the return, provided the return is filed together with payment of the amount of tax shown to be due thereon, at the time specified by the commissioner, but a vendor that has selected a certified service provider as its agent shall not be entitled to the discount.

(D) Any vendor who fails to file a return or pay the full amount of the tax shown on the return to be due under this section and the rules of the commissioner may, for each such return the vendor fails to file or each such tax the vendor fails to pay in full as shown on the return within the period prescribed by this section and the rules of the commissioner, be required to forfeit and pay into the state treasury an additional charge not exceeding fifty dollars or ten per cent of the tax required to be paid for the reporting period, whichever is greater, as revenue arising from the tax imposed by this chapter, and such sum may be collected by assessment in the manner provided in section 5739.13 of the Revised Code. The commissioner may remit all or a portion of the additional charge and may adopt rules relating to the imposition and remission of the additional charge.

(E) If the amount required to be collected by a vendor from consumers is in excess of the applicable percentage of the vendor's receipts from sales that are taxable under section 5739.02 of the Revised Code, or in the case of sales subject to a tax levied pursuant to section 5739.021, 5739.023, or 5739.026 of the Revised Code, in excess of the percentage equal to the aggregate rate of such taxes and the tax levied by section 5739.02 of the Revised Code, such excess shall be remitted along with the remittance of the amount of tax due under section 5739.10 of the Revised Code.

(F) The commissioner, if the commissioner deems it necessary in order to insure the payment of the tax imposed by this chapter, may require returns and payments to be made for other than monthly periods. The returns shall be signed by the vendor or the vendor's authorized agent.

(G) Any vendor required to file a return and pay the tax under this section, whose total payment equals or exceeds the amount shown in division (A) of section 5739.122 of the Revised Code, shall make each payment required by this section in the second ensuing and each succeeding year by electronic funds transfer as prescribed by, and on or before the dates specified in, section 5739.122 of the Revised Code, except as otherwise prescribed by that section. For a vendor that operates from multiple locations or has multiple vendor's licenses, in determining whether the vendor's total payment equals or exceeds the amount shown in division (A)

of that section, the vendor's total payment amount shall be the amount of the vendor's total tax liability for the previous calendar year for all of the vendor's locations or licenses.

Sec. 5739.16. (A) ~~No~~ Except as otherwise provided in this section, no assessment shall be made or issued against a vendor or consumer for any tax imposed by or pursuant to section 5739.02, 5739.021, 5739.023, 5739.026, or 5739.10 of the Revised Code more than four years after the return date for the period in which the sale or purchase was made, or more than four years after the return for such period is filed, whichever is later. A consumer who provides a fully completed exemption certificate pursuant to division (B) of section 5739.03 of the Revised Code may be assessed any tax imposed by or pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code that results from denial of the claimed exemption within the later of a period otherwise allowed by this section or one year after the date the certificate was provided. This division does not bar an assessment:

(1) When the tax commissioner has substantial evidence of amounts of taxes collected by a vendor from consumers on retail sales, which were not returned to the state;

(2) When the vendor assessed failed to file a return as required by section 5739.12 of the Revised Code;

(3) When the vendor or consumer and the commissioner waive in writing the time limitation.

(B) No assessment shall be made or issued against a vendor or consumer for any tax imposed by or pursuant to section 5739.02, 5739.021, 5739.023, 5739.026, or 5739.10 of the Revised Code for any period during which there was in full force and effect a rule of the tax commissioner under or by virtue of which the collection or payment of any such tax was not required. This division does not bar an assessment when the tax commissioner has substantial evidence of amounts of taxes collected by a vendor from consumers on retail sales which were not returned to the state.

(C) No assessment shall be made or issued against a person for any tax imposed pursuant to section 5739.101 of the Revised Code more than four years after the return date for the period in which the tax is imposed on the person's gross receipts, or more than four years after the return for such period is filed, whichever is later. This division does not bar an assessment when the person assessed failed to file a return as required under section 5739.102 of the Revised Code, or when the person and the commissioner waive in writing the time limitation.

Sec. 5739.17. (A) No person shall engage in making retail sales subject

to a tax imposed by or pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code as a business without having a license therefor, except as otherwise provided in divisions (A)(1), (2), and (3) of this section.

(1) In the dissolution of a partnership by death, the surviving partner may operate under the license of the partnership for a period of sixty days.

(2) The heirs or legal representatives of deceased persons, and receivers and trustees in bankruptcy, appointed by any competent authority, may operate under the license of the person so succeeded in possession.

(3) Two or more persons who are not partners may operate a single place of business under one license. In such case neither the retirement of any such person from business at that place of business, nor the entrance of any person, under an existing arrangement, shall affect the license or require the issuance of a new license, unless the person retiring from the business is the individual named on the vendor's license.

Except as otherwise provided in this section, each applicant for a license shall make out and deliver to the county auditor of each county in which the applicant desires to engage in business, upon a blank to be furnished by such auditor for that purpose, a statement showing the name of the applicant, each place of business in the county where the applicant will make retail sales, the nature of the business, and any other information the tax commissioner reasonably prescribes in the form of a statement prescribed by the commissioner.

At the time of making the application, the applicant shall pay into the county treasury a license fee in the sum of twenty-five dollars for each fixed place of business in the county that will be the situs of retail sales. Upon receipt of the application and exhibition of the county treasurer's receipt, showing the payment of the license fee, the county auditor shall issue to the applicant a license for each fixed place of business designated in the application, authorizing the applicant to engage in business at that location. If a vendor's identity changes, the vendor shall apply for a new license. If a vendor wishes to move an existing fixed place of business to a new location within the same county, the vendor shall obtain a new vendor's license or submit a request to the tax commissioner to transfer the existing vendor's license to the new location. When the new location has been verified as being within the same county, the commissioner shall authorize the transfer and notify the county auditor of the change of location. If a vendor wishes to move an existing fixed place of business to another county, the vendor's license shall not transfer and the vendor shall obtain a new vendor's license from the county in which the business is to be located. The form of the

license shall be prescribed by the commissioner. The fees collected shall be credited to the general fund of the county.

The tax commissioner may establish or participate in a registration system whereby any vendor may obtain a vendor's license by submitting to the commissioner a vendor's license application and a license fee of twenty-five dollars for each fixed place of business at which the vendor intends to make retail sales. Under this registration system, the commissioner shall issue a vendor's license to the applicant on behalf of the county auditor of the county in which the applicant desires to engage in business, and shall forward a copy of the application and license fee to that county. All such license fees received by the commissioner for the issuance of vendor's licenses shall be deposited into the vendor's license application fund, which is hereby created in the state treasury. The commissioner shall certify to the director of budget and management within ten business days after the close of a month the license fees to be transmitted to each county from the vendor's license application fund for vendor's license applications received by the commissioner during that month. License fees transmitted to a county for which payment was not received by the commissioner may be netted against a future distribution to that county, including distributions made pursuant to section 5739.21 of the Revised Code.

A vendor that makes retail sales subject to tax under Chapter 5739. of the Revised Code pursuant to a permit issued by the division of liquor control shall obtain a vendor's license in the identical name and for the identical address as shown on the permit.

Except as otherwise provided in this section, if a vendor has no fixed place of business and sells from a vehicle, each vehicle intended to be used within a county constitutes a place of business for the purpose of this section.

(B) As used in this division, "transient vendor" means any person who makes sales of tangible personal property from vending machines located on land owned by others, who leases titled motor vehicles, titled watercraft, or titled outboard motors, who effectuates leases that are taxed according to division (A)(2) of section 5739.02 of the Revised Code, or who, in the usual course of the person's business, transports inventory, stock of goods, or similar tangible personal property to a temporary place of business or temporary exhibition, show, fair, flea market, or similar event in a county in which the person has no fixed place of business, for the purpose of making retail sales of such property. A "temporary place of business" means any public or quasi-public place including, but not limited to, a hotel, rooming house, storeroom, building, part of a building, tent, vacant lot, railroad car,

or motor vehicle that is temporarily occupied for the purpose of making retail sales of goods to the public. A place of business is not temporary if the same person conducted business at the place continuously for more than six months or occupied the premises as the person's permanent residence for more than six months, or if the person intends it to be a fixed place of business.

Any transient vendor, in lieu of obtaining a vendor's license under division (A) of this section for counties in which the transient vendor has no fixed place of business, may apply to the tax commissioner, on a form prescribed by the commissioner, for a transient vendor's license. The transient vendor's license authorizes the transient vendor to make retail sales in any county in which the transient vendor does not maintain a fixed place of business. Any holder of a transient vendor's license shall not be required to obtain a separate vendor's license from the county auditor in that county. Upon the commissioner's determination that an applicant is a transient vendor, the applicant shall pay a license fee in the amount of twenty-five dollars, at which time the tax commissioner shall issue the license. The tax commissioner may require a vendor to be licensed as a transient vendor if, in the opinion of the commissioner, such licensing is necessary for the efficient administration of the tax.

Any holder of a valid transient vendor's license may make retail sales at a temporary place of business or temporary exhibition, show, fair, flea market, or similar event, held anywhere in the state without complying with any provision of section 311.37 of the Revised Code. Any holder of a valid vendor's license may make retail sales as a transient vendor at a temporary place of business or temporary exhibition, show, fair, flea market, or similar event held in any county in which the vendor maintains a fixed place of business for which the vendor holds a vendor's license without obtaining a transient vendor's license.

(C) As used in this division, "service vendor" means any person who, in the usual course of the person's business, sells services described in division (B)(3)(e), (f), (g), (h), (i), (j), (k), (l), (m), ~~(p)~~, or ~~(u)~~ of section 5739.01 of the Revised Code.

Every service vendor shall make application to the tax commissioner for a service vendor's license. Each applicant shall pay a license fee in the amount of twenty-five dollars. Upon the commissioner's determination that an applicant is a service vendor and payment of the fee, the commissioner shall issue the applicant a service vendor's license.

Only sales described in division (B)(3)(e), (f), (g), (h), (i), (j), (k), (l), (m), ~~(p)~~, or ~~(u)~~ of section 5739.01 of the Revised Code may be made



under authority of a service vendor's license, and that license authorizes sales to be made at any place in this state. Any service vendor who makes sales of other services or tangible personal property subject to the sales tax also shall be licensed under division (A), (B), or (D) of this section.

(D) As used in this division, "delivery vendor" means any vendor who engages in one or more of the activities described in divisions (D)(1) to (4) of this section, and who maintains no store, showroom, or similar fixed place of business or other location where merchandise regularly is offered for sale or displayed or shown in catalogs for selection or pick-up by consumers, or where consumers bring goods for repair or other service.

(1) The vendor makes retail sales of tangible personal property;

(2) The vendor rents or leases, at retail, tangible personal property, except titled motor vehicles, titled watercraft, or titled outboard motors;

(3) The vendor provides a service, at retail, described in division (B)(3)(a), (b), (c), or (d) of section 5739.01 of the Revised Code; or

(4) The vendor makes retail sales of warranty, maintenance or service contracts, or similar agreements as described in division (B)(7) of section 5739.01 of the Revised Code.

A transient vendor or a seller registered pursuant to section 5741.17 of the Revised Code is not a delivery vendor.

Delivery vendors shall apply to the tax commissioner, on a form prescribed by the commissioner, for a delivery vendor's license. Each applicant shall pay a license fee of twenty-five dollars for each delivery vendor's license, to be credited to the general revenue fund. Upon the commissioner's determination that the applicant is a delivery vendor, the commissioner shall issue the license. A delivery vendor's license authorizes retail sales to be made throughout the state. All sales of the vendor must be reported under the delivery license. The commissioner may require a vendor to be licensed as a delivery vendor if, in the opinion of the commissioner, such licensing is necessary for the efficient administration of the tax. The commissioner shall not issue a delivery vendor license to a vendor who holds a license issued under division (A) of this section.

(E) Any transient vendor who is issued a license pursuant to this section shall display the license or a copy of it prominently, in plain view, at every place of business of the transient vendor. Every owner, organizer, or promoter who operates a fair, flea market, show, exhibition, convention, or similar event at which transient vendors are present shall keep a comprehensive record of all such vendors, listing the vendor's name, permanent address, vendor's license number, and the type of goods sold. Such records shall be kept for four years and shall be open to inspection by

the tax commissioner.

Sec. 5739.36. (A) For the purpose of tracking the growth and overall economic impact of the travel and tourism industry in this state, the tax commissioner shall prepare a report summarizing the amount of tax revenue collected during each semiannual period ending on the last day of June or December, annually. The commissioner shall prepare the report by industry classification using business activity codes. The report shall include the combined total statewide collections from the taxes levied under sections 5739.02, 5739.021, 5739.023, 5739.026, 5741.02, 5741.021, 5741.022, and 5741.023 of the Revised Code as reported by taxpayers with respect to collections during the semiannual period. The report shall reflect all industries included in the industrial classification system used by the commissioner the activities of which relate in any way to travel and tourism, including, but not limited to, industries such as bars and restaurants; hotels, motels, and other lodging establishments; and other industries related to travel and tourism. The first report shall be for the semiannual period ending December 31, 2005.

(B) The tax commissioner shall file a copy of the report required under this section with the governor, the president of the senate, the speaker of the house of representatives, and the legislative service commission. The reports shall be filed on or before the first day of May or November, annually, that immediately follows the semiannual period to which the report relates. A copy of the commissioner's most recent report shall be made available to the public through the department of taxation's official internet web site.

(C) The commissioner shall adopt rules that are necessary to administer this section.

Sec. 5741.02. (A)(1) For the use of the general revenue fund of the state, an excise tax is hereby levied on the storage, use, or other consumption in this state of tangible personal property or the benefit realized in this state of any service provided. The tax shall be collected as provided in section 5739.025 of the Revised Code, provided that on and after July 1, 2003, and on or before June 30, 2005, the rate of the tax shall be six per cent. On and after July 1, 2005, the rate of the tax shall be five and one-half per cent.

(2) In the case of the lease or rental, with a fixed term of more than thirty days or an indefinite term with a minimum period of more than thirty days, of any motor vehicles designed by the manufacturer to carry a load of not more than one ton, watercraft, outboard motor, or aircraft, or of any tangible personal property, other than motor vehicles designed by the manufacturer to carry a load of more than one ton, to be used by the lessee or renter primarily for business purposes, the tax shall be collected by the

seller at the time the lease or rental is consummated and shall be calculated by the seller on the basis of the total amount to be paid by the lessee or renter under the lease or rental agreement. If the total amount of the consideration for the lease or rental includes amounts that are not calculated at the time the lease or rental is executed, the tax shall be calculated and collected by the seller at the time such amounts are billed to the lessee or renter. In the case of an open-end lease or rental, the tax shall be calculated by the seller on the basis of the total amount to be paid during the initial fixed term of the lease or rental, and for each subsequent renewal period as it comes due. As used in this division, "motor vehicle" has the same meaning as in section 4501.01 of the Revised Code, and "watercraft" includes an outdrive unit attached to the watercraft.

(3) Except as provided in division (A)(2) of this section, in the case of a transaction, the price of which consists in whole or part of the lease or rental of tangible personal property, the tax shall be measured by the installments of those leases or rentals.

(B) Each consumer, storing, using, or otherwise consuming in this state tangible personal property or realizing in this state the benefit of any service provided, shall be liable for the tax, and such liability shall not be extinguished until the tax has been paid to this state; provided, that the consumer shall be relieved from further liability for the tax if the tax has been paid to a seller in accordance with section 5741.04 of the Revised Code or prepaid by the seller in accordance with section 5741.06 of the Revised Code.

(C) The tax does not apply to the storage, use, or consumption in this state of the following described tangible personal property or services, nor to the storage, use, or consumption or benefit in this state of tangible personal property or services purchased under the following described circumstances:

(1) When the sale of property or service in this state is subject to the excise tax imposed by sections 5739.01 to 5739.31 of the Revised Code, provided said tax has been paid;

(2) Except as provided in division (D) of this section, tangible personal property or services, the acquisition of which, if made in Ohio, would be a sale not subject to the tax imposed by sections 5739.01 to 5739.31 of the Revised Code;

(3) Property or services, the storage, use, or other consumption of or benefit from which this state is prohibited from taxing by the Constitution of the United States, laws of the United States, or the Constitution of this state. This exemption shall not exempt from the application of the tax imposed by

this section the storage, use, or consumption of tangible personal property that was purchased in interstate commerce, but that has come to rest in this state, provided that fuel to be used or transported in carrying on interstate commerce that is stopped within this state pending transfer from one conveyance to another is exempt from the excise tax imposed by this section and section 5739.02 of the Revised Code;

(4) Transient use of tangible personal property in this state by a nonresident tourist or vacationer, or a non-business use within this state by a nonresident of this state, if the property so used was purchased outside this state for use outside this state and is not required to be registered or licensed under the laws of this state;

(5) Tangible personal property or services rendered, upon which taxes have been paid to another jurisdiction to the extent of the amount of the tax paid to such other jurisdiction. Where the amount of the tax imposed by this section and imposed pursuant to section 5741.021, 5741.022, or 5741.023 of the Revised Code exceeds the amount paid to another jurisdiction, the difference shall be allocated between the tax imposed by this section and any tax imposed by a county or a transit authority pursuant to section 5741.021, 5741.022, or 5741.023 of the Revised Code, in proportion to the respective rates of such taxes.

As used in this subdivision, "taxes paid to another jurisdiction" means the total amount of retail sales or use tax or similar tax based upon the sale, purchase, or use of tangible personal property or services rendered legally, levied by and paid to another state or political subdivision thereof, or to the District of Columbia, where the payment of such tax does not entitle the taxpayer to any refund or credit for such payment.

(6) The transfer of a used manufactured home or used mobile home, as defined by section 5739.0210 of the Revised Code, made on or after January 1, 2000;

(7) Drugs that are or are intended to be distributed free of charge to a practitioner licensed to prescribe, dispense, and administer drugs to a human being in the course of a professional practice and that by law may be dispensed only by or upon the order of such a practitioner.

(8) Computer equipment and related software leased from a lessor located outside this state and initially received in this state on behalf of the consumer by a third party that will retain possession of such property for not more than ninety days and that will, within that ninety-day period, deliver such property to the consumer at a location outside this state. Division (C)(8) of this section does not provide exemption from taxation for any otherwise taxable charges associated with such property while it is in this

state or for any subsequent storage, use, or consumption of such property in this state by or on behalf of the consumer.

(9) Cigarettes that have a wholesale value of three hundred dollars or less used, stored, or consumed, but not for resale, in any month.

(D) The tax applies to the storage, use, or other consumption in this state of tangible personal property or services, the acquisition of which at the time of sale was excepted under division (E) of section 5739.01 of the Revised Code from the tax imposed by section 5739.02 of the Revised Code, but which has subsequently been temporarily or permanently stored, used, or otherwise consumed in a taxable manner.

(E)(1)(a) If any transaction is claimed to be exempt under division (E) of section 5739.01 of the Revised Code or under section 5739.02 of the Revised Code, with the exception of divisions (B)(1) to (11) or (28) of section 5739.02 of the Revised Code, the consumer shall provide to the seller, and the seller shall obtain from the consumer, a certificate specifying the reason that the transaction is not subject to the tax. The certificate shall be in such form, and shall be provided either in a hard copy form or electronic form, as ~~prescribed by the tax commissioner prescribes.~~ If the transaction is claimed to be exempt under division (B)(13) of section 5739.02 of the Revised Code, the exemption certificate shall be provided by both the contractor and contractee. Such contractee shall be deemed to be the consumer of all items purchased under the claim of exemption, if it is subsequently determined that the exemption is not properly claimed. The certificate shall be in such form as the tax commissioner by rule prescribes. The seller shall maintain records, including exemption certificates, of all sales on which a consumer has claimed an exemption, and provide them to the tax commissioner on request.

(2)(b) A seller that obtains a fully completed exemption certificate from a consumer is relieved of liability for collecting and remitting tax on any sale covered by that certificate. If it is determined the exemption was improperly claimed, the consumer shall be liable for any tax due on that sale under this chapter. Relief under this division from liability does not apply to any of the following:

(i) A seller that fraudulently fails to collect tax;

(ii) A seller that solicits consumers to participate in the unlawful claim of an exemption;

(iii) A seller that accepts an exemption certificate from a consumer that claims an exemption based on who purchases or who sells property or a service, when the subject of the transaction sought to be covered by the exemption certificate is actually received by the consumer at a location

operated by the seller in this state, and this state has posted to its web site an exemption certificate form that clearly and affirmatively indicates that the claimed exemption is not available in this state;

(iv) A seller that accepts an exemption certificate from a consumer who claims a multiple points of use exemption under division (B) of section 5739.033 of the Revised Code, if the item purchased is tangible personal property, other than prewritten computer software.

(2) The seller shall maintain records, including exemption certificates, of all sales on which a consumer has claimed an exemption, and provide them to the tax commissioner on request.

(3) If no certificate is provided or obtained within the period for filing the return for the period in ninety days after the date on which the transaction is consummated, it shall be presumed that the tax applies. The failure Failure to have so provided or obtained a certificate shall not preclude a seller or consumer from establishing, within one hundred twenty days of the giving of after the tax commissioner gives written notice by the commissioner of intention intent to levy an assessment, that from either establishing that the transaction is not subject to the tax, or obtaining, in good faith, a fully completed exemption certificate.

(4) If a transaction is claimed to be exempt under division (B)(13) of section 5739.02 of the Revised Code, the contractor shall obtain certification of the claimed exemption from the contractee. This certification shall be in addition to an exemption certificate provided by the contractor to the seller. A contractee that provides a certification under this division shall be deemed to be the consumer of all items purchased by the contractor under the claim of exemption, if it is subsequently determined that the exemption is not properly claimed. The certification shall be in such form as the tax commissioner prescribes.

(F) A seller who files a petition for reassessment contesting the assessment of tax on transactions for which the seller obtained no valid exemption certificates, and for which the seller failed to establish that the transactions were not subject to the tax during the one-hundred-twenty-day period allowed under division (E) of this section, may present to the tax commissioner additional evidence to prove that the transactions were exempt. The seller shall file such evidence within ninety days of the receipt by the seller of the notice of assessment, except that, upon application and for reasonable cause, the tax commissioner may extend the period for submitting such evidence thirty days.

(G) For the purpose of the proper administration of sections 5741.01 to 5741.22 of the Revised Code, and to prevent the evasion of the tax hereby

levied, it shall be presumed that any use, storage, or other consumption of tangible personal property in this state is subject to the tax until the contrary is established.

(H) The tax collected by the seller from the consumer under this chapter is not part of the price, but is a tax collection for the benefit of the state, and of counties levying an additional use tax pursuant to section 5741.021 or 5741.023 of the Revised Code and of transit authorities levying an additional use tax pursuant to section 5741.022 of the Revised Code. Except for the discount authorized under section 5741.12 of the Revised Code and the effects of any rounding pursuant to section 5703.055 of the Revised Code, no person other than the state or such a county or transit authority shall derive any benefit from the collection of such tax.

Sec. 5741.16. ~~No~~ (A) Except as provided in division (B) or (C) of this section, no assessment shall be made or issued against a seller or consumer for any tax imposed by or pursuant to section 5741.02, 5741.021, 5741.022, or 5741.023 of the Revised Code more than four years after the return date for the period in which the sale or purchase was made, or more than four years after the return for such period was filed, whichever date is later. This

(B) A consumer who provides a fully completed exemption certificate pursuant to division (B) of section 5739.03 or division (E) of section 5741.02 of the Revised Code may be assessed any tax imposed by or pursuant to section 5741.02, 5741.021, 5741.022, or 5741.023 of the Revised Code that results from denial of the claimed exemption within the later of a period allowed by division (A) of this section or one year after the date the certificate was provided.

(C) This section does not bar an assessment:

~~(A)(1)~~ (1) When the tax commissioner has substantial evidence of amounts of taxes collected by a seller from consumers on purchases, which were not returned to the state by direct remittance;

~~(B)(2)~~ (2) When the person assessed failed to file a return as required by section 5741.12 of the Revised Code;

~~(C)(3)~~ (3) When the seller or consumer and the commissioner ~~waives~~ waive in writing the time limitation.

Sec. 5743.01. As used in this chapter:

(A) "Person" includes individuals, firms, partnerships, associations, joint-stock companies, corporations, combinations of individuals of any form, and the state and any of its political subdivisions.

(B) "Wholesale dealer" includes only those persons:

(1) Who bring in or cause to be brought into this state unstamped cigarettes purchased directly from the manufacturer, producer, or importer

of cigarettes for sale in this state but does not include persons who bring in or cause to be brought into this state cigarettes with respect to which no evidence of tax payment is required thereon as provided in section 5743.04 of the Revised Code; or

(2) Who are engaged in the business of selling cigarettes or tobacco products to others for the purpose of resale.

"Wholesale dealer" does not include any cigarette manufacturer, export warehouse proprietor, or importer with a valid permit under 26 U.S.C. 5713 if that person sells cigarettes in this state only to wholesale dealers holding valid and current licenses under section 5743.15 of the Revised Code or to an export warehouse proprietor or another manufacturer.

(C) "Retail dealer" includes:

(1) In reference to dealers in cigarettes, every person other than a wholesale dealer engaged in the business of selling cigarettes in this state, irrespective regardless of whether the person is located in this state or elsewhere, and regardless of quantity, amount, or number of sales;

(2) In reference to dealers in tobacco products, any person in this state engaged in the business of selling tobacco products to ultimate consumers in this state, regardless of quantity, amount, or number of sales.

(D) "Sale" includes exchange, barter, gift, offer for sale, and distribution, and ~~excludes~~ includes transactions in interstate or foreign commerce.

(E) "Cigarettes" includes any roll for smoking made wholly or in part of tobacco, irrespective of size or shape, and whether or not such tobacco is flavored, adulterated, or mixed with any other ingredient, the wrapper or cover of which is made of paper, reconstituted cigarette tobacco, homogenized cigarette tobacco, cigarette tobacco sheet, or any similar materials other than cigar tobacco.

(F) "Package" means the individual package, box, or other container in or from which retail sales of cigarettes are normally made or intended to be made.

(G) "Stamp" includes an impression made by a metering device as provided for in section 5743.04 of the Revised Code.

(H) "Storage" includes any keeping or retention of cigarettes or tobacco products for use or consumption in this state.

(I) "Use" includes the exercise of any right or power incidental to the ownership of cigarettes or tobacco products.

(J) "Tobacco product" means any product made from tobacco, other than cigarettes, that is made for smoking or chewing, or both, and snuff.

(K) "Wholesale price" means the invoice price, including all federal



excise taxes, at which the manufacturer of the tobacco product sells the tobacco product to unaffiliated distributors, excluding any discounts based on the method of payment of the invoice or on time of payment of the invoice. If the taxpayer buys from other than a manufacturer, "wholesale price" means the invoice price, including all federal excise taxes and excluding any discounts based on the method of payment of the invoice or on time of payment of the invoice.

(L) "Distributor" means:

(1) Any manufacturer who sells, barter, exchanges, or distributes tobacco products to a retail dealer in the state, except when selling to a retail dealer that has filed with the manufacturer a signed statement agreeing to pay and be liable for the tax imposed by section 5743.51 of the Revised Code;

(2) Any wholesale dealer located in the state who receives tobacco products from a manufacturer, or who receives tobacco products on which the tax imposed by this chapter has not been paid;

(3) Any wholesale dealer located outside the state who sells, barter, exchanges, or distributes tobacco products to a wholesale or retail dealer in the state; or

(4) Any retail dealer who receives tobacco products on which the tax has not or will not be paid by another distributor, including a retail dealer that has filed a signed statement with a manufacturer in which the retail dealer agrees to pay and be liable for the tax that would otherwise be imposed on the manufacturer by section 5743.51 of the Revised Code.

(M) "Taxpayer" means any person liable for the tax imposed by section 5743.51, 5743.62, or 5743.63 of the Revised Code.

(N) "Seller" means any person located outside this state engaged in the business of selling tobacco products to consumers for storage, use, or other consumption in this state.

(O) "Manufacturer" means any person who manufactures and sells cigarettes or tobacco products.

(P) "Importer" means any person that imports is authorized, under a valid permit issued under Section 5713 of the Internal Revenue Code, to import finished cigarettes into the United States, either directly or indirectly.

Sec. 5743.02. To provide revenues for the general revenue fund, an excise tax on sales of cigarettes is hereby levied at the rate of ~~twenty-seven and one-half~~ sixty-two and one-half mills on each cigarette.

Only one sale of the same article shall be used in computing the amount of tax due.

The treasurer of state shall place to the credit of the tax refund fund

created by section 5703.052 of the Revised Code, out of receipts from the tax levied by this section, amounts equal to the refunds certified by the tax commissioner pursuant to section 5743.05 of the Revised Code. The balance of taxes collected under such section, after the credits to the tax refund fund, shall be paid into the general revenue fund.

Sec. 5743.03. (A) Except as provided in section 5743.04 of the Revised Code, the taxes imposed under sections 5743.02, 5743.024, and 5743.026 of the Revised Code shall be paid by the purchase of stamps. A stamp shall be affixed to each package of an aggregate denomination not less than the amount of the tax upon the contents thereof. The stamp, so affixed, shall be prima-facie evidence of payment of the tax. ~~Except~~

Except as is provided in the rules prescribed by the tax commissioner under authority of sections 5743.01 to 5743.20 of the Revised Code, and unless ~~such tax~~ stamps have been previously affixed, they shall be so affixed by each wholesale dealer, and canceled by writing or stamping across the face thereof the number assigned to such wholesale dealer by the tax commissioner for that purpose, prior to the delivery of any cigarettes to any person in this state, or in the case of a tax levied pursuant to section 5743.024 or 5743.026 of the Revised Code, prior to the delivery of cigarettes to any person in the county in which the tax is levied.

(B) Except as provided in the rules prescribed by the commissioner under authority of sections 5743.01 to 5743.20 of the Revised Code, ~~and unless such stamps have been previously affixed,~~ each retail dealer ~~shall,~~ within twenty-four hours after the receipt of any cigarettes at the retail dealer's place of business ~~and prior to the delivery thereof,~~ shall inspect the cigarettes to ensure that tax stamps are affixed. The inspection shall be completed before the cigarettes are delivered to any person in this state, or, in the case of a tax levied pursuant to section 5743.024 or 5743.026 of the Revised Code ~~prior to the delivery thereof, before the cigarettes are delivered~~ to any person in the county in which the tax is levied, ~~so affix such stamps and cancel same by writing or stamping across the face thereof the number assigned to such retail dealer by the commissioner for that purpose.~~

(C) Whenever any cigarettes are found in the place of business of any retail dealer without proper tax stamps affixed thereto and canceled, it is presumed that such cigarettes are kept therein in violation of sections 5743.01 to 5743.20 of the Revised Code.

(D) Each wholesale dealer ~~and each retail dealer~~ who purchases cigarettes without proper tax stamps affixed thereto shall, on or before the thirty-first day of the month following the close of each semiannual period, which period shall end on the thirtieth day of June and the thirty-first day of

December of each year, make and file a return of the preceding semiannual period, on such form as is prescribed by the tax commissioner, showing the dealer's entire purchases and sales of cigarettes and stamps or impressions for such semiannual period and accurate inventories as of the beginning and end of each semiannual period of cigarettes, stamped or unstamped; cigarette tax stamps affixed or unaffixed and unused meter impressions; and such other information as the commissioner finds necessary to the proper administration of sections 5743.01 to 5743.20 of the Revised Code. The commissioner may extend the time for making and filing returns and may remit all or any part of amounts of penalties that may become due under sections 5743.01 to 5743.20 of the Revised Code. The wholesale ~~or retail~~ dealer shall deliver the return together with a remittance of the tax deficiency reported thereon to the treasurer of state. The treasurer of state shall stamp or otherwise mark on the return the date it was received and shall also show thereon by stamp or otherwise a payment or nonpayment of the deficiency shown by the return. Thereafter, the treasurer of state shall immediately transmit all returns filed under this section to the commissioner.

(E) Any wholesale ~~or retail~~ dealer who fails to file a return under this section and the rules of the commissioner, other than a report required pursuant to division (F) of this section, may be required, for each day the dealer so fails, to forfeit and pay into the state treasury the sum of one dollar as revenue arising from the tax imposed by sections 5743.01 to 5743.20 of the Revised Code and such sum may be collected by assessment in the manner provided in section 5743.081 of the Revised Code. If the commissioner finds it necessary in order to insure the payment of the tax imposed by sections 5743.01 to 5743.20 of the Revised Code, the commissioner may require returns and payments to be made other than semiannually. The returns shall be signed by the wholesale ~~or retail~~ dealer or an authorized agent thereof.

(F) Each person required to file a tax return under section 5743.03, 5743.52, or 5743.62 of the Revised Code shall report to the commissioner the quantity of all cigarettes and roll-your-own cigarette tobacco sold in Ohio for each brand not covered by the tobacco master settlement agreement for which the person is liable for the taxes levied under section 5743.02, 5743.51, or 5743.62 of the Revised Code.

As used in this division, "tobacco master settlement agreement" has the same meaning as in section 183.01 of the Revised Code.

(G) The report required by division (F) of this section shall be made on a form prescribed by the commissioner and shall be filed not later than the

last day of each month for the previous month, except that if the commissioner determines that the quantity reported by a person does not warrant monthly reporting, the commissioner may authorize reporting at less frequent intervals. The commissioner may assess a penalty of not more than two hundred fifty dollars for each month or portion thereof that a person fails to timely file a required report, and such sum may be collected by assessment in the manner provided in section 5743.081 of the Revised Code. All money collected under this division shall be considered as revenue arising from the taxes imposed by sections 5743.01 to 5743.20 of the Revised Code.

Sec. 5743.031. (A) A wholesale dealer may affix stamps only to packages of cigarettes that the dealer received directly from a manufacturer or importer of cigarettes that possesses a valid and current license under section 5743.15 of the Revised Code, or to packages of cigarettes that the dealer received from another wholesale dealer that possesses a valid and current license under section 5743.15 of the Revised Code, provided that the tax commissioner has authorized the sale of the cigarettes between those wholesale dealers and that the wholesale dealer that sells the cigarettes received them directly from a manufacturer or importer of cigarettes that possesses a valid and current license under section 5743.15 of the Revised Code.

(B) Only a wholesale dealer that possesses a valid and current license under section 5743.15 of the Revised Code may purchase or obtain tax stamps. A wholesale dealer may not sell or provide such stamps to any other wholesale dealer or any other person.

(C) Any person shipping unstamped packages of cigarettes into this state to a person other than a wholesale dealer licensed under section 5743.15 of the Revised Code shall, before such shipment, file notice of the shipment with the tax commissioner. Any person that transports unstamped packages of cigarettes into or within this state shall carry in the vehicle used to convey the shipment invoices or equivalent documentation of the shipment for all cigarettes in the shipment. The invoices or other documentation shall show the true name and address of the consignor or seller, the true name and address of the consignee or purchaser, and the quantity of the cigarettes being transported. This division does not apply to any common or contract carrier transporting cigarettes through this state to another location under a proper bill of lading or freight bill that states the quantity, source, and destination of the cigarettes.

Sec. 5743.05. All stamps provided for by section 5743.03 of the Revised Code, when procured by the tax commissioner, shall be immediately

delivered to the treasurer of state, who shall execute a receipt therefor showing the number and aggregate face value of each denomination received by the treasurer of state and any other information that the commissioner requires to enforce the collection and distribution of all taxes imposed under section 5743.024 or 5743.026 of the Revised Code, and deliver the receipt to the commissioner. The treasurer of state shall sell the stamps and, on the fifth day of each month, make a report showing all sales made during the preceding month, with the names of purchasers, the number of each denomination, the aggregate face value purchased by each, and any other information as the commissioner requires to enforce the collection and distribution of all taxes imposed under section 5743.024 of the Revised Code, and deliver it to the commissioner. The treasurer of state shall be accountable for all stamps received and unsold. The stamps shall be sold and accounted for at their face value, except the commissioner shall, by rule certified to the treasurer of state, authorize the sale of stamps and meter impressions to wholesale or retail dealers in this state, or to wholesale dealers outside this state, at a discount of not less than one and eight-tenths per cent or more than ten per cent of their face value, as a commission for affixing and canceling the stamps or meter impressions.

The commissioner, by rule certified to the treasurer of state, shall authorize the delivery of stamps and meter impressions to wholesale ~~and retail~~ dealers in this state and to wholesale dealers outside this state on credit. If such a dealer has not been in good credit standing with this state for five consecutive years preceding the purchase, the tax commissioner shall require the dealer to file with the commissioner a bond to the state in the amount and in the form prescribed by the commissioner, with surety to the satisfaction of the commissioner, conditioned on payment to the treasurer of state within thirty days for stamps or meter impressions delivered within that time. If such a dealer has been in good credit standing with this state for five consecutive years preceding the purchase, the tax commissioner shall not require that the dealer file such a bond but shall require payment for the stamps and meter impressions within thirty days after purchase of the stamps and meter impressions. Stamps and meter impressions sold to a dealer not required to file a bond shall be sold at face value. The maximum amount that may be sold on credit to a dealer not required to file a bond shall equal one hundred ten per cent of the dealer's average monthly purchases over the preceding calendar year. The maximum amount shall be adjusted to reflect any changes in the tax rate and may be adjusted, upon application to the tax commissioner by the dealer, to reflect changes in the business operations of the dealer. The maximum amount

shall be applicable to the period of July through April. Payment by a dealer not required to file a bond shall be remitted by electronic funds transfer as prescribed by section 5743.051 of the Revised Code. If a dealer not required to file a bond fails to make the payment in full within the thirty-day period, the treasurer of state shall not thereafter sell stamps or meter impressions to that dealer until the dealer pays the outstanding amount, including penalty and interest on that amount as prescribed in this chapter, and the commissioner thereafter may require the dealer to file a bond until the dealer is restored to good standing. The commissioner shall limit delivery of stamps and meter impressions on credit to the period running from the first day of July of the fiscal year until the first day of the following May. Any discount allowed as a commission for affixing and canceling stamps or meter impressions shall be allowed with respect to sales of stamps and meter impressions on credit.

The treasurer of state shall redeem and pay for any destroyed, unused, or spoiled tax stamps and any unused meter impressions at their net value, and shall refund to wholesale dealers the net amount of state and county taxes paid erroneously or paid on cigarettes that have been sold in interstate or foreign commerce or that have become unsalable, and the net amount of county taxes that were paid on cigarettes that have been sold at retail or for retail sale outside a taxing county.

An application for a refund of tax shall be filed with the tax commissioner, on the form prescribed by the commissioner for that purpose, within three years from the date the tax stamps are destroyed or spoiled, from the date of the erroneous payment, or from the date that cigarettes on which taxes have been paid have been sold in interstate or foreign commerce or have become unsalable.

On the filing of the application, the commissioner shall determine the amount of refund to which the applicant is entitled, payable from receipts of the state tax, and, if applicable, payable from receipts of a county tax. If the amount is less than that claimed, the commissioner shall certify the amount to the director of budget and management and treasurer of state for payment from the tax refund fund created by section 5703.052 of the Revised Code. If the amount is less than that claimed, the commissioner shall proceed in accordance with section 5703.70 of the Revised Code.

If a refund is granted for payment of an illegal or erroneous assessment issued by the department, the refund shall include interest on the amount of the refund from the date of the overpayment. The interest shall be computed at the rate per annum prescribed by section 5703.47 of the Revised Code.

Sec. 5743.071. ~~Each wholesale dealer and each retail dealer~~ Every

person shall maintain complete and accurate records of all purchases and sales of cigarettes, and shall procure and retain all invoices, bills of lading, and other documents relating to the purchases and sales of cigarettes, except that no retail dealer shall be required to issue or maintain invoices relating to ~~his~~ the retail dealer's sales of cigarettes. The invoices or documents shall be maintained for each place of business and shall show the name and address of the other party to the purchase or sale and shall show the quantity of the cigarettes so sold or purchased.

The records and documents shall be open during business hours to the inspection of the tax commissioner, and shall be preserved for a period of three years, unless the commissioner, in writing, consents to their destruction within that period, or by order requires that they be kept for a longer period. With the tax commissioner's consent, a person with multiple places of business may keep centralized records but shall transmit duplicates of the invoices or documents to each place of business within seventy-two hours after the tax commissioner or the tax commissioner's designee requests access to the records.

Sec. 5743.072. Each manufacturer and each importer shipping cigarettes into or within this state shall file a monthly report with the tax commissioner in accordance with rules adopted by the tax commissioner under Chapter 119. of the Revised Code.

Sec. 5743.08. Whenever the tax commissioner discovers any cigarettes which are being shipped, or which have been shipped, or transported in violation of section 2927.023 of the Revised Code, or discovers cigarettes, subject to the taxes levied under section 5743.02, 5743.024, or 5743.026 of the Revised Code, and upon which the taxes have not been paid ~~or that are held for sale or distribution in violation of any other provision of this chapter~~, the commissioner may seize and take possession of such cigarettes, which shall thereupon be forfeited to the state, and the commissioner ~~may~~, within a reasonable time thereafter sell or destroy the forfeited cigarettes. ~~From the proceeds of the sale, the tax commissioner shall pay the costs incurred in such proceedings, and any proceeds remaining after the costs are paid shall be considered as revenue arising from the tax; provided that the seizure and sale shall not be deemed to~~ If the commissioner sells cigarettes under this section, the commissioner shall use proceeds from the sale to pay the costs incurred in the proceedings. Any proceeds remaining after all costs have been paid shall be considered revenue arising from the taxes levied under this chapter. Seizure and sale shall not be deemed to relieve any person from the fine or imprisonment provided for violation of sections 5743.01 to 5743.20 of the Revised Code. The A sale shall be made where it

is most convenient and economical. The tax commissioner may order the destruction of the forfeited cigarettes if the quantity or quality of the cigarettes is not sufficient to warrant their sale.

Sec. 5743.10. No ~~retail dealer person~~ shall have in ~~his~~ the person's possession ~~packages packs~~ of cigarettes not bearing the stamps required to be affixed thereto as required by Chapter 5743. of the Revised Code.

Sec. 5743.111. No person shall possess ~~packages packs~~ of cigarettes not bearing the stamps required by Chapter 5743. of the Revised Code, or bearing stamps that have been affixed in violation of section 5743.21 of the Revised Code, when the ~~wholesale value~~ total number of the cigarettes exceeds ~~sixty dollars~~ one thousand two hundred.

Sec. 5743.112. (A) No person shall prepare for shipment, ship, transport, deliver, prepare for distribution, or distribute cigarettes, or otherwise engage or participate in the wholesale or retail business of trafficking in cigarettes, with the intent to avoid payment of the tax imposed by this chapter, when the ~~wholesale value~~ total number of ~~such~~ cigarettes in the aggregate exceeds ~~sixty dollars~~ one thousand two hundred during any twelve-month period.

(B) Any vending machine containing cigarettes which do not have affixed the stamps or impressions provided for by sections 5743.03 and 5743.04 of the Revised Code shall be seized and forfeited to the state in accordance with section 2933.43 of the Revised Code. Forfeiture shall not affect the rights of a holder of a valid lien.

(C) A vehicle that is seized as contraband under section 2933.43 of the Revised Code because of its use in violation of this chapter is subject to the procedures set forth in section 2933.43 of the Revised Code.

Sec. 5743.14. (A) The tax commissioner ~~may inspect any place where cigarettes subject to the tax levied under section 5743.02, 5743.024, or 5743.026 of the Revised Code are sold or stored.~~

~~(B) or an agent of the tax commissioner may enter and inspect the facilities and records of a person selling cigarettes or other tobacco products. Such entrance and inspection requires a properly issued search warrant if conducted outside the normal business hours of the person, but does not require a search warrant if conducted during the normal business hours of the person.~~ No person shall prevent or hinder the tax commissioner or an agent of the tax commissioner from ~~making a full inspection of any place where cigarettes subject to the tax levied under section 5743.02, 5743.024, or 5743.026 of the Revised Code are sold or stored, or prevent or hinder the full inspection of invoices, books, records, or papers required to be kept by sections 5743.01 to 5743.20 of the Revised Code~~ carrying out the authority



granted under this division.

(B) If a peace officer as defined in section 2935.01 of the Revised Code knows or has reasonable cause to believe that a motor vehicle is transporting cigarettes or other tobacco products in violation of this chapter or section 2927.023 of the Revised Code, the peace officer may stop the vehicle and inspect the vehicle to determine the presence of such cigarettes or other tobacco products.

Sec. 5743.15. (A) No person shall engage in this state in the wholesale or retail business of trafficking in cigarettes ~~within this state or in the business of a manufacturer or importer of cigarettes~~ without having a license to ~~do so~~ conduct each such activity issued by a county auditor under division (B) of this section or the tax commissioner under division (E) of this section, except that on dissolution of a partnership by death, the surviving partner may operate under the license of the partnership until expiration of the license, and the heirs or legal representatives of deceased persons, and receivers and trustees in bankruptcy appointed by any competent authority, may operate under the license of the person succeeded in possession by such heir, representative, receiver, or trustee in bankruptcy.

(B) Each applicant for a license to engage in the wholesale or retail business of trafficking in cigarettes under this section, annually, on or before the fourth Monday of May, shall make and deliver to the county auditor of the county in which he the applicant desires to engage in the wholesale or retail business of trafficking in cigarettes, upon a blank furnished by such auditor for that purpose, a statement showing the name of the applicant, each place in the county where the applicant's business is conducted, the nature of the business, and any other information the tax commissioner requires in the form of statement prescribed by him the commissioner. If the applicant is a firm, partnership, or association other than a corporation, the application shall state the name and address of each of its members. If the applicant is a corporation, the application shall state the name and address of each of its officers. At the time of making the application required by this section, every person desiring to engage in the wholesale business of trafficking in cigarettes shall pay into the county treasury a license tax in the sum of two hundred dollars, or if desiring to engage in the retail business of trafficking in cigarettes, a license tax in the sum of thirty dollars for each of the first five places where ~~he the person~~ proposes to carry on such business and twenty-five dollars for each additional place. Each place of business shall be deemed such space, under lease or license to, or under the control of, or under the supervision of the applicant, as is contained in one or more contiguous, adjacent, or adjoining buildings constituting an industrial plant

or a place of business operated by, or under the control of, one person, or under one roof and connected by doors, halls, stairways, or elevators, which space may contain any number of points at which cigarettes are offered for sale, provided that each additional point at which cigarettes are offered for sale shall be listed in the application.

Upon receipt of the application ~~required by this section~~ and exhibition of the county treasurer's receipt showing the payment of the tax, the county auditor shall issue to the applicant a license for each place of business designated in the application, authorizing the applicant to engage in such business at such place for one year commencing on the fourth Monday of May. Companies operating club or dining cars or other cars upon which cigarettes are sold shall obtain licenses at railroad terminals within the state, under such rules as are prescribed by the commissioner. The form of the license shall be prescribed by the commissioner. A duplicate license may be obtained from the county auditor upon payment of a fifty cent fee if the original license is lost, destroyed, or defaced. When an application is filed after the fourth Monday of May, the license tax required to be paid shall be proportioned in amount to the remainder of the license year, except that it shall not be less than one fifth of the whole amount in any one year.

The holder of a wholesale or retail dealer's cigarette license may transfer the license to a place of business within the same county other than that designated on the license or may assign the license to another person for use in the same county on condition that the licensee or assignee, whichever is applicable, make application to the county auditor therefor, upon forms approved by the commissioner and the payment of a fee of one dollar into the county treasury.

~~(B)~~(C)(1) The wholesale cigarette license tax revenue collected under this section shall be distributed as follows:

(a) Thirty-seven and one-half per cent shall be paid upon the warrant of the county auditor into the treasury of the municipal corporation or township in which the place of business for which the tax revenue was received is located;

(b) Fifteen per cent shall be credited to the general fund of the county;

(c) Forty-seven and one-half per cent shall be paid into the cigarette tax enforcement fund created by division (C) of this section.

(2) The revenue collected from the thirty dollar tax imposed upon the first five places of business of a person engaged in the retail business of trafficking in cigarettes shall be distributed as follows:

(a) Sixty-two and one-half per cent shall be paid upon the warrant of the county auditor into the treasury of the municipal corporation or township in

which the places of business for which the tax revenue was received are located;

(b) Twenty-two and one-half per cent shall be credited to the general fund of the county;

(c) Fifteen per cent shall be paid into the cigarette tax enforcement fund created by division (C) of this section.

(3) The remainder of the revenues and fines collected under this section and the penal laws relating to cigarettes shall be distributed as follows:

(a) Three-fourths shall be paid upon the warrant of the county auditor into the treasury of the municipal corporation or township in which the place of business, on account of which the revenues and fines were received, is located;

(b) One-fourth shall be credited to the general fund of the county.

~~(C)~~(D) There is hereby created within the state treasury the cigarette tax enforcement fund for the purpose of providing funds to assist in paying the costs of enforcing sections 1333.11 to 1333.21 and Chapter 5743. of the Revised Code.

The portion of cigarette license tax revenues received by a county auditor during the annual application period that ends before the fourth Monday in May which is required to be deposited in the cigarette tax enforcement fund shall be sent to the treasurer of state by the thirtieth day of June each year. The portion of license tax money received by each county auditor after the fourth Monday in May which is required to be deposited in the cigarette tax enforcement fund shall be sent to the treasurer of state by the thirty-first day of December.

(E)(1) Every person who desires to engage in the business of a manufacturer or importer of cigarettes shall, annually, on or before the fourth Monday of May, make and deliver to the tax commissioner, upon a blank furnished by the commissioner for that purpose, a statement showing the name of the applicant, the nature of the applicant's business, and any other information required by the commissioner. If the applicant is a firm, partnership, or association other than a corporation, the applicant shall state the name and address of each of its members. If the applicant is a corporation, the applicant shall state the name and address of each of its officers.

Upon receipt of the application, the commissioner shall issue to the applicant a license authorizing the applicant to engage in the business of manufacturer or importer, whichever the case may be, for one year commencing on the fourth Monday of May.

(2) The issuing of a license under division (E) of this section to a

manufacturer does not excuse a manufacturer from the certification process required under section 1346.05 of the Revised Code. A license issued under division (E) of this section to a manufacturer who is not listed on the directory required under section 1346.05 of the Revised Code shall cease to be valid and shall be revoked by the commissioner as provided in section 5743.18 of the Revised Code.

(3) The tax commissioner may adopt rules necessary to administer division (E) of this section.

Sec. 5743.16. On or before the first Monday of June, annually, each county auditor shall certify to the tax commissioner a list showing the names of all persons licensed in ~~his~~ the auditor's county to engage in the business of trafficking in cigarettes, and such other information as to each, available from the records in the office of the auditor, as the commissioner prescribes. As such licenses are issued during the year, the auditor shall certify like lists and additions thereto to the commissioner. The commissioner shall keep an alphabetical index of such licenses certified to ~~him~~ the commissioner, and shall update the index of valid license holders on a regular basis.

Sec. 5743.18. Upon notice and hearing in accordance with sections 119.01 to 119.13 of the Revised Code, the tax commissioner may revoke any manufacturer, importer, wholesale, or retail cigarette license for violation of sections 5743.01 to 5743.21 of the Revised Code. ~~A~~ In the case of a wholesale or retail cigarette license, a certified copy of the order revoking such license shall be transmitted to the county auditor of the county in which the license was issued. In the case of a license issued to a manufacturer, the commissioner shall immediately revoke any such license upon the manufacturer's removal from the directory under section 1346.05 of the Revised Code.

Sec. 5743.19. No person shall engage in business as a manufacturer or importer, or in the wholesale or retail business of trafficking in cigarettes, without having a license therefor; as required by section 5743.15 of the Revised Code.

Sec. 5743.20. No person shall sell any cigarettes both as a retail dealer and as a wholesale dealer at the same place of business. ~~No wholesale dealer shall sell cigarettes to any person in this state other than to a licensed retail dealer; and no~~ No person other than a licensed wholesale dealer shall sell cigarettes to a licensed retail dealer. No retail dealer shall purchase cigarettes from any person other than a licensed wholesale dealer.

Subject to section 5743.031 of the Revised Code, a licensed wholesale dealer may not sell cigarettes to any person in this state other than a licensed retail dealer, except a licensed wholesale dealer may sell cigarettes to

another licensed wholesale dealer if the tax commissioner has authorized the sale of the cigarettes between those wholesale dealers and the wholesale dealer that sells the cigarettes received them directly from a licensed manufacturer or licensed importer.

The tax commissioner shall adopt rules governing sales of cigarettes between licensed wholesale dealers, including rules establishing criteria for authorizing such sales.

No manufacturer or importer shall sell cigarettes to any person in this state other than to a licensed wholesale dealer or licensed importer. No importer shall purchase cigarettes from any person other than a licensed manufacturer or licensed importer.

A retail dealer may purchase tobacco products only from a licensed distributor. A licensed distributor may sell tobacco products only to a retail dealer, except a licensed distributor may sell tobacco products to another licensed distributor if the tax commissioner has authorized the sale of the tobacco products between those distributors and the distributor that sells the tobacco products received them directly from a manufacturer or importer of tobacco products

The tax commissioner may adopt rules governing sales of tobacco products between licensed distributors, including rules establishing criteria for authorizing such sales.

The identities of licensed distributors are subject to public disclosure. The tax commissioner shall maintain an alphabetical list of all such distributors, shall post the list on a web site accessible to the public through the internet, and shall periodically update the web site posting.

As used in this section, "licensed" means the manufacturer, importer, wholesale dealer, retail dealer, or distributor holds a current and valid license issued under section 5743.15 or 5743.61 of the Revised Code.

Sec. 5743.32. To provide revenue for the general revenue fund of the state, an excise tax is hereby levied on the use, consumption, or storage for consumption of cigarettes by consumers in this state at the rate of ~~twenty-seven and one-half~~ sixty-two and one-half mills on each cigarette. The tax shall not apply if the tax levied by section 5743.02 of the Revised Code has been paid.

The money received into the state treasury from the excise tax levied by this section shall be credited to the general revenue fund.

Sec. 5743.33. ~~Every~~ Except as provided in section 5747.331 of the Revised Code, every person who has acquired cigarettes for use, storage, or other consumption subject to the tax levied under section 5743.32, 5743.323, or 5743.324 of the Revised Code, shall, on or before the fifteenth

day of the month following receipt of such cigarettes, file with the tax commissioner a return showing the amount of cigarettes acquired, together with remittance of the tax thereon. No such person shall transport within this state, cigarettes that have a wholesale value in excess of ~~sixty~~ three hundred dollars, unless that person has obtained consent to transport the cigarettes from the department of taxation prior to such transportation. Such consent shall not be required if the applicable taxes levied under sections 5743.02, 5743.024, and 5743.026 of the Revised Code have been paid. Application for the consent shall be in the form prescribed by the tax commissioner.

Every person transporting such cigarettes shall possess the consent while transporting or possessing the cigarettes within this state and shall produce the consent upon request of any law enforcement officer or authorized agent of the tax commissioner.

Any person transporting such cigarettes without the consent required by this section, shall be subject to the provisions of this chapter, including the applicable taxes imposed by sections 5743.02, 5743.024, and 5743.026 of the Revised Code.

Sec. 5743.331. Notwithstanding any other section in this chapter to the contrary, a person may use, store, or consume cigarettes with a wholesale value of not more than three hundred dollars in any month and not for resale without incurring liability for any tax levied under this chapter, and is not required to file any return that otherwise would be required under this chapter.

Sec. 5743.71. If a person seeks to obtain cigarettes that are legal for sale in this state under section 1346.05 of the Revised Code, and such cigarettes are not reasonably available to that person at a retail location in this state, the person may apply to the tax commissioner for consent for consumer shipment. The consent for consumer shipment must be obtained prior to the purchase of the cigarettes.

The consent for consumer shipment shall be filed with the commissioner on a form prescribed by the commissioner showing purchase of the cigarettes as consented to, and shall be accompanied by the purchaser's proof of age and any other information required by the commissioner.

Sec. 5747.01. Except as otherwise expressly provided or clearly appearing from the context, any term used in this chapter that is not otherwise defined in this section has the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes or if not used in a comparable context in those laws, has the same meaning as in section 5733.40 of the Revised Code. Any reference in

this chapter to the Internal Revenue Code includes other laws of the United States relating to federal income taxes.

As used in this chapter:

(A) "Adjusted gross income" or "Ohio adjusted gross income" means federal adjusted gross income, as defined and used in the Internal Revenue Code, adjusted as provided in this section:

(1) Add interest or dividends on obligations or securities of any state or of any political subdivision or authority of any state, other than this state and its subdivisions and authorities.

(2) Add interest or dividends on obligations of any authority, commission, instrumentality, territory, or possession of the United States to the extent that the interest or dividends are exempt from federal income taxes but not from state income taxes.

(3) Deduct interest or dividends on obligations of the United States and its territories and possessions or of any authority, commission, or instrumentality of the United States to the extent that the interest or dividends are included in federal adjusted gross income but exempt from state income taxes under the laws of the United States.

(4) Deduct disability and survivor's benefits to the extent included in federal adjusted gross income.

(5) Deduct benefits under Title II of the Social Security Act and tier 1 railroad retirement benefits to the extent included in federal adjusted gross income under section 86 of the Internal Revenue Code.

(6) In the case of a taxpayer who is a beneficiary of a trust that makes an accumulation distribution as defined in section 665 of the Internal Revenue Code, add, for the beneficiary's taxable years beginning before 2002 ~~or after 2004~~, the portion, if any, of such distribution that does not exceed the undistributed net income of the trust for the three taxable years preceding the taxable year in which the distribution is made to the extent that the portion was not included in the trust's taxable income for any of the trust's taxable years beginning in 2002, ~~2003~~, or ~~2004~~ thereafter. "Undistributed net income of a trust" means the taxable income of the trust increased by (a)(i) the additions to adjusted gross income required under division (A) of this section and (ii) the personal exemptions allowed to the trust pursuant to section 642(b) of the Internal Revenue Code, and decreased by (b)(i) the deductions to adjusted gross income required under division (A) of this section, (ii) the amount of federal income taxes attributable to such income, and (iii) the amount of taxable income that has been included in the adjusted gross income of a beneficiary by reason of a prior accumulation distribution. Any undistributed net income included in the adjusted gross income of a

beneficiary shall reduce the undistributed net income of the trust commencing with the earliest years of the accumulation period.

(7) Deduct the amount of wages and salaries, if any, not otherwise allowable as a deduction but that would have been allowable as a deduction in computing federal adjusted gross income for the taxable year, had the targeted jobs credit allowed and determined under sections 38, 51, and 52 of the Internal Revenue Code not been in effect.

(8) Deduct any interest or interest equivalent on public obligations and purchase obligations to the extent that the interest or interest equivalent is included in federal adjusted gross income.

(9) Add any loss or deduct any gain resulting from the sale, exchange, or other disposition of public obligations to the extent that the loss has been deducted or the gain has been included in computing federal adjusted gross income.

(10) Deduct or add amounts, as provided under section 5747.70 of the Revised Code, related to contributions to variable college savings program accounts made or tuition ~~credits~~ units purchased pursuant to Chapter 3334. of the Revised Code.

(11)(a) Deduct, to the extent not otherwise allowable as a deduction or exclusion in computing federal or Ohio adjusted gross income for the taxable year, the amount the taxpayer paid during the taxable year for medical care insurance and qualified long-term care insurance for the taxpayer, the taxpayer's spouse, and dependents. No deduction for medical care insurance under division (A)(11) of this section shall be allowed either to any taxpayer who is eligible to participate in any subsidized health plan maintained by any employer of the taxpayer or of the taxpayer's spouse, or to any taxpayer who is entitled to, or on application would be entitled to, benefits under part A of Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended. For the purposes of division (A)(11)(a) of this section, "subsidized health plan" means a health plan for which the employer pays any portion of the plan's cost. The deduction allowed under division (A)(11)(a) of this section shall be the net of any related premium refunds, related premium reimbursements, or related insurance premium dividends received during the taxable year.

(b) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income during the taxable year, the amount the taxpayer paid during the taxable year, not compensated for by any insurance or otherwise, for medical care of the taxpayer, the taxpayer's spouse, and dependents, to the extent the expenses exceed seven and one-half per cent of the taxpayer's federal adjusted gross income.



(c) For purposes of division (A)(11) of this section, "medical care" has the meaning given in section 213 of the Internal Revenue Code, subject to the special rules, limitations, and exclusions set forth therein, and "qualified long-term care" has the same meaning given in section 7702(B)(b) of the Internal Revenue Code.

(12)(a) Deduct any amount included in federal adjusted gross income solely because the amount represents a reimbursement or refund of expenses that in any year the taxpayer had deducted as an itemized deduction pursuant to section 63 of the Internal Revenue Code and applicable United States department of the treasury regulations. The deduction otherwise allowed under division (A)(12)(a) of this section shall be reduced to the extent the reimbursement is attributable to an amount the taxpayer deducted under this section in any taxable year.

(b) Add any amount not otherwise included in Ohio adjusted gross income for any taxable year to the extent that the amount is attributable to the recovery during the taxable year of any amount deducted or excluded in computing federal or Ohio adjusted gross income in any taxable year.

(13) Deduct any portion of the deduction described in section 1341(a)(2) of the Internal Revenue Code, for repaying previously reported income received under a claim of right, that meets both of the following requirements:

(a) It is allowable for repayment of an item that was included in the taxpayer's adjusted gross income for a prior taxable year and did not qualify for a credit under division (A) or (B) of section 5747.05 of the Revised Code for that year;

(b) It does not otherwise reduce the taxpayer's adjusted gross income for the current or any other taxable year.

(14) Deduct an amount equal to the deposits made to, and net investment earnings of, a medical savings account during the taxable year, in accordance with section 3924.66 of the Revised Code. The deduction allowed by division (A)(14) of this section does not apply to medical savings account deposits and earnings otherwise deducted or excluded for the current or any other taxable year from the taxpayer's federal adjusted gross income.

(15)(a) Add an amount equal to the funds withdrawn from a medical savings account during the taxable year, and the net investment earnings on those funds, when the funds withdrawn were used for any purpose other than to reimburse an account holder for, or to pay, eligible medical expenses, in accordance with section 3924.66 of the Revised Code;

(b) Add the amounts distributed from a medical savings account under

division (A)(2) of section 3924.68 of the Revised Code during the taxable year.

(16) Add any amount claimed as a credit under section 5747.059 of the Revised Code to the extent that such amount satisfies either of the following:

(a) The amount was deducted or excluded from the computation of the taxpayer's federal adjusted gross income as required to be reported for the taxpayer's taxable year under the Internal Revenue Code;

(b) The amount resulted in a reduction of the taxpayer's federal adjusted gross income as required to be reported for any of the taxpayer's taxable years under the Internal Revenue Code.

(17) Deduct the amount contributed by the taxpayer to an individual development account program established by a county department of job and family services pursuant to sections 329.11 to 329.14 of the Revised Code for the purpose of matching funds deposited by program participants. On request of the tax commissioner, the taxpayer shall provide any information that, in the tax commissioner's opinion, is necessary to establish the amount deducted under division (A)(17) of this section.

(18) Beginning in taxable year 2001 but not for any taxable year beginning after December 31, 2005, if the taxpayer is married and files a joint return and the combined federal adjusted gross income of the taxpayer and the taxpayer's spouse for the taxable year does not exceed one hundred thousand dollars, or if the taxpayer is single and has a federal adjusted gross income for the taxable year not exceeding fifty thousand dollars, deduct amounts paid during the taxable year for qualified tuition and fees paid to an eligible institution for the taxpayer, the taxpayer's spouse, or any dependent of the taxpayer, who is a resident of this state and is enrolled in or attending a program that culminates in a degree or diploma at an eligible institution. The deduction may be claimed only to the extent that qualified tuition and fees are not otherwise deducted or excluded for any taxable year from federal or Ohio adjusted gross income. The deduction may not be claimed for educational expenses for which the taxpayer claims a credit under section 5747.27 of the Revised Code.

(19) Add any reimbursement received during the taxable year of any amount the taxpayer deducted under division (A)(18) of this section in any previous taxable year to the extent the amount is not otherwise included in Ohio adjusted gross income.

(20)(a)(i) Add five-sixths of the amount of depreciation expense allowed by subsection (k) of section 168 of the Internal Revenue Code, including the taxpayer's proportionate or distributive share of the amount of

depreciation expense allowed by that subsection to a pass-through entity in which the taxpayer has a direct or indirect ownership interest.

(ii) Add five-sixths of the amount of qualifying section 179 depreciation expense, including a person's proportionate or distributive share of the amount of qualifying section 179 depreciation expense allowed to any pass-through entity in which the person has a direct or indirect ownership. For the purposes of this division, "qualifying section 179 depreciation expense" means the difference between (I) the amount of depreciation expense directly or indirectly allowed to the taxpayer under section 179 of the Internal Revenue Code, and (II) the amount of depreciation expense directly or indirectly allowed to the taxpayer under section 179 of the Internal Revenue Code as that section existed on December 31, 2002.

The tax commissioner, under procedures established by the commissioner, may waive the add-backs related to a pass-through entity if the taxpayer owns, directly or indirectly, less than five per cent of the pass-through entity.

(b) Nothing in division (A)(20) of this section shall be construed to adjust or modify the adjusted basis of any asset.

(c) To the extent the add-back required under division (A)(20)(a) of this section is attributable to property generating nonbusiness income or loss allocated under section 5747.20 of the Revised Code, the add-back shall be situated to the same location as the nonbusiness income or loss generated by the property for the purpose of determining the credit under division (A) of section 5747.05 of the Revised Code. Otherwise, the add-back shall be apportioned, subject to one or more of the four alternative methods of apportionment enumerated in section 5747.21 of the Revised Code.

(d) For the purposes of division (A) of this section, net operating loss carryback and carryforward shall not include five-sixths of the allowance of any net operating loss deduction carryback or carryforward to the taxable year to the extent such loss resulted from depreciation allowed by section 168(k) of the Internal Revenue Code and by the qualifying section 179 depreciation expense amount.

(21)(a) If the taxpayer was required to add an amount under division (A)(20)(a) of this section for a taxable year, deduct one-fifth of the amount so added for each of the five succeeding taxable years.

(b) If the amount deducted under division (A)(21)(a) of this section is attributable to an add-back allocated under division (A)(20)(c) of this section, the amount deducted shall be situated to the same location. Otherwise, the add-back shall be apportioned using the apportionment factors for the taxable year in which the deduction is taken, subject to one or

more of the four alternative methods of apportionment enumerated in section 5747.21 of the Revised Code.

(c) No deduction is available under division (A)(21)(a) of this section with regard to any depreciation allowed by section 168(k) of the Internal Revenue Code and by the qualifying section 179 depreciation expense amount to the extent that such depreciation resulted in or increased a federal net operating loss carryback or carryforward to a taxable year to which division (A)(20)(d) of this section does not apply.

(B) "Business income" means income, including gain or loss, arising from transactions, activities, and sources in the regular course of a trade or business and includes income, gain, or loss from real property, tangible property, and intangible property if the acquisition, rental, management, and disposition of the property constitute integral parts of the regular course of a trade or business operation. "Business income" includes income, including gain or loss, from a partial or complete liquidation of a business, including, but not limited to, gain or loss from the sale or other disposition of goodwill.

(C) "Nonbusiness income" means all income other than business income and may include, but is not limited to, compensation, rents and royalties from real or tangible personal property, capital gains, interest, dividends and distributions, patent or copyright royalties, or lottery winnings, prizes, and awards.

(D) "Compensation" means any form of remuneration paid to an employee for personal services.

(E) "Fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any other person acting in any fiduciary capacity for any individual, trust, or estate.

(F) "Fiscal year" means an accounting period of twelve months ending on the last day of any month other than December.

(G) "Individual" means any natural person.

(H) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended.

(I) "Resident" means any of the following, provided that division (I)(3) of this section applies only to taxable years of a trust beginning in 2002; ~~2003~~, or ~~2004~~ thereafter:

(1) An individual who is domiciled in this state, subject to section 5747.24 of the Revised Code;

(2) The estate of a decedent who at the time of death was domiciled in this state. The domicile tests of section 5747.24 of the Revised Code and any election under section 5747.25 of the Revised Code are not controlling for purposes of division (I)(2) of this section.

(3) A trust that, in whole or part, resides in this state. If only part of a trust resides in this state, the trust is a resident only with respect to that part.

For the purposes of division (I)(3) of this section:

(a) A trust resides in this state for the trust's current taxable year to the extent, as described in division (I)(3)(d) of this section, that the trust consists directly or indirectly, in whole or in part, of assets, net of any related liabilities, that were transferred, or caused to be transferred, directly or indirectly, to the trust by any of the following:

(i) A person, a court, or a governmental entity or instrumentality on account of the death of a decedent, but only if the trust is described in division (I)(3)(e)(i) or (ii) of this section;

(ii) A person who was domiciled in this state for the purposes of this chapter when the person directly or indirectly transferred assets to an irrevocable trust, but only if at least one of the trust's qualifying beneficiaries is domiciled in this state for the purposes of this chapter during all or some portion of the trust's current taxable year;

(iii) A person who was domiciled in this state for the purposes of this chapter when the trust document or instrument or part of the trust document or instrument became irrevocable, but only if at least one of the trust's qualifying beneficiaries is a resident domiciled in this state for the purposes of this chapter during all or some portion of the trust's current taxable year. If a trust document or instrument became irrevocable upon the death of a person who at the time of death was domiciled in this state for purposes of this chapter, that person is a person described in division (I)(3)(a)(iii) of this section.

(b) A trust is irrevocable to the extent that the transferor is not considered to be the owner of the net assets of the trust under sections 671 to 678 of the Internal Revenue Code.

(c) With respect to a trust other than a charitable lead trust, "qualifying beneficiary" has the same meaning as "potential current beneficiary" as defined in section 1361(e)(2) of the Internal Revenue Code, and with respect to a charitable lead trust "qualifying beneficiary" is any current, future, or contingent beneficiary, but with respect to any trust "qualifying beneficiary" excludes a person or a governmental entity or instrumentality to any of which a contribution would qualify for the charitable deduction under section 170 of the Internal Revenue Code.

(d) For the purposes of division (I)(3)(a) of this section, the extent to which a trust consists directly or indirectly, in whole or in part, of assets, net of any related liabilities, that were transferred directly or indirectly, in whole or part, to the trust by any of the sources enumerated in that division shall be

ascertained by multiplying the fair market value of the trust's assets, net of related liabilities, by the qualifying ratio, which shall be computed as follows:

(i) The first time the trust receives assets, the numerator of the qualifying ratio is the fair market value of those assets at that time, net of any related liabilities, from sources enumerated in division (I)(3)(a) of this section. The denominator of the qualifying ratio is the fair market value of all the trust's assets at that time, net of any related liabilities.

(ii) Each subsequent time the trust receives assets, a revised qualifying ratio shall be computed. The numerator of the revised qualifying ratio is the sum of (1) the fair market value of the trust's assets immediately prior to the subsequent transfer, net of any related liabilities, multiplied by the qualifying ratio last computed without regard to the subsequent transfer, and (2) the fair market value of the subsequently transferred assets at the time transferred, net of any related liabilities, from sources enumerated in division (I)(3)(a) of this section. The denominator of the revised qualifying ratio is the fair market value of all the trust's assets immediately after the subsequent transfer, net of any related liabilities.

(iii) Whether a transfer to the trust is by or from any of the sources enumerated in division (I)(3)(a) of this section shall be ascertained without regard to the domicile of the trust's beneficiaries.

(e) For the purposes of division (I)(3)(a)(i) of this section:

(i) A trust is described in division (I)(3)(e)(i) of this section if the trust is a testamentary trust and the testator of that testamentary trust was domiciled in this state at the time of the testator's death for purposes of the taxes levied under Chapter 5731. of the Revised Code.

(ii) A trust is described in division (I)(3)(e)(ii) of this section if the transfer is a qualifying transfer described in any of divisions (I)(3)(f)(i) to (vi) of this section, the trust is an irrevocable inter vivos trust, and at least one of the trust's qualifying beneficiaries is domiciled in this state for purposes of this chapter during all or some portion of the trust's current taxable year.

(f) For the purposes of division (I)(3)(e)(ii) of this section, a "qualifying transfer" is a transfer of assets, net of any related liabilities, directly or indirectly to a trust, if the transfer is described in any of the following:

(i) The transfer is made to a trust, created by the decedent before the decedent's death and while the decedent was domiciled in this state for the purposes of this chapter, and, prior to the death of the decedent, the trust became irrevocable while the decedent was domiciled in this state for the purposes of this chapter.

(ii) The transfer is made to a trust to which the decedent, prior to the decedent's death, had directly or indirectly transferred assets, net of any related liabilities, while the decedent was domiciled in this state for the purposes of this chapter, and prior to the death of the decedent the trust became irrevocable while the decedent was domiciled in this state for the purposes of this chapter.

(iii) The transfer is made on account of a contractual relationship existing directly or indirectly between the transferor and either the decedent or the estate of the decedent at any time prior to the date of the decedent's death, and the decedent was domiciled in this state at the time of death for purposes of the taxes levied under Chapter 5731. of the Revised Code.

(iv) The transfer is made to a trust on account of a contractual relationship existing directly or indirectly between the transferor and another person who at the time of the decedent's death was domiciled in this state for purposes of this chapter.

(v) The transfer is made to a trust on account of the will of a testator.

(vi) The transfer is made to a trust created by or caused to be created by a court, and the trust was directly or indirectly created in connection with or as a result of the death of an individual who, for purposes of the taxes levied under Chapter 5731. of the Revised Code, was domiciled in this state at the time of the individual's death.

(g) The tax commissioner may adopt rules to ascertain the part of a trust residing in this state.

(J) "Nonresident" means an individual or estate that is not a resident. An individual who is a resident for only part of a taxable year is a nonresident for the remainder of that taxable year.

(K) "Pass-through entity" has the same meaning as in section 5733.04 of the Revised Code.

(L) "Return" means the notifications and reports required to be filed pursuant to this chapter for the purpose of reporting the tax due and includes declarations of estimated tax when so required.

(M) "Taxable year" means the calendar year or the taxpayer's fiscal year ending during the calendar year, or fractional part thereof, upon which the adjusted gross income is calculated pursuant to this chapter.

(N) "Taxpayer" means any person subject to the tax imposed by section 5747.02 of the Revised Code or any pass-through entity that makes the election under division (D) of section 5747.08 of the Revised Code.

(O) "Dependents" means dependents as defined in the Internal Revenue Code and as claimed in the taxpayer's federal income tax return for the taxable year or which the taxpayer would have been permitted to claim had

the taxpayer filed a federal income tax return.

(P) "Principal county of employment" means, in the case of a nonresident, the county within the state in which a taxpayer performs services for an employer or, if those services are performed in more than one county, the county in which the major portion of the services are performed.

(Q) As used in sections 5747.50 to 5747.55 of the Revised Code:

(1) "Subdivision" means any county, municipal corporation, park district, or township.

(2) "Essential local government purposes" includes all functions that any subdivision is required by general law to exercise, including like functions that are exercised under a charter adopted pursuant to the Ohio Constitution.

(R) "Overpayment" means any amount already paid that exceeds the figure determined to be the correct amount of the tax.

(S) "Taxable income" or "Ohio taxable income" applies only to estates and trusts, and means federal taxable income, as defined and used in the Internal Revenue Code, adjusted as follows:

(1) Add interest or dividends, net of ordinary, necessary, and reasonable expenses not deducted in computing federal taxable income, on obligations or securities of any state or of any political subdivision or authority of any state, other than this state and its subdivisions and authorities, but only to the extent that such net amount is not otherwise includible in Ohio taxable income and is described in either division (S)(1)(a) or (b) of this section:

(a) The net amount is not attributable to the S portion of an electing small business trust and has not been distributed to beneficiaries for the taxable year;

(b) The net amount is attributable to the S portion of an electing small business trust for the taxable year.

(2) Add interest or dividends, net of ordinary, necessary, and reasonable expenses not deducted in computing federal taxable income, on obligations of any authority, commission, instrumentality, territory, or possession of the United States to the extent that the interest or dividends are exempt from federal income taxes but not from state income taxes, but only to the extent that such net amount is not otherwise includible in Ohio taxable income and is described in either division (S)(1)(a) or (b) of this section;

(3) Add the amount of personal exemption allowed to the estate pursuant to section 642(b) of the Internal Revenue Code;

(4) Deduct interest or dividends, net of related expenses deducted in computing federal taxable income, on obligations of the United States and



its territories and possessions or of any authority, commission, or instrumentality of the United States to the extent that the interest or dividends are exempt from state taxes under the laws of the United States, but only to the extent that such amount is included in federal taxable income and is described in either division (S)(1)(a) or (b) of this section;

(5) Deduct the amount of wages and salaries, if any, not otherwise allowable as a deduction but that would have been allowable as a deduction in computing federal taxable income for the taxable year, had the targeted jobs credit allowed under sections 38, 51, and 52 of the Internal Revenue Code not been in effect, but only to the extent such amount relates either to income included in federal taxable income for the taxable year or to income of the S portion of an electing small business trust for the taxable year;

(6) Deduct any interest or interest equivalent, net of related expenses deducted in computing federal taxable income, on public obligations and purchase obligations, but only to the extent that such net amount relates either to income included in federal taxable income for the taxable year or to income of the S portion of an electing small business trust for the taxable year;

(7) Add any loss or deduct any gain resulting from sale, exchange, or other disposition of public obligations to the extent that such loss has been deducted or such gain has been included in computing either federal taxable income or income of the S portion of an electing small business trust for the taxable year;

(8) Except in the case of the final return of an estate, add any amount deducted by the taxpayer on both its Ohio estate tax return pursuant to section 5731.14 of the Revised Code, and on its federal income tax return in determining federal taxable income;

(9)(a) Deduct any amount included in federal taxable income solely because the amount represents a reimbursement or refund of expenses that in a previous year the decedent had deducted as an itemized deduction pursuant to section 63 of the Internal Revenue Code and applicable treasury regulations. The deduction otherwise allowed under division (S)(9)(a) of this section shall be reduced to the extent the reimbursement is attributable to an amount the taxpayer or decedent deducted under this section in any taxable year.

(b) Add any amount not otherwise included in Ohio taxable income for any taxable year to the extent that the amount is attributable to the recovery during the taxable year of any amount deducted or excluded in computing federal or Ohio taxable income in any taxable year, but only to the extent such amount has not been distributed to beneficiaries for the taxable year.

(10) Deduct any portion of the deduction described in section 1341(a)(2) of the Internal Revenue Code, for repaying previously reported income received under a claim of right, that meets both of the following requirements:

(a) It is allowable for repayment of an item that was included in the taxpayer's taxable income or the decedent's adjusted gross income for a prior taxable year and did not qualify for a credit under division (A) or (B) of section 5747.05 of the Revised Code for that year.

(b) It does not otherwise reduce the taxpayer's taxable income or the decedent's adjusted gross income for the current or any other taxable year.

(11) Add any amount claimed as a credit under section 5747.059 of the Revised Code to the extent that the amount satisfies either of the following:

(a) The amount was deducted or excluded from the computation of the taxpayer's federal taxable income as required to be reported for the taxpayer's taxable year under the Internal Revenue Code;

(b) The amount resulted in a reduction in the taxpayer's federal taxable income as required to be reported for any of the taxpayer's taxable years under the Internal Revenue Code.

(12) Deduct any amount, net of related expenses deducted in computing federal taxable income, that a trust is required to report as farm income on its federal income tax return, but only if the assets of the trust include at least ten acres of land satisfying the definition of "land devoted exclusively to agricultural use" under section 5713.30 of the Revised Code, regardless of whether the land is valued for tax purposes as such land under sections 5713.30 to 5713.38 of the Revised Code. If the trust is a pass-through entity investor, section 5747.231 of the Revised Code applies in ascertaining if the trust is eligible to claim the deduction provided by division (S)(12) of this section in connection with the pass-through entity's farm income.

Except for farm income attributable to the S portion of an electing small business trust, the deduction provided by division (S)(12) of this section is allowed only to the extent that the trust has not distributed such farm income. Division (S)(12) of this section applies only to taxable years of a trust beginning in 2002, ~~2003~~, or ~~2004~~ thereafter.

(13) Add the net amount of income described in section 641(c) of the Internal Revenue Code to the extent that amount is not included in federal taxable income.

(14) Add or deduct the amount the taxpayer would be required to add or deduct under division (A)(20) or (21) of this section if the taxpayer's Ohio taxable income were computed in the same manner as an individual's Ohio adjusted gross income is computed under this section. In the case of a trust,

division (S)(14) of this section applies only to any of the trust's taxable years beginning in 2002, ~~2003~~, or ~~2004~~ thereafter.

(T) "School district income" and "school district income tax" have the same meanings as in section 5748.01 of the Revised Code.

(U) As used in divisions (A)(8), (A)(9), (S)(6), and (S)(7) of this section, "public obligations," "purchase obligations," and "interest or interest equivalent" have the same meanings as in section 5709.76 of the Revised Code.

(V) "Limited liability company" means any limited liability company formed under Chapter 1705. of the Revised Code or under the laws of any other state.

(W) "Pass-through entity investor" means any person who, during any portion of a taxable year of a pass-through entity, is a partner, member, shareholder, or equity investor in that pass-through entity.

(X) "Banking day" has the same meaning as in section 1304.01 of the Revised Code.

(Y) "Month" means a calendar month.

(Z) "Quarter" means the first three months, the second three months, the third three months, or the last three months of the taxpayer's taxable year.

(AA)(1) "Eligible institution" means a state university or state institution of higher education as defined in section 3345.011 of the Revised Code, or a private, nonprofit college, university, or other post-secondary institution located in this state that possesses a certificate of authorization issued by the Ohio board of regents pursuant to Chapter 1713. of the Revised Code or a certificate of registration issued by the state board of career colleges and schools under Chapter 3332. of the Revised Code.

(2) "Qualified tuition and fees" means tuition and fees imposed by an eligible institution as a condition of enrollment or attendance, not exceeding two thousand five hundred dollars in each of the individual's first two years of post-secondary education. If the individual is a part-time student, "qualified tuition and fees" includes tuition and fees paid for the academic equivalent of the first two years of post-secondary education during a maximum of five taxable years, not exceeding a total of five thousand dollars. "Qualified tuition and fees" does not include:

(a) Expenses for any course or activity involving sports, games, or hobbies unless the course or activity is part of the individual's degree or diploma program;

(b) The cost of books, room and board, student activity fees, athletic fees, insurance expenses, or other expenses unrelated to the individual's academic course of instruction;

(c) Tuition, fees, or other expenses paid or reimbursed through an employer, scholarship, grant in aid, or other educational benefit program.

(BB)(1) "Modified business income" means the business income included in a trust's Ohio taxable income after such taxable income is first reduced by the qualifying trust amount, if any.

(2) "Qualifying trust amount" of a trust means capital gains and losses from the sale, exchange, or other disposition of equity or ownership interests in, or debt obligations of, a qualifying investee to the extent included in the trust's Ohio taxable income, but only if the following requirements are satisfied:

(a) The book value of the qualifying investee's physical assets in this state and everywhere, as of the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the gain or loss, is available to the trust.

(b) The requirements of section 5747.011 of the Revised Code are satisfied for the trust's taxable year in which the trust recognizes the gain or loss.

Any gain or loss that is not a qualifying trust amount is modified business income, qualifying investment income, or modified nonbusiness income, as the case may be.

(3) "Modified nonbusiness income" means a trust's Ohio taxable income other than modified business income, other than the qualifying trust amount, and other than qualifying investment income, as defined in section 5747.012 of the Revised Code, to the extent such qualifying investment income is not otherwise part of modified business income.

(4) "Modified Ohio taxable income" applies only to trusts, and means the sum of the amounts described in divisions (BB)(4)(a) to (c) of this section:

(a) The fraction, calculated under section 5747.013, and applying section 5747.231 of the Revised Code, multiplied by the sum of the following amounts:

(i) The trust's modified business income;

(ii) The trust's qualifying investment income, as defined in section 5747.012 of the Revised Code, but only to the extent the qualifying investment income does not otherwise constitute modified business income and does not otherwise constitute a qualifying trust amount.

(b) The qualifying trust amount multiplied by a fraction, the numerator of which is the sum of the book value of the qualifying investee's physical assets in this state on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the day on which the trust

recognizes the qualifying trust amount, and the denominator of which is the sum of the book value of the qualifying investee's total physical assets everywhere on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the day on which the trust recognizes the qualifying trust amount. If, for a taxable year, the trust recognizes a qualifying trust amount with respect to more than one qualifying investee, the amount described in division (BB)(4)(b) of this section shall equal the sum of the products so computed for each such qualifying investee.

(c)(i) With respect to a trust or portion of a trust that is a resident as ascertained in accordance with division (I)(3)(d) of this section, its modified nonbusiness income.

(ii) With respect to a trust or portion of a trust that is not a resident as ascertained in accordance with division (I)(3)(d) of this section, the amount of its modified nonbusiness income satisfying the descriptions in divisions (B)(2) to (5) of section 5747.20 of the Revised Code.

If the allocation and apportionment of a trust's income under divisions (BB)(4)(a) and (c) of this section do not fairly represent the modified Ohio taxable income of the trust in this state, the alternative methods described in division (C) of section 5747.21 of the Revised Code may be applied in the manner and to the same extent provided in that section.

(5)(a) Except as set forth in division (BB)(5)(b) of this section, "qualifying investee" means a person in which a trust has an equity or ownership interest, or a person or unit of government the debt obligations of either of which are owned by a trust. For the purposes of division (BB)(2)(a) of this section and for the purpose of computing the fraction described in division (BB)(4)(b) of this section, all of the following apply:

(i) If the qualifying investee is a member of a qualifying controlled group on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the gain or loss, then "qualifying investee" includes all persons in the qualifying controlled group on such last day.

(ii) If the qualifying investee, or if the qualifying investee and any members of the qualifying controlled group of which the qualifying investee is a member on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the gain or loss, separately or cumulatively own, directly or indirectly, on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the qualifying trust amount, more than fifty per cent of the equity of a pass-through entity, then the qualifying investee and the other members are deemed to own the

proportionate share of the pass-through entity's physical assets which the pass-through entity directly or indirectly owns on the last day of the pass-through entity's calendar or fiscal year ending within or with the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the qualifying trust amount.

(iii) For the purposes of division (BB)(5)(a)(iii) of this section, "upper level pass-through entity" means a pass-through entity directly or indirectly owning any equity of another pass-through entity, and "lower level pass-through entity" means that other pass-through entity.

An upper level pass-through entity, whether or not it is also a qualifying investee, is deemed to own, on the last day of the upper level pass-through entity's calendar or fiscal year, the proportionate share of the lower level pass-through entity's physical assets that the lower level pass-through entity directly or indirectly owns on the last day of the lower level pass-through entity's calendar or fiscal year ending within or with the last day of the upper level pass-through entity's fiscal or calendar year. If the upper level pass-through entity directly and indirectly owns less than fifty per cent of the equity of the lower level pass-through entity on each day of the upper level pass-through entity's calendar or fiscal year in which or with which ends the calendar or fiscal year of the lower level pass-through entity and if, based upon clear and convincing evidence, complete information about the location and cost of the physical assets of the lower pass-through entity is not available to the upper level pass-through entity, then solely for purposes of ascertaining if a gain or loss constitutes a qualifying trust amount, the upper level pass-through entity shall be deemed as owning no equity of the lower level pass-through entity for each day during the upper level pass-through entity's calendar or fiscal year in which or with which ends the lower level pass-through entity's calendar or fiscal year. Nothing in division (BB)(5)(a)(iii) of this section shall be construed to provide for any deduction or exclusion in computing any trust's Ohio taxable income.

(b) With respect to a trust that is not a resident for the taxable year and with respect to a part of a trust that is not a resident for the taxable year, "qualifying investee" for that taxable year does not include a C corporation if both of the following apply:

(i) During the taxable year the trust or part of the trust recognizes a gain or loss from the sale, exchange, or other disposition of equity or ownership interests in, or debt obligations of, the C corporation.

(ii) Such gain or loss constitutes nonbusiness income.

(6) "Available" means information is such that a person is able to learn of the information by the due date plus extensions, if any, for filing the

return for the taxable year in which the trust recognizes the gain or loss.

(CC) "Qualifying controlled group" has the same meaning as in section 5733.04 of the Revised Code.

(DD) "Related member" has the same meaning as in section 5733.042 of the Revised Code.

~~(EE) Any term used in this chapter that is not otherwise defined in this section and that is not used in a comparable context in the Internal Revenue Code and other statutes of the United States relating to federal income taxes has the same meaning as in section 5733.40 of the Revised Code~~ (1) For the purposes of division (EE) of this section:

(a) "Qualifying person" means any person other than a qualifying corporation.

(b) "Qualifying corporation" means any person classified for federal income tax purposes as an association taxable as a corporation, except either of the following:

(i) A corporation that has made an election under subchapter S, chapter one, subtitle A, of the Internal Revenue Code for its taxable year ending within, or on the last day of, the investor's taxable year;

(ii) A subsidiary that is wholly owned by any corporation that has made an election under subchapter S, chapter one, subtitle A of the Internal Revenue Code for its taxable year ending within, or on the last day of, the investor's taxable year.

(2) For the purposes of this chapter, unless expressly stated otherwise, no qualifying person indirectly owns any asset directly or indirectly owned by any qualifying corporation.

(FF) For purposes of this chapter and Chapter 5751. of the Revised Code:

(1) "Trust" does not include a qualified pre-income tax trust.

(2) A "qualified pre-income tax trust" is any pre-income tax trust that makes a qualifying pre-income tax trust election as described in division (FF)(3) of this section.

(3) A "qualifying pre-income tax trust election" is an election by a pre-income tax trust to be subject to the tax imposed by section 5751.02 of the Revised Code and to be subject to the tax imposed by section 5751.02 of the Revised Code all pass-through entities in which it owns, directly, indirectly, or constructively through related interests by common owners, five per cent or more of the ownership or equity interests. The trustee shall notify the tax commissioner in writing of the election on or before April 15, 2006. The election, if timely made, shall be effective on and after January 1, 2005, and shall apply for all tax periods and tax years until revoked by the

trustee of the trust.

(4) A "pre-income tax trust" is a trust that satisfies both of the following requirements:

(a) The document or instrument creating the trust was executed by the grantor before January 1, 1972.

(b) The trust became irrevocable upon the creation of the trust.

Sec. 5747.012. This section applies for the purposes of divisions (BB)(3) and (BB)(4)(a)(ii) of section 5747.01 of the Revised Code.

(A) As used in this section:

(1)(a) Except as set forth in division (A)(1)(b) of this section, "qualifying investment income" means the portion of a qualifying investment pass-through entity's net income attributable to transaction fees in connection with the acquisition, ownership, or disposition of intangible property; loan fees; financing fees; consent fees; waiver fees; application fees; net management fees; dividend income; interest income; net capital gains from the sale or exchange or other disposition of intangible property; and all types and classifications of income attributable to distributive shares of income from other pass-through entities.

(b)(i) Notwithstanding division (A)(1)(a) of this section, "qualifying investment income" does not include any part of the qualifying investment pass-through entity's net capital gain which, after the application of section 5747.231 of the Revised Code with respect to a trust, would also constitute a qualifying trust amount.

(ii) Notwithstanding division (A)(1)(a) of this section, "qualifying investment income" does not include any part of the qualifying investment pass-through entity's net income attributable to the portion of a distributive share of income directly or indirectly from another pass-through entity to the extent such portion constitutes the other pass-through entity's net capital gain which, after the application of section 5747.231 of the Revised Code with respect to a trust, would also constitute a qualifying trust amount.

(2) "Qualifying investment pass-through entity" means an investment pass-through entity, as defined in section 5733.401 of the Revised Code, subject to the following qualifications:

(a) "Forty per cent" shall be substituted for "ninety per cent" wherever "ninety per cent" appears in section 5733.401 of the Revised Code.

(b) The pass-through entity must have been formed or organized as an entity prior to June 5, 2002, and must exist as a pass-through entity for all of the taxable year of the trust.

(c) The qualifying section 5747.012 trust or related persons to the qualifying section 5747.012 trust must directly or indirectly own at least five



per cent of the equity of the investment pass-through entity each day of the entity's fiscal or calendar year ending within or with the last day of the qualifying section 5747.012 trust's taxable year;

(d) During the investment pass-through entity's calendar or fiscal year ending within or with the last day of the qualifying section 5747.012 trust's taxable year, related persons of or to the qualifying section 5747.012 trust must, on each day of the investment pass-through entity's year, own directly, or own through equity investments in other pass-through entities, more than sixty per cent of the equity of the investment pass-through entity.

(B) "Qualifying section 5747.012 trust" means a trust satisfying one of the following:

(1) The trust was created prior to, and was irrevocable on, June 5, 2002; or

(2) If the trust was created after June 4, 2002, or if the trust became irrevocable after June 4, 2002, then at least eighty per cent of the assets transferred to the trust must have been previously owned by related persons to the trust or by a trust created prior to June 5, 2002, under which the creator did not retain the power to change beneficiaries, amend the trust, or revoke the trust. For purposes of division (B)(2) of this section, the power to substitute property of equal value shall not be considered to be a power to change beneficiaries, amend the trust, or revoke the trust.

(C) For the purposes of this section, "related persons" means the family of a qualifying individual beneficiary, as defined in division (A)(5) of section 5747.011 of the Revised Code. For the purposes of this division, "family" has the same meaning as in division (A)(6) of section 5747.011 of the Revised Code.

(D) For the purposes of applying divisions (A)(2)(c), (A)(2)(d), and (B)(2) of this section, the related persons or the qualifying section 5747.012 trust, as the case may be, shall be deemed to own the equity of the investment pass-through entity after the application of division (B) of section 5747.011 of the Revised Code.

(E) "Irrevocable" has the same meaning as in division (I)(3)(b) of section 5747.01 of the Revised Code.

(F) Nothing in this section requires any item of income, gain, or loss not satisfying the definition of qualifying investment income to be treated as modified nonbusiness income. Any item of income, gain, or loss that is not qualifying investment income is modified business income, modified nonbusiness income, or a qualifying trust amount, as the case may be.

Sec. 5747.02. (A) For the purpose of providing revenue for the support of schools and local government functions, to provide relief to property

taxpayers, to provide revenue for the general revenue fund, and to meet the expenses of administering the tax levied by this chapter, there is hereby levied on every individual, trust, and estate residing in or earning or receiving income in this state, on every individual, trust, and estate earning or receiving lottery winnings, prizes, or awards pursuant to Chapter 3770. of the Revised Code, and on every individual, trust, and estate otherwise having nexus with or in this state under the Constitution of the United States, an annual tax measured in the case of individuals by Ohio adjusted gross income less an exemption for the taxpayer, the taxpayer's spouse, and each dependent as provided in section 5747.025 of the Revised Code; measured in the case of trusts by modified Ohio taxable income under division (D) of this section; and measured in the case of estates by Ohio taxable income. The tax imposed by this section on the balance thus obtained is hereby levied as follows:

(1) For taxable years beginning in 2004:

OHIO ADJUSTED GROSS  
INCOME LESS EXEMPTIONS  
(INDIVIDUALS)

OR

MODIFIED OHIO  
TAXABLE INCOME (TRUSTS)

OR

OHIO TAXABLE INCOME  
(ESTATES)

TAX

\$5,000 or less	.743%
More than \$5,000 but not more than \$10,000	\$37.15 plus 1.486% of the amount in excess of \$5,000
More than \$10,000 but not more than \$15,000	\$111.45 plus 2.972% of the amount in excess of \$10,000
More than \$15,000 but not more than \$20,000	\$260.05 plus 3.715% of the amount in excess of \$15,000
More than \$20,000 but not more than \$40,000	\$445.80 plus 4.457% of the amount in excess of \$20,000
More than \$40,000 but not more than \$80,000	\$1,337.20 plus 5.201% of the amount in excess of \$40,000
More than \$80,000 but not more than \$100,000	\$3,417.60 plus 5.943% of the amount in excess of \$80,000
More than \$100,000 but not more than \$200,000	\$4,606.20 plus 6.9% of the amount in excess of \$100,000
More than \$200,000	\$11,506.20 plus 7.5% of the

amount in excess of \$200,000

(2) For taxable years beginning in 2005:

OHIO ADJUSTED GROSS  
INCOME LESS EXEMPTIONS  
(INDIVIDUALS)

OR

MODIFIED OHIO  
TAXABLE INCOME (TRUSTS)

OR

OHIO TAXABLE INCOME  
(ESTATES)

TAX\$5,000 or less.712%More than \$5,000 but not more  
than \$10,000\$35.60 plus 1.424% of the  
amount in excess of \$5,000More than \$10,000 but not more  
than \$15,000\$106.80 plus 2.847% of the  
amount in excess of \$10,000More than \$15,000 but not more  
than \$20,000\$249.15 plus 3.559% of the  
amount in excess of \$15,000More than \$20,000 but not more  
than \$40,000\$427.10 plus 4.27% of the  
amount in excess of \$20,000More than \$40,000 but not more  
than \$80,000\$1,281.10 plus 4.983% of the  
amount in excess of \$40,000More than \$80,000 but not more  
than \$100,000\$3,274.30 plus 5.693% of the  
amount in excess of \$80,000More than \$100,000 but not more  
than \$200,000\$4,412.90 plus 6.61% of the  
amount in excess of \$100,000More than \$200,000\$11,022.90 plus 7.185% of the  
amount in excess of \$200,000(3) For taxable years beginning in 2006:

OHIO ADJUSTED GROSS  
INCOME LESS EXEMPTIONS  
(INDIVIDUALS)

OR

MODIFIED OHIO  
TAXABLE INCOME (TRUSTS)

OR

OHIO TAXABLE INCOME  
(ESTATES)

TAX\$5,000 or less.681%More than \$5,000 but not more\$34.05 plus 1.361% of the

<u>than \$10,000</u>	<u>amount in excess of \$5,000</u>
<u>More than \$10,000 but not more</u>	<u>\$102.10 plus 2.722% of the</u>
<u>than \$15,000</u>	<u>amount in excess of \$10,000</u>
<u>More than \$15,000 but not more</u>	<u>\$238.20 plus 3.403% of the</u>
<u>than \$20,000</u>	<u>amount in excess of \$15,000</u>
<u>More than \$20,000 but not more</u>	<u>\$408.35 plus 4.083% of the</u>
<u>than \$40,000</u>	<u>amount in excess of \$20,000</u>
<u>More than \$40,000 but not more</u>	<u>\$1,224.95 plus 4.764% of the</u>
<u>than \$80,000</u>	<u>amount in excess of \$40,000</u>
<u>More than \$80,000 but not more</u>	<u>\$3,130.55 plus 5.444% of the</u>
<u>than \$100,000</u>	<u>amount in excess of \$80,000</u>
<u>More than \$100,000 but not more</u>	<u>\$4,219.35 plus 6.32% of the</u>
<u>than \$200,000</u>	<u>amount in excess of \$100,000</u>
<u>More than \$200,000</u>	<u>\$10,539.35 plus 6.87% of the</u>
	<u>amount in excess of \$200,000</u>

(4) For taxable years beginning in 2007:

OHIO ADJUSTED GROSS  
INCOME LESS EXEMPTIONS

(INDIVIDUALS)

OR

MODIFIED OHIO  
TAXABLE INCOME (TRUSTS)

OR

OHIO TAXABLE INCOME  
(ESTATES)

TAX

<u>\$5,000 or less</u>	<u>.649%</u>
<u>More than \$5,000 but not more</u>	<u>\$32.45 plus 1.299% of the</u>
<u>than \$10,000</u>	<u>amount in excess of \$5,000</u>
<u>More than \$10,000 but not more</u>	<u>\$97.40 plus 2.598% of the</u>
<u>than \$15,000</u>	<u>amount in excess of \$10,000</u>
<u>More than \$15,000 but not more</u>	<u>\$227.30 plus 3.247% of the</u>
<u>than \$20,000</u>	<u>amount in excess of \$15,000</u>
<u>More than \$20,000 but not more</u>	<u>\$389.65 plus 3.895% of the</u>
<u>than \$40,000</u>	<u>amount in excess of \$20,000</u>
<u>More than \$40,000 but not more</u>	<u>\$1,168.65 plus 4.546% of the</u>
<u>than \$80,000</u>	<u>amount in excess of \$40,000</u>
<u>More than \$80,000 but not more</u>	<u>\$2,987.05 plus 5.194% of the</u>
<u>than \$100,000</u>	<u>amount in excess of \$80,000</u>
<u>More than \$100,000 but not more</u>	<u>\$4,025.85 plus 6.031% of the</u>
<u>than \$200,000</u>	<u>amount in excess of \$100,000</u>

<u>More than \$200,000</u>	<u>\$10,056.85 plus 6.555% of the amount in excess of \$200,000</u>
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(5) For taxable years beginning in 2008:

OHIO ADJUSTED GROSS  
INCOME LESS EXEMPTIONS  
(INDIVIDUALS)

OR

MODIFIED OHIO  
TAXABLE INCOME (TRUSTS)

OR

OHIO TAXABLE INCOME  
(ESTATES)

TAX

<u>\$5,000 or less</u>	<u>.618%</u>
<u>More than \$5,000 but not more than \$10,000</u>	<u>\$30.90 plus 1.236% of the amount in excess of \$5,000</u>
<u>More than \$10,000 but not more than \$15,000</u>	<u>\$92.70 plus 2.473% of the amount in excess of \$10,000</u>
<u>More than \$15,000 but not more than \$20,000</u>	<u>\$216.35 plus 3.091% of the amount in excess of \$15,000</u>
<u>More than \$20,000 but not more than \$40,000</u>	<u>\$370.90 plus 3.708% of the amount in excess of \$20,000</u>
<u>More than \$40,000 but not more than \$80,000</u>	<u>\$1,112.50 plus 4.327% of the amount in excess of \$40,000</u>
<u>More than \$80,000 but not more than \$100,000</u>	<u>\$2,843.30 plus 4.945% of the amount in excess of \$80,000</u>
<u>More than \$100,000 but not more than \$200,000</u>	<u>\$3,832.30 plus 5.741% of the amount in excess of \$100,000</u>
<u>More than \$200,000</u>	<u>\$9,573.30 plus 6.24% of the amount in excess of \$200,000</u>

(6) For taxable years beginning in 2009 or thereafter:

OHIO ADJUSTED GROSS  
INCOME LESS EXEMPTIONS  
(INDIVIDUALS)

OR

MODIFIED OHIO  
TAXABLE INCOME (TRUSTS)

OR

OHIO TAXABLE INCOME  
(ESTATES)

TAX

<u>\$5,000 or less</u>	<u>.587%</u>
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<u>More than \$5,000 but not more than \$10,000</u>	<u>\$29.35 plus 1.174% of the amount in excess of \$5,000</u>
<u>More than \$10,000 but not more than \$15,000</u>	<u>\$88.05 plus 2.348% of the amount in excess of \$10,000</u>
<u>More than \$15,000 but not more than \$20,000</u>	<u>\$205.45 plus 2.935% of the amount in excess of \$15,000</u>
<u>More than \$20,000 but not more than \$40,000</u>	<u>\$352.20 plus 3.521% of the amount in excess of \$20,000</u>
<u>More than \$40,000 but not more than \$80,000</u>	<u>\$1,056.40 plus 4.109% of the amount in excess of \$40,000</u>
<u>More than \$80,000 but not more than \$100,000</u>	<u>\$2,700.00 plus 4.695% of the amount in excess of \$80,000</u>
<u>More than \$100,000 but not more than \$200,000</u>	<u>\$3,639.00 plus 5.451% of the amount in excess of \$100,000</u>
<u>More than \$200,000</u>	<u>\$9,090.00 plus 5.925% of the amount in excess of \$200,000</u>

In July of each year, beginning in ~~2005~~ 2010, the tax commissioner shall adjust the income amounts prescribed in this division by multiplying the percentage increase in the gross domestic product deflator computed that year under section 5747.025 of the Revised Code by each of the income amounts resulting from the adjustment under this division in the preceding year, adding the resulting product to the corresponding income amount resulting from the adjustment in the preceding year, and rounding the resulting sum to the nearest multiple of fifty dollars. The tax commissioner also shall recompute each of the tax dollar amounts to the extent necessary to reflect the adjustment of the income amounts. The rates of taxation shall not be adjusted.

The adjusted amounts apply to taxable years beginning in the calendar year in which the adjustments are made. The tax commissioner shall not make such adjustments in any year in which the amount resulting from the adjustment would be less than the amount resulting from the adjustment in the preceding year.

(B) If the director of budget and management makes a certification to the tax commissioner under division (B) of section 131.44 of the Revised Code, the amount of tax as determined under division (A) of this section shall be reduced by the percentage prescribed in that certification for taxable years beginning in the calendar year in which that certification is made.

(C) The levy of this tax on income does not prevent a municipal corporation, a joint economic development zone created under section 715.691, or a joint economic development district created under section

715.70 or 715.71 or sections 715.72 to 715.81 of the Revised Code from levying a tax on income.

(D) This division applies only to taxable years of a trust beginning in 2002, ~~2003~~, or ~~2004~~ thereafter.

(1) The tax imposed by this section on a trust shall be computed by multiplying the Ohio modified taxable income of the trust by the rates prescribed by division (A) of this section.

(2) A credit is allowed against the tax computed under division (D) of this section equal to the lesser of (1) the tax paid to another state or the District of Columbia on the trust's modified nonbusiness income, other than the portion of the trust's nonbusiness income that is qualifying investment income as defined in section 5747.012 of the Revised Code, or (2) the effective tax rate, based on modified Ohio taxable income, multiplied by the trust's modified nonbusiness income other than the portion of trust's nonbusiness income that is qualifying investment income. The credit applies before any other applicable credits.

(3) The credits enumerated in divisions (A)(1) to (13) of section 5747.98 of the Revised Code do not apply to a trust subject to this division. Any credits enumerated in other divisions of section 5747.98 of the Revised Code apply to a trust subject to this division. To the extent that the trust distributes income for the taxable year for which a credit is available to the trust, the credit shall be shared by the trust and its beneficiaries. The tax commissioner and the trust shall be guided by applicable regulations of the United States treasury regarding the sharing of credits.

(E) For the purposes of this section, "trust" means any trust described in Subchapter J of Chapter 1 of the Internal Revenue Code, excluding trusts that are not irrevocable as defined in division (I)(3)(b) of section 5747.01 of the Revised Code and that have no modified Ohio taxable income for the taxable year, charitable remainder trusts, qualified funeral trusts and preneed funeral contract trusts established pursuant to section 1111.19 of the Revised Code that are not qualified funeral trusts, endowment and perpetual care trusts, qualified settlement trusts and funds, designated settlement trusts and funds, and trusts exempted from taxation under section 501(a) of the Internal Revenue Code.

Sec. 5747.05. As used in this section, "income tax" includes both a tax on net income and a tax measured by net income.

The following credits shall be allowed against the income tax imposed by section 5747.02 of the Revised Code on individuals and estates:

(A)(1) The amount of tax otherwise due under section 5747.02 of the Revised Code on such portion of the adjusted gross income of any

nonresident taxpayer that is not allocable to this state pursuant to sections 5747.20 to 5747.23 of the Revised Code;

(2) The credit provided under this division shall not exceed the portion of the total tax due under section 5747.02 of the Revised Code that the amount of the nonresident taxpayer's adjusted gross income not allocated to this state pursuant to sections 5747.20 to 5747.23 of the Revised Code bears to the total adjusted gross income of the nonresident taxpayer derived from all sources everywhere.

(3) The tax commissioner may enter into an agreement with the taxing authorities of any state or of the District of Columbia that imposes an income tax to provide that compensation paid in this state to a nonresident taxpayer shall not be subject to the tax levied in section 5747.02 of the Revised Code so long as compensation paid in such other state or in the District of Columbia to a resident taxpayer shall likewise not be subject to the income tax of such other state or of the District of Columbia.

(B) The lesser of division (B)(1) or (2) of this section:

(1) The amount of tax otherwise due under section 5747.02 of the Revised Code on such portion of the adjusted gross income of a resident taxpayer that in another state or in the District of Columbia is subjected to an income tax. The credit provided under division (B)(1) of this section shall not exceed the portion of the total tax due under section 5747.02 of the Revised Code that the amount of the resident taxpayer's adjusted gross income subjected to an income tax in the other state or in the District of Columbia bears to the total adjusted gross income of the resident taxpayer derived from all sources everywhere.

(2) The amount of income tax liability to another state or the District of Columbia on the portion of the adjusted gross income of a resident taxpayer that in another state or in the District of Columbia is subjected to an income tax. The credit provided under division (B)(2) of this section shall not exceed the amount of tax otherwise due under section 5747.02 of the Revised Code.

(3) If the credit provided under division (B) of this section is affected by a change in either the portion of adjusted gross income of a resident taxpayer subjected to an income tax in another state or the District of Columbia or the amount of income tax liability that has been paid to another state or the District of Columbia, the taxpayer shall report the change to the tax commissioner within sixty days of the change in such form as the commissioner requires.

(a) In the case of an underpayment, the report shall be accompanied by payment of any additional tax due as a result of the reduction in credit



together with interest on the additional tax and is a return subject to assessment under section 5747.13 of the Revised Code solely for the purpose of assessing any additional tax due under this division, together with any applicable penalty and interest. It shall not reopen the computation of the taxpayer's tax liability under this chapter from a previously filed return no longer subject to assessment except to the extent that such liability is affected by an adjustment to the credit allowed by division (B) of this section.

(b) In the case of an overpayment, an application for refund may be filed under this division within the sixty day period prescribed for filing the report even if it is beyond the period prescribed in section 5747.11 of the Revised Code if it otherwise conforms to the requirements of such section. An application filed under this division shall only claim refund of overpayments resulting from an adjustment to the credit allowed by division (B) of this section unless it is also filed within the time prescribed in section 5747.11 of the Revised Code. It shall not reopen the computation of the taxpayer's tax liability except to the extent that such liability is affected by an adjustment to the credit allowed by division (B) of this section.

(4) No credit shall be allowed under division (B) of this section to the extent that for any taxable year the taxpayer has directly or indirectly deducted, or was required to directly or indirectly deduct, the amount of income tax liability to another state or the District of Columbia in computing federal adjusted gross income.

(C) For a taxpayer sixty-five years of age or older during the taxable year, a credit for such year equal to fifty dollars for each return required to be filed under section 5747.08 of the Revised Code.

(D) A taxpayer sixty-five years of age or older during the taxable year who has received a lump-sum distribution from a pension, retirement, or profit-sharing plan in the taxable year may elect to receive a credit under this division in lieu of the credit to which the taxpayer is entitled under division (C) of this section. A taxpayer making such election shall receive a credit for the taxable year equal to fifty dollars times the taxpayer's expected remaining life as shown by annuity tables issued under the provisions of the Internal Revenue Code and in effect for the calendar year which includes the last day of the taxable year. A taxpayer making an election under this division is not entitled to the credit authorized under division (C) of this section in subsequent taxable years except that if such election was made prior to July 1, 1983, the taxpayer is entitled to one-half the credit authorized under such division in subsequent taxable years but may not make another election under this division.

(E) A taxpayer who is not sixty-five years of age or older during the taxable year who has received a lump-sum distribution from a pension, retirement, or profit-sharing plan in a taxable year ending on or before July 31, 1991, may elect to take a credit against the tax otherwise due under this chapter for such year equal to fifty dollars times the expected remaining life of a taxpayer sixty-five years of age as shown by annuity tables issued under the provisions of the Internal Revenue Code and in effect for the calendar year which includes the last day of the taxable year. A taxpayer making an election under this division is not entitled to a credit under division (C) or (D) of this section in any subsequent year except that if such election was made prior to July 1, 1983, the taxpayer is entitled to one-half the credit authorized under division (C) of this section in subsequent years but may not make another election under this division. No taxpayer may make an election under this division for a taxable year ending on or after August 1, 1991.

(F) A taxpayer making an election under either division (D) or (E) of this section may make only one such election in the taxpayer's lifetime.

(G)(1) On a joint return filed by a husband and wife, each of whom had adjusted gross income of at least five hundred dollars, exclusive of interest, dividends and distributions, royalties, rent, and capital gains, a credit equal to the percentage shown in the table contained in this division of the amount of tax due after allowing for any other credit that precedes the credit under this division in the order required under section 5747.98 of the Revised Code.

(2) The credit to which a taxpayer is entitled under this division in any taxable year is the percentage shown in column B that corresponds with the taxpayer's adjusted gross income, less exemptions for the taxable year:

A.	B.
IF THE ADJUSTED GROSS INCOME, LESS EXEMPTIONS, FOR THE TAX YEAR IS:	THE CREDIT FOR THE TAXABLE YEAR IS:
\$25,000 or less	20%
More than \$25,000 but not more than \$50,000	15%
More than \$50,000 but not more than \$75,000	10%
More than \$75,000	5%

(3) The credit allowed under this division shall not exceed six hundred fifty dollars in any taxable year.

(H) No claim for credit under this section shall be allowed unless the

claimant furnishes such supporting information as the tax commissioner prescribes by rules. Each credit under this section shall be claimed in the order required under section 5747.98 of the Revised Code.

(I) An individual who is a resident for part of a taxable year and a nonresident for the remainder of the taxable year is allowed the credits under divisions (A) and (B) of this section in accordance with rules prescribed by the tax commissioner. In no event shall the same income be subject to both credits.

(J) The credit allowed under division (A) of this section shall be calculated based upon the amount of tax due under section 5747.02 of the Revised Code after subtracting any other credits that precede the credit under that division in the order required under section 5747.98 of the Revised Code. The credit allowed under division (B) of this section shall be calculated based upon the amount of tax due under section 5747.02 of the Revised Code after subtracting any other credits that precede the credit under that division in the order required under section 5747.98 of the Revised Code.

(K) No credit shall be allowed under division (B) of this section unless the taxpayer furnishes such proof as the tax commissioner shall require that the income tax liability has been paid to another state or the District of Columbia.

(L) No credit shall be allowed under division (B) of this section for compensation that is not subject to the income tax of another state or the District of Columbia as the result of an agreement entered into by the tax commissioner under division (A)(3) of this section.

Sec. 5747.056. For taxable years beginning in 2005 or thereafter, a credit shall be allowed against the tax imposed by section 5747.02 of the Revised Code for an individual whose Ohio adjusted gross income less exemptions is ten thousand dollars or less. For taxable years beginning in 2005, the credit shall equal one hundred seven dollars. For taxable years beginning in 2006, the credit shall equal one hundred two dollars. For taxable years beginning in 2007, the credit shall equal ninety-eight dollars. For taxable years beginning in 2008, the credit shall equal ninety-three dollars. For taxable years beginning in 2009 or thereafter, the credit shall equal eighty-eight dollars. The credit shall be claimed in the order required under section 5747.98 of the Revised Code.

Sec. 5747.08. An annual return with respect to the tax imposed by section 5747.02 of the Revised Code and each tax imposed under Chapter 5748. of the Revised Code shall be made by every taxpayer for any taxable year for which the taxpayer is liable for the tax imposed by that section or

under that chapter, unless the total credits allowed under divisions (E), (F), and (G) of section 5747.05 of the Revised Code for the year are equal to or exceed the tax imposed by section 5747.02 of the Revised Code, in which case no return shall be required unless the taxpayer is liable for a tax imposed pursuant to Chapter 5748. of the Revised Code.

(A) If an individual is deceased, any return or notice required of that individual under this chapter shall be made and filed by that decedent's executor, administrator, or other person charged with the property of that decedent.

(B) If an individual is unable to make a return or notice required by this chapter, the return or notice required of that individual shall be made and filed by the individual's duly authorized agent, guardian, conservator, fiduciary, or other person charged with the care of the person or property of that individual.

(C) Returns or notices required of an estate or a trust shall be made and filed by the fiduciary of the estate or trust.

(D)(1)(a) Except as otherwise provided in division (D)(1)(b) of this section, any pass-through entity may file a single return on behalf of one or more of the entity's investors other than an investor that is a person subject to the tax imposed under section 5733.06 of the Revised Code. The single return shall set forth the name, address, and social security number or other identifying number of each of those pass-through entity investors and shall indicate the distributive share of each of those pass-through entity investor's income taxable in this state in accordance with sections 5747.20 to 5747.231 of the Revised Code. Such pass-through entity investors for whom the pass-through entity elects to file a single return are not entitled to the exemption or credit provided for by sections 5747.02 and 5747.022 of the Revised Code; shall calculate the tax before business credits at the highest rate of tax set forth in section 5747.02 of the Revised Code for the taxable year for which the return is filed; and are entitled to only their distributive share of the business credits as defined in division (D)(2) of this section. A single check drawn by the pass-through entity shall accompany the return in full payment of the tax due, as shown on the single return, for such investors, other than investors who are persons subject to the tax imposed under section 5733.06 of the Revised Code.

(b)(i) A pass-through entity shall not include in such a single return any investor that is a trust to the extent that any direct or indirect current, future, or contingent beneficiary of the trust is a person subject to the tax imposed under section 5733.06 of the Revised Code.

(ii) A pass-through entity shall not include in such a single return any

investor that is itself a pass-through entity to the extent that any direct or indirect investor in the second pass-through entity is a person subject to the tax imposed under section 5733.06 of the Revised Code.

(c) Nothing in division (D) of this section precludes the tax commissioner from requiring such investors to file the return and make the payment of taxes and related interest, penalty, and interest penalty required by this section or section 5747.02, 5747.09, or 5747.15 of the Revised Code. Nothing in division (D) of this section shall be construed to provide to such an investor or pass-through entity any additional deduction or credit, other than the credit provided by division (J) of this section, solely on account of the entity's filing a return in accordance with this section. Such a pass-through entity also shall make the filing and payment of estimated taxes on behalf of the pass-through entity investors other than an investor that is a person subject to the tax imposed under section 5733.06 of the Revised Code.

(2) For the purposes of this section, "business credits" means the credits listed in section 5747.98 of the Revised Code excluding the following credits:

(a) The retirement credit under division (B) of section 5747.055 of the Revised Code;

(b) The senior citizen credit under division (C) of section 5747.05 of the Revised Code;

(c) The lump sum distribution credit under division (D) of section 5747.05 of the Revised Code;

(d) The dependent care credit under section 5747.054 of the Revised Code;

(e) The lump sum retirement income credit under division (C) of section 5747.055 of the Revised Code;

(f) The lump sum retirement income credit under division (D) of section 5747.055 of the Revised Code;

(g) The lump sum retirement income credit under division (E) of section 5747.055 of the Revised Code;

(h) The credit for displaced workers who pay for job training under section 5747.27 of the Revised Code;

(i) The twenty-dollar personal exemption credit under section 5747.022 of the Revised Code;

(j) The joint filing credit under division (G) of section 5747.05 of the Revised Code;

(k) The nonresident credit under division (A) of section 5747.05 of the Revised Code;

(l) The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;

(m) The low-income credit under section 5747.056 of the Revised Code.

(3) The election provided for under division (D) of this section applies only to the taxable year for which the election is made by the pass-through entity. Unless the tax commissioner provides otherwise, this election, once made, is binding and irrevocable for the taxable year for which the election is made. Nothing in this division shall be construed to provide for any deduction or credit that would not be allowable if a nonresident pass-through entity investor were to file an annual return.

(4) If a pass-through entity makes the election provided for under division (D) of this section, the pass-through entity shall be liable for any additional taxes, interest, interest penalty, or penalties imposed by this chapter if the tax commissioner finds that the single return does not reflect the correct tax due by the pass-through entity investors covered by that return. Nothing in this division shall be construed to limit or alter the liability, if any, imposed on pass-through entity investors for unpaid or underpaid taxes, interest, interest penalty, or penalties as a result of the pass-through entity's making the election provided for under division (D) of this section. For the purposes of division (D) of this section, "correct tax due" means the tax that would have been paid by the pass-through entity had the single return been filed in a manner reflecting the tax commissioner's findings. Nothing in division (D) of this section shall be construed to make or hold a pass-through entity liable for tax attributable to a pass-through entity investor's income from a source other than the pass-through entity electing to file the single return.

(E) If a husband and wife file a joint federal income tax return for a taxable year, they shall file a joint return under this section for that taxable year, and their liabilities are joint and several, but, if the federal income tax liability of either spouse is determined on a separate federal income tax return, they shall file separate returns under this section.

If either spouse is not required to file a federal income tax return and either or both are required to file a return pursuant to this chapter, they may elect to file separate or joint returns, and, pursuant to that election, their liabilities are separate or joint and several. If a husband and wife file separate returns pursuant to this chapter, each must claim the taxpayer's own exemption, but not both, as authorized under section 5747.02 of the Revised Code on the taxpayer's own return.

(F) Each return or notice required to be filed under this section shall contain the signature of the taxpayer or the taxpayer's duly authorized agent

and of the person who prepared the return for the taxpayer, and shall include the taxpayer's social security number. Each return shall be verified by a declaration under the penalties of perjury. The tax commissioner shall prescribe the form that the signature and declaration shall take.

(G) Each return or notice required to be filed under this section shall be made and filed as required by section 5747.04 of the Revised Code, on or before the fifteenth day of April of each year, on forms that the tax commissioner shall prescribe, together with remittance made payable to the treasurer of state in the combined amount of the state and all school district income taxes shown to be due on the form, unless the combined amount shown to be due is one dollar or less, in which case that amount need not be remitted.

Upon good cause shown, the tax commissioner may extend the period for filing any notice or return required to be filed under this section and may adopt rules relating to extensions. If the extension results in an extension of time for the payment of any state or school district income tax liability with respect to which the return is filed, the taxpayer shall pay at the time the tax liability is paid an amount of interest computed at the rate per annum prescribed by section 5703.47 of the Revised Code on that liability from the time that payment is due without extension to the time of actual payment. Except as provided in section 5747.132 of the Revised Code, in addition to all other interest charges and penalties, all taxes imposed under this chapter or Chapter 5748. of the Revised Code and remaining unpaid after they become due, except combined amounts due of one dollar or less, bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code until paid or until the day an assessment is issued under section 5747.13 of the Revised Code, whichever occurs first.

If the tax commissioner considers it necessary in order to ensure the payment of the tax imposed by section 5747.02 of the Revised Code or any tax imposed under Chapter 5748. of the Revised Code, the tax commissioner may require returns and payments to be made otherwise than as provided in this section.

To the extent that any provision in this division conflicts with any provision in section 5747.026 of the Revised Code, the provision in that section prevails.

(H) If any report, claim, statement, or other document required to be filed, or any payment required to be made, within a prescribed period or on or before a prescribed date under this chapter is delivered after that period or that date by United States mail to the agency, officer, or office with which the report, claim, statement, or other document is required to be filed, or to

which the payment is required to be made, the date of the postmark stamped on the cover in which the report, claim, statement, or other document, or payment is mailed shall be deemed to be the date of delivery or the date of payment.

If a payment is required to be made by electronic funds transfer pursuant to section 5747.072 of the Revised Code, the payment is considered to be made when the payment is received by the treasurer of state or credited to an account designated by the treasurer of state for the receipt of tax payments.

"The date of the postmark" means, in the event there is more than one date on the cover, the earliest date imprinted on the cover by the United States postal service.

(I) The amounts withheld by the employer pursuant to section 5747.06 of the Revised Code shall be allowed to the recipient of the compensation as credits against payment of the appropriate taxes imposed on the recipient by section 5747.02 and under Chapter 5748. of the Revised Code.

(J) If, in accordance with division (D) of this section, a pass-through entity elects to file a single return and if any investor is required to file the return and make the payment of taxes required by this chapter on account of the investor's other income that is not included in a single return filed by a pass-through entity, the investor is entitled to a refundable credit equal to the investor's proportionate share of the tax paid by the pass-through entity on behalf of the investor. The investor shall claim the credit for the investor's taxable year in which or with which ends the taxable year of the pass-through entity. Nothing in this chapter shall be construed to allow any credit provided in this chapter to be claimed more than once. For the purposes of computing any interest, penalty, or interest penalty, the investor shall be deemed to have paid the refundable credit provided by this division on the day that the pass-through entity paid the estimated tax or the tax giving rise to the credit.

Sec. 5747.113. (A) Any taxpayer claiming a refund under section 5747.11 of the Revised Code for taxable years ending on or after October 14, 1983, who wishes to contribute any part of ~~his~~ the taxpayer's refund to the natural areas and preserves fund created in section 1517.11 of the Revised Code, the nongame and endangered wildlife fund created in section 1531.26 of the Revised Code, the military injury relief fund created in section 5101.98 of the Revised Code, or ~~both~~ all of those funds, may designate on ~~his~~ the taxpayer's income tax return the amount that ~~he~~ the taxpayer wishes to contribute to the fund or funds. A designated contribution is irrevocable upon the filing of the return and shall be made in



the full amount designated if the refund found due the taxpayer upon the initial processing of ~~his~~ the taxpayer's return, after any deductions including those required by section 5747.12 of the Revised Code, is greater than or equal to the designated contribution. If the refund due as initially determined is less than the designated contribution, the contribution shall be made in the full amount of the refund. The tax commissioner shall subtract the amount of the contribution from the amount of the refund initially found due the taxpayer and shall certify the difference to the director of budget and management and treasurer of state for payment to the taxpayer in accordance with section 5747.11 of the Revised Code. For the purpose of any subsequent determination of the taxpayer's net tax payment, the contribution shall be considered a part of the refund paid to the taxpayer.

(B) The tax commissioner shall provide a space on the income tax return form in which a taxpayer may indicate that ~~he~~ the taxpayer wishes to make a donation in accordance with this section. The tax commissioner shall also print in the instructions accompanying the income tax return form a description of the purposes for which the natural areas and preserves fund ~~and~~, the nongame and endangered wildlife fund, and the military injury relief fund were created and the use of moneys from the income tax refund contribution system established in this section. No person shall designate on ~~his~~ the person's income tax return any part of a refund claimed under section 5747.11 of the Revised Code as a contribution to any fund other than the natural areas and preserves fund, the nongame and endangered wildlife fund, the military injury relief fund or ~~both~~ all of those funds.

(C) The money collected under the income tax refund contribution system established in this section shall be deposited by the tax commissioner into the natural areas and preserves fund ~~and~~, the nongame and endangered wildlife fund, and the military injury relief fund in the amounts designated on the tax returns.

(D) No later than the thirtieth day of September each year, the tax commissioner shall determine the total amount contributed to each fund under this section during the preceding eight months, any adjustments to prior months, and the cost to the department of taxation of administering the income tax refund contribution system during that eight-month period. The commissioner shall make an additional determination no later than the thirty-first day of January of each year of the total amount contributed to each fund under this section during the preceding four calendar months, any adjustments to prior years made during that four-month period, and the cost to the department of taxation of administering the income tax contribution system during that period. The cost of administering the income tax

contribution system shall be certified by the tax commissioner to the director of budget and management, who shall transfer an amount equal to ~~one-half~~ one-third of such administrative costs from the natural areas and preserves fund ~~and one-half~~, one-third of such costs from the nongame and endangered wildlife fund, ~~and one-third of such costs from the military injury relief fund~~ to the litter control and natural resource tax administration fund, which is hereby created, provided that the moneys that the department receives to pay the cost of administering the income tax refund contribution system in any year shall not exceed two and one-half per cent of the total amount contributed under that system during that year.

(E)(1) The director of natural resources, in January of every odd-numbered year, shall report to the general assembly on the effectiveness of the income tax refund contribution system as it pertains to the natural areas and preserves fund and the nongame and endangered wildlife fund. The report shall include the amount of money contributed to the natural areas and preserves fund and the nongame and endangered wildlife fund each fund in each of the previous five years, the amount of money contributed directly to each fund in addition to or independently of the income tax refund contribution system in each of the previous five years, and the purposes for which the money was expended.

(2) The director of job and family services, in January of every odd-numbered year, shall report to the general assembly on the effectiveness of the income tax refund contribution system as it pertains to the military injury relief fund. The report shall include the amount of money contributed to the fund in each of the previous five years, the amount of money contributed directly to the fund in addition to or independently of the income tax refund contribution system in each of the previous five years, and the purposes for which the money was expended.

Sec. 5747.212. (A) This section applies solely for the purpose of computing the credit allowed under division (A) of section 5747.05 of the Revised Code, computing income taxable in this state under division (D) of section 5747.08 of the Revised Code, and computing the credit allowed under section 5747.057 of the Revised Code.

(B) A pass-through entity investor that owns taxpayer, directly or indirectly, owning at any time during the three-year period ending on the last day of the taxpayer's taxable year at least twenty per cent of the pass-through equity voting rights of a section 5747.212 entity at any time during the current taxable year or either of the two preceding taxable years shall apportion any income, including gain or loss, realized from the each sale, exchange, or other disposition of a debt or equity interest in the that

entity as prescribed in this section. For such purposes, in lieu of using the method prescribed by sections 5747.20 and 5747.21 of the Revised Code, the investor shall apportion the income using the average of the ~~pass-through~~ section 5747.212 entity's apportionment fractions otherwise applicable under section 5733.05, 5733.056, or 5747.21 of the Revised Code for the current and two preceding taxable years. If the ~~pass-through~~ section 5747.212 entity was not in business for one or more of those years, each year that the entity was not in business shall be excluded in determining the average.

(C) For the purposes of this section:

(1) A "section 5747.212 entity" is any qualifying person if, on at least one day of the three-year period ending on the last day of the taxpayer's taxable year, any of the following apply:

(a) The qualifying person is a pass-through entity;

(b) Five or fewer persons directly or indirectly own all the equity interests, with voting rights, of the qualifying person;

(c) One person directly or indirectly owns at least fifty per cent of the qualifying person's equity interests with voting rights.

(2) A "qualifying person" is any person other than an individual, estate, or trust.

(3) "Estate" and "trust" do not include any person classified for federal income tax purposes as an association taxable as a corporation.

Sec. 5747.331. (A) As used in this section:

(1) "Borrower" means any person that receives a loan from the director of development under section 166.21 of the Revised Code, regardless of whether the borrower is subject to the tax imposed by section 5747.02 of the Revised Code.

(2) "Related member" has the same meaning as in section 5733.042 of the Revised Code.

(3) "Qualified research and development loan payments" has the same meaning as in division (D) of section 166.21 of the Revised Code.

(B) Beginning ~~in~~ with taxable year 2003 and ending with taxable years beginning in 2007, a nonrefundable credit is allowed against the tax imposed by section 5747.02 of the Revised Code equal to a borrower's qualified research and development loan payments made during the calendar year that includes the last day of the taxable year for which the credit is claimed. The amount of the credit for a taxable year shall not exceed one hundred fifty thousand dollars. No taxpayer is entitled to claim a credit under this section unless it has obtained a certificate issued by the director of development under division (D) of section 166.21 of the Revised Code. The

credit shall be claimed in the order required under section 5747.98 of the Revised Code. The credit, to the extent it exceeds the taxpayer's tax liability for the taxable year after allowance for any other credits that precede the credit under this section in that order, shall be carried forward to the next succeeding taxable year or years until fully used. Any credit not fully utilized by the taxable year beginning in 2007 may be carried forward and applied against the tax levied by Chapter 5751. of the Revised Code to the extent allowed by section 5751.52 of the Revised Code.

(C) A borrower entitled to a credit under this section may assign the credit, or a portion thereof, to any of the following:

- (1) A related member of that borrower;
- (2) The owner or lessee of the eligible research and development project;
- (3) A related member of the owner or lessee of the eligible research and development project.

A borrower making an assignment under this division shall provide written notice of the assignment to the tax commissioner and the director of development, in such form as the tax commissioner prescribes, before the credit that was assigned is used. The assignor may not claim the credit to the extent it was assigned to an assignee. The assignee may claim the credit only to the extent the assignor has not claimed it.

(D) If any taxpayer is a shareholder in an S corporation, a partner in a partnership, or a member in a limited liability company treated as a partnership for federal income tax purposes, the taxpayer shall be allowed the taxpayer's distributive or proportionate share of the credit available through the S corporation, partnership, or limited liability company.

(E) The aggregate credit against the taxes imposed by sections 5733.06, 5733.065, 5733.066, and 5747.02 of the Revised Code that may be claimed under this section and section 5733.352 of the Revised Code by a borrower as a result of qualified research and development loan payments attributable during a calendar year to any one loan shall not exceed one hundred fifty thousand dollars.

Sec. 5747.70. (A) In computing Ohio adjusted gross income, a deduction from federal adjusted gross income is allowed to a contributor for the amount contributed during the taxable year to a variable college savings program account and to a purchaser of tuition ~~credits~~ units under the Ohio college savings program created by Chapter 3334. of the Revised Code to the extent that the amounts of such contributions and purchases were not deducted in determining the contributor's or purchaser's federal adjusted gross income for the taxable year. The combined amount of contributions

and purchases deducted in any taxable year by a taxpayer or the taxpayer and the taxpayer's spouse, regardless of whether the taxpayer and the taxpayer's spouse file separate returns or a joint return, is limited to two thousand dollars for each beneficiary for whom contributions or purchases are made. If the combined annual contributions and purchases for a beneficiary exceed two thousand dollars, the excess may be carried forward and deducted in future taxable years until the contributions and purchases have been fully deducted.

(B) In computing Ohio adjusted gross income, a deduction from federal adjusted gross income is allowed for:

(1) Income related to tuition ~~credits~~ units and contributions that as of the end of the taxable year have not been refunded pursuant to the termination of a tuition payment contract or variable college savings program account under section 3334.10 of the Revised Code, to the extent that such income is included in federal adjusted gross income.

(2) The excess of the total purchase price of tuition ~~credits~~ units refunded during the taxable year pursuant to the termination of a tuition payment contract under section 3334.10 of the Revised Code over the amount of the refund, to the extent the amount of the excess was not deducted in determining federal adjusted gross income. Division (B)(2) of this section applies only to ~~credits~~ units for which no deduction was allowable under division (A) of this section.

(C) In computing Ohio adjusted gross income, there shall be added to federal adjusted gross income the amount of loss related to tuition ~~credits~~ units and contributions that as of the end of the taxable year have not been refunded pursuant to the termination of a tuition payment contract or variable college savings program account under section 3334.10 of the Revised Code, to the extent that such loss was deducted in determining federal adjusted gross income.

(D) For taxable years in which distributions or refunds are made under a tuition payment or variable college savings program contract for any reason other than payment of tuition or other higher education expenses, or the beneficiary's death, disability, or receipt of a scholarship as described in section 3334.10 of the Revised Code:

(1) If the distribution or refund is paid to the purchaser or contributor or beneficiary, any portion of the distribution or refund not included in the recipient's federal adjusted gross income shall be added to the recipient's federal adjusted gross income in determining the recipient's Ohio adjusted gross income, except that the amount added shall not exceed amounts previously deducted under division (A) of this section less any amounts

added under division (D)(1) of this section in a prior taxable year.

(2) If amounts paid by a purchaser or contributor on or after January 1, 2000, are distributed or refunded to someone other than the purchaser or contributor or beneficiary, the amount of the payment not included in the recipient's federal adjusted gross income, less any amounts added under division (D) of this section in a prior taxable year, shall be added to the recipient's federal adjusted gross income in determining the recipient's Ohio adjusted gross income.

Sec. 5747.80. (A) Upon the issuance of a tax credit certificate by the Ohio venture capital authority under section 150.07 of the Revised Code, a credit may be claimed against the tax imposed by section 5747.02 of the Revised Code. The credit shall be claimed for the taxable year specified in the certificate issued by the authority and in the order required under section 5747.98 of the Revised Code.

(B) If the taxpayer elected a refundable credit under section 150.07 of the Revised Code and the amount of the credit shown on the certificate does not exceed the tax otherwise due under section 5747.02 of the Revised Code after all nonrefundable credits are deducted, then the taxpayer shall claim a refundable credit equal to the amount of the credit shown on the certificate.

(C) If the taxpayer elected a refundable credit under section 150.07 of the Revised Code, and the amount of the credit shown on the certificate exceeds the tax otherwise due under section 5747.02 of the Revised Code after all nonrefundable credits, ~~including the credit allowed under this section,~~ are deducted ~~in that order,~~ the taxpayer shall ~~receive a refund equal to seventy-five per cent of that excess. If the taxpayer elected a nonrefundable credit, the amount of the credit, claimed in that order, shall not exceed the tax otherwise due after all the taxpayer's credits are deducted in that order.~~ claim a refundable credit equal to the sum of the following:

(1) The amount, if any, of the tax otherwise due under section 5747.02 of the Revised Code after all nonrefundable credits are deducted;

(2) Seventy-five per cent of the difference between the amount of the refundable credit shown on the certificate and the tax otherwise due under section 5747.02 of the Revised Code after all nonrefundable credits are deducted.

(D) If the taxpayer elected a nonrefundable credit and the credit to which the taxpayer would otherwise be entitled under this section for any taxable year is greater than the tax otherwise due under section 5747.02 of the Revised Code, after allowing for any other credits that, under section 5747.98 of the Revised Code, precede the credit allowed under this section, the excess shall be allowed as a nonrefundable credit in each of the ensuing

ten taxable years, but the amount of any excess credit allowed in the ensuing taxable year shall be deducted from the balance carried forward to the next taxable year.

Sec. 5747.98. (A) To provide a uniform procedure for calculating the amount of tax due under section 5747.02 of the Revised Code, a taxpayer shall claim any credits to which the taxpayer is entitled in the following order:

(1) The retirement income credit under division (B) of section 5747.055 of the Revised Code;

(2) The senior citizen credit under division (C) of section 5747.05 of the Revised Code;

(3) The lump sum distribution credit under division (D) of section 5747.05 of the Revised Code;

(4) The dependent care credit under section 5747.054 of the Revised Code;

(5) The lump sum retirement income credit under division (C) of section 5747.055 of the Revised Code;

(6) The lump sum retirement income credit under division (D) of section 5747.055 of the Revised Code;

(7) The lump sum retirement income credit under division (E) of section 5747.055 of the Revised Code;

(8) The low-income credit under section 5747.056 of the Revised Code;

(9) The credit for displaced workers who pay for job training under section 5747.27 of the Revised Code;

~~(9)~~(10) The campaign contribution credit under section 5747.29 of the Revised Code;

~~(10)~~(11) The twenty-dollar personal exemption credit under section 5747.022 of the Revised Code;

~~(11)~~(12) The joint filing credit under division (G) of section 5747.05 of the Revised Code;

~~(12)~~(13) The nonresident credit under division (A) of section 5747.05 of the Revised Code;

~~(13)~~(14) The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;

~~(14)~~(15) The credit for employers that enter into agreements with child day-care centers under section 5747.34 of the Revised Code;

~~(15)~~(16) The credit for employers that reimburse employee child care expenses under section 5747.36 of the Revised Code;

~~(16)~~(17) The credit for adoption of a minor child under section 5747.37 of the Revised Code;

~~(17)~~(18) The credit for purchases of lights and reflectors under section 5747.38 of the Revised Code;

~~(18)~~(19) The job retention credit under division (B) of section 5747.058 of the Revised Code;

~~(19)~~(20) The credit for losses on loans made under the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code if the taxpayer elected a nonrefundable credit under section 150.07 of the Revised Code;

~~(20)~~(21) The credit for purchases of new manufacturing machinery and equipment under section 5747.26 or section 5747.261 of the Revised Code;

~~(21)~~(22) The second credit for purchases of new manufacturing machinery and equipment and the credit for using Ohio coal under section 5747.31 of the Revised Code;

~~(22)~~(23) The job training credit under section 5747.39 of the Revised Code;

~~(23)~~(24) The enterprise zone credit under section 5709.66 of the Revised Code;

~~(24)~~(25) The credit for the eligible costs associated with a voluntary action under section 5747.32 of the Revised Code;

~~(25)~~(26) The credit for employers that establish on-site child day-care centers under section 5747.35 of the Revised Code;

~~(26)~~(27) The ethanol plant investment credit under section 5747.75 of the Revised Code;

~~(27)~~(28) The credit for purchases of qualifying grape production property under section 5747.28 of the Revised Code;

~~(28)~~(29) The export sales credit under section 5747.057 of the Revised Code;

~~(29)~~(30) The credit for research and development and technology transfer investors under section 5747.33 of the Revised Code;

~~(30)~~(31) The enterprise zone credits under section 5709.65 of the Revised Code;

~~(31)~~(32) The research and development credit under section 5747.331 of the Revised Code;

~~(32)~~(33) The refundable jobs creation credit under division (A) of section 5747.058 of the Revised Code;

~~(33)~~(34) The refundable credit for taxes paid by a qualifying entity granted under section 5747.059 of the Revised Code;

~~(34)~~(35) The refundable credits for taxes paid by a qualifying pass-through entity granted under division (J) of section 5747.08 of the Revised Code;



~~(35)~~(36) The refundable credit for tax withheld under division (B)(1) of section 5747.062 of the Revised Code;

~~(36)~~(37) The credit for losses on loans made to the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code if the taxpayer elected a refundable credit under section 150.07 of the Revised Code.

(B) For any credit, except the credits enumerated in divisions (A)~~(32)~~(33) to ~~(36)~~(37) of this section and the credit granted under division (I) of section 5747.08 of the Revised Code, the amount of the credit for a taxable year shall not exceed the tax due after allowing for any other credit that precedes it in the order required under this section. Any excess amount of a particular credit may be carried forward if authorized under the section creating that credit. Nothing in this chapter shall be construed to allow a taxpayer to claim, directly or indirectly, a credit more than once for a taxable year.

Sec. 5748.01. As used in this chapter:

(A) "School district income tax" means an income tax adopted under one of the following:

(1) Former section 5748.03 of the Revised Code as it existed prior to its repeal by Amended Substitute House Bill No. 291 of the 115th general assembly;

(2) Section 5748.03 of the Revised Code as enacted in Substitute Senate Bill No. 28 of the 118th general assembly;

(3) Section 5748.08 of the Revised Code as enacted in Amended Substitute Senate Bill No. 17 of the 122nd general assembly.

(B) "Individual" means an individual subject to the tax levied by section 5747.02 of the Revised Code.

(C) "Estate" means an estate subject to the tax levied by section 5747.02 of the Revised Code.

(D) "Taxable year" means a taxable year as defined in division (M) of section 5747.01 of the Revised Code.

(E) "Taxable income" means:

(1) In the case of an individual, ~~adjusted~~ one of the following, as specified in the resolution imposing the tax:

(a) Ohio adjusted gross income for the taxable year as defined in division (A) of section 5747.01 of the Revised Code, less the exemptions provided by section 5747.02 of the Revised Code;

(b) Wages, salaries, tips, and other employee compensation to the extent included in Ohio adjusted gross income as defined in section 5747.01 of the Revised Code, and net earnings from self-employment, as defined in section

1402(a) of the Internal Revenue Code, to the extent included in Ohio adjusted gross income.

(2) In the case of an estate, taxable income for the taxable year as defined in division (S) of section 5747.01 of the Revised Code.

(F) Except as provided in section 5747.25 of the Revised Code, "resident" of the school district means:

(1) An individual who is a resident of this state as defined in division (I) of section 5747.01 of the Revised Code during all or a portion of the taxable year and who, during all or a portion of such period of state residency, is domiciled in the school district or lives in and maintains a permanent place of abode in the school district;

(2) An estate of a decedent who, at the time of death, was domiciled in the school district.

(G) "School district income" means:

(1) With respect to an individual, the portion of the taxable income of an individual that is received by the individual during the portion of the taxable year that the individual is a resident of the school district and the school district income tax is in effect in that school district. An individual may have school district income with respect to more than one school district.

(2) With respect to an estate, the taxable income of the estate for the portion of the taxable year that the school district income tax is in effect in that school district.

(H) "Taxpayer" means an individual or estate having school district income upon which a school district income tax is imposed.

(I) "School district purposes" means any of the purposes for which a tax may be levied pursuant to section 5705.21 of the Revised Code.

Sec. 5748.02. (A) The board of education of any school district, except a joint vocational school district, may declare, by resolution, the necessity of raising annually a specified amount of money for school district purposes. The resolution shall specify whether the income that is to be subject to the tax is taxable income of individuals and estates as defined in divisions (E)(1)(a) and (2) of section 5748.01 of the Revised Code or taxable income of individuals as defined in division (E)(1)(b) of that section. A copy of the resolution shall be certified to the tax commissioner no later than eighty-five days prior to the date of the election at which the board intends to propose a levy under this section. Upon receipt of the copy of the resolution, the tax commissioner shall estimate both of the following:

(1) The property tax rate that would have to be imposed in the current year by the district to produce an equivalent amount of money;

(2) The income tax rate that would have had to have been in effect for

the current year to produce an equivalent amount of money from a school district income tax.

Within ten days of receiving the copy of the board's resolution, the commissioner shall prepare these estimates and certify them to the board. Upon receipt of the certification, the board may adopt a resolution proposing an income tax under division (B) of this section at the estimated rate contained in the certification rounded to the nearest one-fourth of one per cent. The commissioner's certification applies only to the board's proposal to levy an income tax at the election for which the board requested the certification. If the board intends to submit a proposal to levy an income tax at any other election, it shall request another certification for that election in the manner prescribed in this division.

(B)(1) Upon the receipt of a certification from the tax commissioner under division (A) of this section, a majority of the members of a board of education may adopt a resolution proposing the levy of an annual tax for school district purposes on ~~the school district income of individuals and of estates~~. The proposed levy may be for a continuing period of time or for a specified number of years. The resolution shall set forth the purpose for which the tax is to be imposed, the rate of the tax, which shall be the rate set forth in the commissioner's certification rounded to the nearest one-fourth of one per cent, the number of years the tax will be levied or that it will be levied for a continuing period of time, the date on which the tax shall take effect, which shall be the first day of January of any year following the year in which the question is submitted, and the date of the election at which the proposal shall be submitted to the electors of the district, which shall be on the date of a primary, general, or special election the date of which is consistent with section 3501.01 of the Revised Code. The resolution shall specify whether the income that is to be subject to the tax is taxable income of individuals and estates as defined in divisions (E)(1)(a) and (2) of section 5748.01 of the Revised Code or taxable income of individuals as defined in division (E)(1)(b) of that section. The specification shall be the same as the specification in the resolution adopted and certified under division (A) of this section. If the board of education currently imposes an income tax pursuant to this chapter that is due to expire and a question is submitted under this section for a proposed income tax to take effect upon the expiration of the existing tax, the board may specify in the resolution that the proposed tax renews the expiring tax and is not an additional income tax, provided that the tax rate being proposed is no higher than the tax rate that is currently imposed.

(2) A board of education adopting a resolution under division (B)(1) of

this section proposing a school district income tax for a continuing period of time and limited to the purpose of current expenses may propose in that resolution to reduce the rate or rates of one or more of the school district's property taxes levied for a continuing period of time in excess of the ten-mill limitation for the purpose of current expenses. The reduction in the rate of a property tax may be any amount, expressed in mills per one dollar in valuation, not exceeding the rate at which the tax is authorized to be levied. The reduction in the rate of a tax shall first take effect for the tax year that includes the day on which the school district income tax first takes effect, and shall continue for each tax year that both the school district income tax and the property tax levy are in effect.

In addition to the matters required to be set forth in the resolution under division (B)(1) of this section, a resolution containing a proposal to reduce the rate of one or more property taxes shall state for each such tax the maximum rate at which it currently may be levied and the maximum rate at which the tax could be levied after the proposed reduction, expressed in mills per one dollar in valuation, and that the tax is levied for a continuing period of time.

If a board of education proposes to reduce the rate of one or more property taxes under division (B)(2) of this section, the board, when it makes the certification required under division (A) of this section, shall designate the specific levy or levies to be reduced, the maximum rate at which each levy currently is authorized to be levied, and the rate by which each levy is proposed to be reduced. The tax commissioner, when making the certification to the board under division (A) of this section, also shall certify the reduction in the total effective tax rate for current expenses for each class of property that would have resulted if the proposed reduction in the rate or rates had been in effect the previous tax year. As used in this paragraph, "effective tax rate" has the same meaning as in section 323.08 of the Revised Code.

(C) A resolution adopted under division (B) of this section shall go into immediate effect upon its passage, and no publication of the resolution shall be necessary other than that provided for in the notice of election. Immediately after its adoption and at least seventy-five days prior to the election at which the question will appear on the ballot, a copy of the resolution shall be certified to the board of elections of the proper county, which shall submit the proposal to the electors on the date specified in the resolution. The form of the ballot shall be as provided in section 5748.03 of the Revised Code. Publication of notice of the election shall be made in one or more newspapers of general circulation in the county once a week for

four consecutive weeks. The notice shall contain the time and place of the election and the question to be submitted to the electors. The question covered by the resolution shall be submitted as a separate proposition, but may be printed on the same ballot with any other proposition submitted at the same election, other than the election of officers.

(D) No board of education shall submit the question of a tax on school district income to the electors of the district more than twice in any calendar year. If a board submits the question twice in any calendar year, one of the elections on the question shall be held on the date of the general election.

Sec. 5748.03. (A) The form of the ballot on a question submitted to the electors under section 5748.02 of the Revised Code shall be as follows:

"Shall an annual income tax of ..... (state the proposed rate of tax) on the school district income of individuals and of estates be imposed by ..... (state the name of the school district), for ..... (state the number of years the tax would be levied, or that it would be levied for a continuing period of time), beginning ..... (state the date the tax would first take effect), for the purpose of ..... (state the purpose of the tax)?

	FOR THE TAX	
	AGAINST THE TAX	"

(B)(1) If the question submitted to electors proposes a school district income tax only on the taxable income of individuals as defined in division (E)(1)(b) of section 5748.01 of the Revised Code, the form of the ballot shall be modified by stating that the tax is to be levied on the "earned income of individuals residing in the school district" in lieu of the "school district income of individuals and of estates."

(2) If the question submitted to electors proposes to renew an expiring income tax, the ballot shall be modified by adding the following language immediately after the name of the school district that would impose the tax: "to renew an income tax expiring at the end of ..... (state the last year the existing income tax may be levied)."

(3) If the question includes a proposal under division (B)(2) of section 5748.02 of the Revised Code to reduce the rate of one or more school district property taxes, the ballot shall state that the purpose of the school district income tax is for current expenses, and the form of the ballot shall be modified by adding the following language immediately after the statement of the purpose of the proposed income tax: ", and shall the rate of an existing tax on property, currently levied for the purpose of current expenses at the rate of ..... mills, be REDUCED to ..... mills until any such time as

the income tax is repealed." In lieu of "for the tax" and "against the tax," the phrases "for the issue" and "against the issue," respectively, shall be used. If a board of education proposes a reduction in the rates of more than one tax, the ballot language shall be modified accordingly to express the rates at which those taxes currently are levied and the rates to which the taxes will be reduced.

(C) The board of elections shall certify the results of the election to the board of education and to the tax commissioner. If a majority of the electors voting on the question vote in favor of it, the income tax, the applicable provisions of Chapter 5747. of the Revised Code, and the reduction in the rate or rates of existing property taxes if the question included such a reduction shall take effect on the date specified in the resolution. If the question approved by the voters includes a reduction in the rate of a school district property tax, the board of education shall not levy the tax at a rate greater than the rate to which the tax is reduced, unless the school district income tax is repealed in an election under section 5748.04 of the Revised Code.

(D) If the rate at which a property tax is levied and collected is reduced pursuant to a question approved under this section, the tax commissioner shall compute the percentage required to be computed for that tax under division (D) of section 319.301 of the Revised Code each year the rate is reduced as if the tax had been levied in the preceding year at the rate at which it has been reduced. If the rate of a property tax increases due to the repeal of the school district income tax pursuant to section 5748.04 of the Revised Code, the tax commissioner, for the first year for which the rate increases, shall compute the percentage as if the tax in the preceding year had been levied at the rate at which the tax was authorized to be levied prior to any rate reduction.

Sec. 5748.04. (A) The question of the repeal of a school district income tax levied for more than five years may be initiated not more than once in any five-year period by filing with the board of elections of the appropriate counties not later than seventy-five days before the general election in any year after the year in which it is approved by the electors a petition requesting that an election be held on the question. The petition shall be signed by qualified electors residing in the school district levying the income tax equal in number to ten per cent of those voting for governor at the most recent gubernatorial election.

The board of elections shall determine whether the petition is valid, and if it so determines, it shall submit the question to the electors of the district at the next general election. The election shall be conducted, canvassed, and

certified in the same manner as regular elections for county offices in the county. Notice of the election shall be published in a newspaper of general circulation in the district once a week for four consecutive weeks prior to the election, stating the purpose, the time, and the place of the election. The form of the ballot cast at the election shall be as follows:

"Shall the annual income tax of ..... per cent, currently levied on the school district income of individuals and estates by ..... (state the name of the school district) for the purpose of ..... (state purpose of the tax), be repealed?"

	For repeal of the income tax	"
	Against repeal of the income tax	

(B)(1) If the tax is imposed on taxable income as defined in division (E)(1)(b) of section 5748.01 of the Revised Code, the form of the ballot shall be modified by stating that the tax currently is levied on the "earned income of individuals residing in the school district" in lieu of the "school district income of individuals and estates."

(2) If the rate of one or more property tax levies was reduced for the duration of the income tax levy pursuant to division (B)(2) of section 5748.02 of the Revised Code, the form of the ballot shall be modified by adding the following language immediately after "repealed": ", and shall the rate of an existing tax on property for the purpose of current expenses, which rate was reduced for the duration of the income tax, be INCREASED from ..... mills to ..... mills per one dollar of valuation beginning in ..... (state the first year for which the rate of the property tax will increase)." In lieu of "for repeal of the income tax" and "against repeal of the income tax," the phrases "for the issue" and "against the issue," respectively, shall be substituted.

(3) If the rate of more than one property tax was reduced for the duration of the income tax, the ballot language shall be modified accordingly to express the rates at which those taxes currently are levied and the rates to which the taxes would be increased.

(C) The question covered by the petition shall be submitted as a separate proposition, but it may be printed on the same ballot with any other proposition submitted at the same election other than the election of officers. If a majority of the qualified electors voting on the question vote in favor of it, the result shall be certified immediately after the canvass by the board of elections to the board of education of the school district and the tax commissioner, who shall thereupon, after the current year, cease to levy the

tax, except that if notes have been issued pursuant to section 5748.05 of the Revised Code the tax commissioner shall continue to levy and collect under authority of the election authorizing the levy an annual amount, rounded upward to the nearest one-fourth of one per cent, as will be sufficient to pay the debt charges on the notes as they fall due.

(D) If a school district income tax repealed pursuant to this section was approved in conjunction with a reduction in the rate of one or more school district property taxes as provided in division (B)(2) of section 5748.02 of the Revised Code, then each such property tax may be levied after the current year at the rate at which it could be levied prior to the reduction, subject to any adjustments required by the county budget commission pursuant to Chapter 5705. of the Revised Code. Upon the repeal of a school district income tax under this section, the board of education may resume levying a property tax, the rate of which has been reduced pursuant to a question approved under section 5748.02 of the Revised Code, at the rate the board originally was authorized to levy the tax. A reduction in the rate of a property tax under section 5748.02 of the Revised Code is a reduction in the rate at which a board of education may levy that tax only for the period during which a school district income tax is levied prior to any repeal pursuant to this section. The resumption of the authority to levy the tax upon such a repeal does not constitute a tax levied in excess of the one per cent limitation prescribed by Section 2 of Article XII, Ohio Constitution, or in excess of the ten-mill limitation.

(E) This section does not apply to school district income tax levies that are levied for five or fewer years.

Sec. 5748.08. (A) The board of education of a city, local, or exempted village school district, at any time by a vote of two-thirds of all its members, may declare by resolution that it may be necessary for the school district to do all of the following:

(1) Raise a specified amount of money for school district purposes by levying an annual tax on ~~the school district income of individuals and estates;~~

(2) Issue general obligation bonds for permanent improvements, stating in the resolution the necessity and purpose of the bond issue and the amount, approximate date, estimated rate of interest, and maximum number of years over which the principal of the bonds may be paid;

(3) Levy a tax outside the ten-mill limitation to pay debt charges on the bonds and any anticipatory securities;

(4) Submit the question of the school district income tax and bond issue to the electors of the district at a special election.



The resolution shall specify whether the income that is to be subject to the tax is taxable income of individuals and estates as defined in divisions (E)(1)(a) and (2) of section 5748.01 of the Revised Code or taxable income of individuals as defined in division (E)(1)(b) of that section.

On adoption of the resolution, the board shall certify a copy of it to the tax commissioner and the county auditor no later than ninety days prior to the date of the special election at which the board intends to propose the income tax and bond issue. Not later than ten days of receipt of the resolution, the tax commissioner, in the same manner as required by division (A) of section 5748.02 of the Revised Code, shall estimate the rates designated in division (A)(1) and (2) of that section and certify them to the board. Not later than ten days of receipt of the resolution, the county auditor shall estimate and certify to the board the average annual property tax rate required throughout the stated maturity of the bonds to pay debt charges on the bonds, in the same manner as under division (C) of section 133.18 of the Revised Code.

(B) On receipt of the tax commissioner's and county auditor's certifications prepared under division (A) of this section, the board of education of the city, local, or exempted village school district, by a vote of two-thirds of all its members, may adopt a resolution proposing for a specified number of years or for a continuing period of time the levy of an annual tax for school district purposes on ~~the school district income of~~ ~~individuals and of estates~~ and declaring that the amount of taxes that can be raised within the ten-mill limitation will be insufficient to provide an adequate amount for the present and future requirements of the school district; that it is necessary to issue general obligation bonds of the school district for specified permanent improvements and to levy an additional tax in excess of the ten-mill limitation to pay the debt charges on the bonds and any anticipatory securities; and that the question of the bonds and taxes shall be submitted to the electors of the school district at a special election, which shall not be earlier than seventy-five days after certification of the resolution to the board of elections, and the date of which shall be consistent with section 3501.01 of the Revised Code. The resolution shall specify all of the following:

(1) The purpose for which the school district income tax is to be imposed and the rate of the tax, which shall be the rate set forth in the tax commissioner's certification rounded to the nearest one-fourth of one per cent;

(2) Whether the income that is to be subject to the tax is taxable income of individuals and estates as defined in divisions (E)(1)(a) and (2) of section

5748.01 of the Revised Code or taxable income of individuals as defined in division (E)(1)(b) of that section. The specification shall be the same as the specification in the resolution adopted and certified under division (A) of this section.

(3) The number of years the tax will be levied, or that it will be levied for a continuing period of time;

~~(3)~~(4) The date on which the tax shall take effect, which shall be the first day of January of any year following the year in which the question is submitted;

~~(4)~~(5) The county auditor's estimate of the average annual property tax rate required throughout the stated maturity of the bonds to pay debt charges on the bonds.

(C) A resolution adopted under division (B) of this section shall go into immediate effect upon its passage, and no publication of the resolution shall be necessary other than that provided for in the notice of election. Immediately after its adoption and at least seventy-five days prior to the election at which the question will appear on the ballot, the board of education shall certify a copy of the resolution, along with copies of the auditor's estimate and its resolution under division (A) of this section, to the board of elections of the proper county. The board of education shall make the arrangements for the submission of the question to the electors of the school district, and the election shall be conducted, canvassed, and certified in the same manner as regular elections in the district for the election of county officers.

The resolution shall be put before the electors as one ballot question, with a majority vote indicating approval of the school district income tax, the bond issue, and the levy to pay debt charges on the bonds and any anticipatory securities. The board of elections shall publish the notice of the election in one or more newspapers of general circulation in the school district once a week for four consecutive weeks. The notice of election shall state all of the following:

- (1) The questions to be submitted to the electors;
- (2) The rate of the school district income tax;
- (3) The principal amount of the proposed bond issue;
- (4) The permanent improvements for which the bonds are to be issued;
- (5) The maximum number of years over which the principal of the bonds may be paid;
- (6) The estimated additional average annual property tax rate to pay the debt charges on the bonds, as certified by the county auditor;
- (7) The time and place of the special election.

(D) The form of the ballot on a question submitted to the electors under this section shall be as follows:

"Shall the ..... school district be authorized to do both of the following:

(1) Impose an annual income tax of ..... (state the proposed rate of tax) on the school district income of individuals and of estates, for ..... (state the number of years the tax would be levied, or that it would be levied for a continuing period of time), beginning ..... (state the date the tax would first take effect), for the purpose of ..... (state the purpose of the tax)?

(2) Issue bonds for the purpose of ..... in the principal amount of \$....., to be repaid annually over a maximum period of ..... years, and levy a property tax outside the ten-mill limitation estimated by the county auditor to average over the bond repayment period ..... mills for each one dollar of tax valuation, which amounts to ..... (rate expressed in cents or dollars and cents, such as "36 cents" or "\$1.41") for each \$100 of tax valuation, to pay the annual debt charges on the bonds, and to pay debt charges on any notes issued in anticipation of those bonds?

	FOR THE INCOME TAX AND BOND ISSUE	
	AGAINST THE INCOME TAX AND BOND ISSUE	"

(E) If the question submitted to electors proposes a school district income tax only on the taxable income of individuals as defined in division (E)(1)(b) of section 5748.01 of the Revised Code, the form of the ballot shall be modified by stating that the tax is to be levied on the "earned income of individuals residing in the school district" in lieu of the "school district income of individuals and of estates."

~~(E)~~(F) The board of elections promptly shall certify the results of the election to the tax commissioner and the county auditor of the county in which the school district is located. If a majority of the electors voting on the question vote in favor of it, the income tax and the applicable provisions of Chapter 5747. of the Revised Code shall take effect on the date specified in the resolution, and the board of education may proceed with issuance of the bonds and with the levy and collection of the property taxes to pay debt charges on the bonds, at the additional rate or any lesser rate in excess of the ten-mill limitation. Any securities issued by the board of education under this section are Chapter 133. securities, as that term is defined in section 133.01 of the Revised Code.

~~(F)~~(G) After approval of a question under this section, the board of

education may anticipate a fraction of the proceeds of the school district income tax in accordance with section 5748.05 of the Revised Code. Any anticipation notes under this division shall be issued as provided in section 133.24 of the Revised Code, shall have principal payments during each year after the year of their issuance over a period not to exceed five years, and may have a principal payment in the year of their issuance.

~~(G)~~(H) The question of repeal of a school district income tax levied for more than five years may be initiated and submitted in accordance with section 5748.04 of the Revised Code.

~~(H)~~(I) No board of education shall submit a question under this section to the electors of the school district more than twice in any calendar year. If a board submits the question twice in any calendar year, one of the elections on the question shall be held on the date of the general election.

Sec. 5749.02. (A) For the purpose of providing revenue to administer the state's coal mining and reclamation regulatory program, to meet the environmental and resource management needs of this state, and to reclaim land affected by mining, an excise tax is hereby levied on the privilege of engaging in the severance of natural resources from the soil or water of this state. The tax shall be imposed upon the severer and shall be:

- (1) Seven cents per ton of coal;
- (2) Four cents per ton of salt;
- (3) Two cents per ton of limestone or dolomite;
- (4) Two cents per ton of sand and gravel;
- (5) Ten cents per barrel of oil;
- (6) Two and one-half cents per thousand cubic feet of natural gas;
- (7) One cent per ton of clay, sandstone or conglomerate, shale, gypsum, or quartzite.

(B) Of the moneys received by the treasurer of state from the tax levied in division (A)(1) of this section, six and three-tenths per cent shall be credited to the geological mapping fund created in section 1505.09 of the Revised Code, fourteen and two-tenths per cent shall be credited to the reclamation forfeiture fund created in section 1513.18 of the Revised Code, fifty-seven and nine-tenths per cent shall be credited to the coal mining administration and reclamation reserve fund created in section 1513.181 of the Revised Code, and the remainder shall be credited to the unreclaimed lands fund created in section 1513.30 of the Revised Code. When, at any time during a fiscal year, the chief of the division of mineral resources management finds that the balance of the coal mining administration and reclamation reserve fund is below two million dollars, the chief shall certify that fact to the director of budget and management. Upon receipt of the

chief's certification, the director shall direct the ~~treasurer of state~~ tax commissioner to instead credit to the coal mining administration and reclamation reserve fund during the remainder of the fiscal year for which the certification is made the fourteen and two-tenths per cent of the moneys collected from the tax levied in division (A)(1) of this section and otherwise required by this division to be credited to the reclamation forfeiture fund.

Fifteen per cent of the moneys received by the treasurer of state from the tax levied in division (A)(2) of this section shall be credited to the geological mapping fund and the remainder shall be credited to the unreclaimed lands fund.

Of the moneys received by the treasurer of state from the tax levied in divisions (A)(3) and (4) of this section, seven and five-tenths per cent shall be credited to the geological mapping fund, forty-two and five-tenths per cent shall be credited to the unreclaimed lands fund, and the remainder shall be credited to the surface mining fund created in section 1514.06 of the Revised Code.

Of the moneys received by the treasurer of state from the tax levied in divisions (A)(5) and (6) of this section, ninety per cent shall be credited to the oil and gas well fund created in section 1509.02 of the Revised Code and ten per cent shall be credited to the geological mapping fund. All of the moneys received by the treasurer of state from the tax levied in division (A)(7) of this section shall be credited to the surface mining fund.

(C) For the purpose of paying the state's expenses for reclaiming mined lands that the operator failed to reclaim under a coal mining and reclamation permit issued under Chapter 1513. of the Revised Code, or under a surface mining permit issued under Chapter 1514. of the Revised Code, for which the operator's bond is not sufficient to pay the state's expense for reclamation, there is hereby levied an excise tax on the privilege of engaging in the severance of coal from the soil or water of this state in addition to the taxes levied by divisions (A)(1) and (D) of this section. The tax shall be imposed at the rate of one cent per ton of coal. Moneys received by the treasurer of state from the tax levied under this division shall be credited to the reclamation forfeiture fund created in section 1513.18 of the Revised Code.

(D) For the purpose of paying the state's expenses for reclaiming coal mined lands that the operator failed to reclaim in accordance with Chapter 1513. of the Revised Code under a coal mining and reclamation permit issued after April 10, 1972, but before September 1, 1981, for which the operator's bond is not sufficient to pay the state's expense for reclamation and paying the expenses for administering the state's coal mining and

reclamation regulatory program, there is hereby levied an excise tax on the privilege of engaging in the severance of coal from the soil or water of this state in addition to the taxes levied by divisions (A)(1) and (C) of this section. The tax shall be imposed at the rate of one cent per ton of coal as prescribed in this division. Moneys received by the treasurer of state from the tax levied by this division shall be credited to the reclamation forfeiture fund created in section 1513.18 of the Revised Code.

When, at the close of any fiscal year, the chief finds that the balance of the reclamation forfeiture fund, plus estimated transfers to it from the coal mining and reclamation reserve fund under section 1513.181 of the Revised Code, plus the estimated revenues from the tax levied by this division for the remainder of the calendar year that includes the close of the fiscal year, are sufficient to complete the reclamation of such lands, the purposes for which the tax under this division is levied shall be deemed accomplished at the end of that calendar year. The chief, within thirty days after the close of the fiscal year, shall certify those findings to the tax commissioner, and the tax shall cease to be imposed after the last day of that calendar year.

(E) On the day fixed for the payment of the severance taxes required to be paid by this section, the taxes with any penalties or interest on them shall become a lien on all property of the taxpayer in this state whether the property is employed by the taxpayer in the prosecution of its business or is in the hands of an assignee, trustee, or receiver for the benefit of creditors or stockholders. The lien shall continue until the taxes and any penalties or interest thereon are paid.

Upon failure of the taxpayer to pay a tax on the day fixed for payment, the tax commissioner may file, for which no filing fee shall be charged, in the office of the county recorder in each county in this state in which the taxpayer owns or has a beneficial interest in real estate, notice of the lien containing a brief description of the real estate. The lien shall not be valid as against any mortgagee, purchaser, or judgment creditor whose rights have attached prior to the time the notice is filed in the county in which the real estate that is the subject of the mortgage, purchase, or judgment lien is located. The notice shall be recorded in a book kept by the recorder called the "severance tax lien record" and indexed under the name of the taxpayer charged with the tax. When the tax has been paid, the tax commissioner shall furnish to the taxpayer an acknowledgement of payment, which the taxpayer may record with the recorder of each county in which notice of the lien has been filed.

Sec. 5751.01. As used in this chapter:

(A) "Person" means, but is not limited to, individuals, combinations of

individuals of any form, receivers, assignees, trustees in bankruptcy, firms, companies, joint-stock companies, business trusts, estates, partnerships, limited liability partnerships, limited liability companies, associations, joint ventures, clubs, societies, for-profit corporations, S corporations, qualified subchapter S subsidiaries, qualified subchapter S trusts, trusts, entities that are disregarded for federal income tax purposes, and any other entities. "Person" does not include nonprofit organizations or the state, its agencies, its instrumentalities, and its political subdivisions.

(B) "Consolidated elected taxpayer" means a group of two or more persons treated as a single taxpayer for purposes of this chapter as the result of an election made under section 5751.011 of the Revised Code.

(C) "Combined taxpayer" means a group of two or more persons treated as a single taxpayer for purposes of this chapter under section 5751.012 of the Revised Code.

(D) "Taxpayer" means any person, or any group of persons in the case of a consolidated elected taxpayer or combined taxpayer treated as one taxpayer, required to register or pay tax under this chapter. "Taxpayer" does not include excluded persons.

(E) "Excluded person" means any of the following:

(1) Any person with not more than one hundred fifty thousand dollars of taxable gross receipts during the calendar year. Division (E)(1) of this section does not apply to a person that is a member of a group that is a consolidated elected taxpayer or a combined taxpayer;

(2) A public utility that paid the excise tax imposed by section 5727.24 or 5727.30 of the Revised Code based on one or more measurement periods that include the entire tax period under this chapter, except that a public utility that is a combined company is a taxpayer with regard to the following gross receipts:

(a) Taxable gross receipts directly attributed to a public utility activity, but not directly attributed to an activity that is subject to the excise tax imposed by section 5727.24 or 5727.30 of the Revised Code;

(b) Taxable gross receipts that cannot be directly attributed to any activity, multiplied by a fraction whose numerator is the taxable gross receipts described in division (E)(2)(a) of this section and whose denominator is the total taxable gross receipts that can be directly attributed to any activity;

(c) Except for any differences resulting from the use of an accrual basis method of accounting for purposes of determining gross receipts under this chapter and the use of the cash basis method of accounting for purposes of determining gross receipts under section 5727.24 of the Revised Code, the

gross receipts directly attributed to the activity of a natural gas company shall be determined in a manner consistent with division (D) of section 5727.03 of the Revised Code.

As used in division (E)(2) of this section, "combined company" and "public utility" have the same meanings as in section 5727.01 of the Revised Code.

(3) A financial institution, as defined in section 5725.01 of the Revised Code, that paid the corporation franchise tax charged by division (D) of section 5733.06 of the Revised Code based on one or more taxable years that include the entire tax period under this chapter;

(4) A dealer in intangibles, as defined in section 5725.01 of the Revised Code, that paid the dealer in intangibles tax levied by division (D) of section 5707.03 of the Revised Code based on one or more measurement periods that include the entire tax period under this chapter;

(5) A financial holding company as defined in the "Bank Holding Company Act," 12 U.S.C. 1841(p);

(6) A bank holding company as defined in the "Bank Holding Company Act," 12 U.S.C. 1841(a);

(7) A savings and loan holding company as defined in the "Home Owners Loan Act," 12 U.S.C. 1467a(a)(1)(D) that is engaging only in activities or investments permissible for a financial holding company under 12 U.S.C. 1843(k);

(8) A person directly or indirectly owned by one or more financial institutions, financial holding companies, bank holding companies, or savings and loan holding companies described in division (E)(3), (5), (6), or (7) of this section that is engaged in activities permissible for a financial holding company under 12 U.S.C. 1843(k), except that any such person held pursuant to merchant banking authority under 12 U.S.C. 1843(k)(4)(H) or 12 U.S.C. 1843(k)(4)(I) is not an excluded person, or a person directly or indirectly owned by one or more insurance companies described in division (E)(9) of this section that is authorized to do the business of insurance in this state.

For the purposes of division (E)(8) of this section, a person owns another person under the following circumstances:

(a) In the case of corporations issuing capital stock, one corporation owns another corporation if it owns fifty per cent or more of the other corporation's capital stock with current voting rights;

(b) In the case of a limited liability company, one person owns the company if that person's membership interest, as defined in section 1705.01 of the Revised Code, is fifty per cent or more of the combined membership



interests of all persons owning such interests in the company:

(c) In the case of a partnership, trust, or other unincorporated business organization other than a limited liability company, one person owns the organization if, under the articles of organization or other instrument governing the affairs of the organization, that person has a beneficial interest in the organization's profits, surpluses, losses, or distributions of fifty per cent or more of the combined beneficial interests of all persons having such an interest in the organization;

(d) In the case of multiple ownership, the ownership interests of more than one person may be aggregated to meet the fifty per cent ownership tests in this division only when each such owner is described in division (E)(3), (5), (6), or (7) of this section and is engaged in activities permissible for a financial holding company under 12 U.S.C. 1843(k) or is a person directly or indirectly owned by one or more insurance companies described in division (E)(9) of this section that is authorized to do the business of insurance in this state;

(9) A domestic insurance company or foreign insurance company, as defined in section 5725.01 of the Revised Code, that paid the insurance company premiums tax imposed by section 5725.18 or Chapter 5729. of the Revised Code based on one or more measurement periods that include the entire tax period under this chapter;

(10) A person that solely facilitates or services one or more securitizations or similar transactions for any person described in division (E)(3), (5), (6), (7), (8), or (9) of this section. For purposes of this division, "securitization" means transferring one or more assets to one or more persons and then issuing securities backed by the right to receive payment from the asset or assets so transferred.

(11) Except as otherwise provided in this division, a pre-income tax trust as defined in division (FF)(4) of section 5747.01 of the Revised Code and any pass-through entity in which such pre-income tax trust owns, directly, indirectly, or constructively through related interests by common owners, more than five per cent of the ownership or equity interests. If the pre-income tax trust has made a qualifying pre-income tax trust election under division (FF)(3) of section 5747.01 of the Revised Code, then the trust and the pass-through entities in which it owns, directly, indirectly, or constructively through related interests by common owners, more than five per cent of the ownership or equity interests, shall not be excluded persons for purposes of the tax imposed under section 5751.02 of the Revised Code.

(F) Except as otherwise provided in divisions (F)(2), (3), (4), and (5) of this section, "gross receipts" means the total amount realized by a person,

without deduction for the cost of goods sold or other expenses incurred, that contributes to the production of gross income of the person, including the fair market value of any property and any services received, and any debt transferred or forgiven as consideration.

(1) The following are examples of gross receipts:

(a) Amounts realized from the sale, exchange, or other disposition of the taxpayer's property to or with another;

(b) Amounts realized from the taxpayer's performance of services for another;

(c) Amounts realized from another's use or possession of the taxpayer's property or capital;

(d) Any combination of the foregoing amounts.

(2) "Gross receipts" excludes the following amounts:

(a) Interest income except interest on credit sales;

(b) Dividends and distributions from corporations, and distributive or proportionate shares of receipts and income from a pass-through entity as defined under section 5733.04 of the Revised Code;

(c) Receipts from the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code, without regard to the length of time the person held the asset;

(d) Proceeds received attributable to the repayment, maturity, or redemption of the principal of a loan, bond, mutual fund, certificate of deposit, or marketable instrument;

(e) The principal amount received under a repurchase agreement or on account of any transaction properly characterized as a loan to the person;

(f) Contributions received by a trust, plan, or other arrangement, any of which is described in section 501(a) of the Internal Revenue Code, or to which Title 26, Subtitle A, Chapter 1, Subchapter (D) of the Internal Revenue Code applies;

(g) Compensation, whether current or deferred, and whether in cash or in kind, received or to be received by an employee, former employee, or the employee's legal successor for services rendered to or for an employer, including reimbursements received by or for an individual for medical or education expenses, health insurance premiums, or employee expenses, or on account of a dependent care spending account, legal services plan, any cafeteria plan described in section 125 of the Internal Revenue Code, or any similar employee reimbursement;

(h) Proceeds received from the issuance of the taxpayer's own stock, options, warrants, puts, or calls, or from the sale of the taxpayer's treasury stock;

(i) Proceeds received on the account of payments from life insurance policies;

(j) Gifts or charitable contributions received, membership dues received, and payments received for educational courses, meetings, meals, or similar payments to a trade, professional, or other similar association; fundraising receipts received by any person when any excess receipts are donated or used exclusively for charitable purposes; and proceeds received by a nonprofit organization including proceeds realized with regard to its unrelated business taxable income;

(k) Damages received as the result of litigation in excess of amounts that, if received without litigation, would be gross receipts;

(l) Property, money, and other amounts received or acquired by an agent on behalf of another in excess of the agent's commission, fee, or other remuneration;

(m) Tax refunds and other tax benefit recoveries;

(n) Pension reversions;

(o) Contributions to capital;

(p) Sales or use taxes collected as a vendor or an out-of-state seller on behalf of the taxing jurisdiction from a consumer;

(q) In the case of receipts from the sale of cigarettes or tobacco products by a wholesale dealer, retail dealer, distributor, manufacturer, or seller, all as defined in section 5743.01 of the Revised Code, an amount equal to the federal and state excise taxes paid by any person on or for such cigarettes or tobacco products under subtitle E of the Internal Revenue Code or Chapter 5743. of the Revised Code;

(r) In the case of receipts from the sale of motor fuel by a licensed motor fuel dealer, licensed retail dealer, or licensed permissive motor fuel dealer, all as defined in section 5735.01 of the Revised Code, an amount equal to federal and state excise taxes paid by any person on such motor fuel under section 4081 of the Internal Revenue Code or Chapter 5735. of the Revised Code;

(s) In the case of receipts from the sale of beer or intoxicating liquor, as defined in section 4301.01 of the Revised Code, by a person holding a permit issued under Chapter 4301. or 4303. of the Revised Code, an amount equal to federal and state excise taxes paid by any person on or for such beer or intoxicating liquor under subtitle E of the Internal Revenue Code or Chapter 4301. or 4305. of the Revised Code;

(t) Receipts realized by a new motor vehicle dealer or used motor vehicle dealer, as defined in section 4517.01 of the Revised Code, from the sale or other transfer of a motor vehicle, as defined in that section, to

another motor vehicle dealer for the purpose of resale by the transferee motor vehicle dealer, but only if the sale or other transfer was based upon the transferee's need to meet a specific customer's preference for a motor vehicle;

(u) Receipts from a financial institution described in division (E)(3) of this section for services provided to the financial institution in connection with the issuance, processing, servicing, and management of loans or credit accounts, if such financial institution and the recipient of such receipts have at least fifty per cent of their ownership interests owned or controlled, directly or constructively through related interests, by common owners;

(v) Receipts realized from administering anti-neoplastic drugs and other cancer chemotherapy, biologicals, therapeutic agents, and supportive drugs in a physician's office to patients with cancer;

(w) Funds received or used by a mortgage broker that is not a dealer in intangibles, other than fees or other consideration, pursuant to a table-funding mortgage loan or warehouse-lending mortgage loan. Terms used in division (F)(2)(x) of this section have the same meanings as in section 1322.01 of the Revised Code, except "mortgage broker" means a person assisting a buyer in obtaining a mortgage loan for a fee or other consideration paid by the buyer or a lender, or a person engaged in table-funding or warehouse-lending mortgage loans that are first lien mortgage loans.

(x) Property, money, and other amounts received by a professional employer organization, as defined in 4125.01 of the Revised Code, from a client employer, as defined in that section, in excess of the administrative fee charged by the professional employer organization to the client employer;

(y) In the case of amounts retained as commissions by a permit holder under Chapter 3769. of the Revised Code, an amount equal to the amounts specified under that chapter that must be paid to or collected by the tax commissioner as a tax and the amounts specified under that chapter to be used as purse money;

(z) Any receipts for which the tax imposed by this chapter is prohibited by the constitution or laws of the United States or the constitution of this state.

(3) In the case of a taxpayer when acting as a real estate broker, "gross receipts" includes only the portion of any fee for the service of a real estate broker, or service of a real estate salesperson associated with that broker, that is retained by the broker and not paid to an associated real estate salesperson or another real estate broker. For the purposes of this division,

"real estate broker" and "real estate salesperson" have the same meanings as in section 4735.01 of the Revised Code.

(4) A taxpayer's method of accounting for gross receipts for a tax period shall be the same as the taxpayer's method of accounting for federal income tax purposes for the taxpayer's federal taxable year that includes the tax period. If a taxpayer's method of accounting for federal income tax purposes changes, its method of accounting for gross receipts under this chapter shall be changed accordingly.

In calculating gross receipts, the following shall be deducted:

(a) Cash discounts allowed and taken;

(b) Returns and allowances;

(c) Bad debts from receipts upon which the tax imposed by this chapter was paid in a prior quarterly tax payment period. For the purposes of this division, "bad debts" mean any debts that have become worthless or uncollectible between the preceding and current quarterly tax payment periods, have been uncollected for at least six months, and may be claimed as a deduction under section 166 of the Internal Revenue Code and the regulations adopted pursuant thereto, or that could be claimed as such if the taxpayer kept its accounts on the accrual basis. "Bad debts" does not include uncollectible amounts on property that remains in the possession of the taxpayer until the full purchase price is paid, expenses in attempting to collect any account receivable or for any portion of the debt recovered, and repossessed property;

(d) Any amount realized from the sale of an account receivable but only to the extent the receipts from the underlying transaction giving rise to the account receivable were included in the gross receipts of the taxpayer.

(G) "Taxable gross receipts" means gross receipts situated to this state under section 5751.033 of the Revised Code.

(H) A person has "substantial nexus with this state" if any of the following applies. The person:

(1) Owns or uses a part or all of its capital in this state;

(2) Holds a certificate of compliance with the laws of this state authorizing the person to do business in this state;

(3) Has bright-line presence in this state;

(4) Otherwise has nexus with this state to an extent that the person can be required to remit the tax imposed under this chapter under the constitution of the United States.

(I) A person has "bright-line presence" in this state for a reporting period and for the remaining portion of the calendar year if any of the following applies. The person:

(1) Has at any time during the calendar year property in this state with an aggregate value of at least fifty thousand dollars. For the purpose of division (I)(1) of this section, owned property is valued at original cost and rented property is valued at eight times the net annual rental charge.

(2) Has during the calendar year payroll in this state of at least fifty thousand dollars. Payroll in this state includes all of the following:

(a) Any amount subject to withholding by the person under section 5747.06 of the Revised Code;

(b) Any other amount the person pays as compensation to an individual under the supervision or control of the person for work done in this state; and

(c) Any amount the person pays for services performed in this state on its behalf by another.

(3) Has during the calendar year taxable gross receipts in this state of at least five hundred thousand dollars.

(4) Has at any time during the calendar year within this state at least twenty-five per cent of the person's total property, total payroll, or total sales.

(5) Is domiciled in this state as an individual or for corporate, commercial, or other business purposes.

(J) "Tangible personal property" has the same meaning as in section 5739.01 of the Revised Code.

(K) "Internal Revenue Code" means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended. Any term used in this chapter that is not otherwise defined has the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes unless a different meaning is clearly required. Any reference in this chapter to the Internal Revenue Code includes other laws of the United States relating to federal income taxes.

(L) "Calendar quarter" means a three-month period ending on the thirty-first day of March, the thirtieth day of June, the thirtieth day of September, or the thirty-first day of December.

(M) "Tax period" means the calendar quarter or calendar year on the basis of which a taxpayer is required to pay the tax imposed under this chapter.

(N) "Calendar year taxpayer" means a taxpayer for which the tax period is a calendar year.

(O) "Calendar quarter taxpayer" means a taxpayer for which the tax period is a calendar quarter.

(P) "Agent" means a person authorized by another person to act on its

behalf to undertake a transaction for the other, including any of the following:

- (1) A person receiving a fee to sell financial instruments;
- (2) A person retaining only a commission from a transaction with the other proceeds from the transaction being remitted to another person;
- (3) A person issuing licenses and permits under section 1533.13 of the Revised Code;
- (4) A lottery sales agent holding a valid license issued under section 3770.05 of the Revised Code;
- (5) A person acting as an agent of the division of liquor control under section 4301.17 of the Revised Code.
- (Q) "Received" includes amounts accrued under the accrual method of accounting.

Sec. 5751.011. (A) A group of two or more persons may elect to be a consolidated elected taxpayer for the purposes of this chapter if the group satisfies all of the following requirements:

(1) The group elects to include all persons, including persons enumerated in divisions (E)(2) to (10) of section 5751.01 of the Revised Code, having at least eighty per cent, or having at least fifty per cent, of the value of their ownership interests owned or controlled, directly or constructively through related interests, by common owners during all or any portion of the tax period, together with the common owners. At the election of the group, all foreign corporations meeting the elected ownership test shall either be included in the group or all shall be excluded from the group. The group shall notify the tax commissioner of the foregoing elections at the time of filing the initial registration required under section 5751.04 of the Revised Code. If fifty per cent of the value of a person's ownership interests is owned or controlled by each of two consolidated elected taxpayer groups formed under the fifty per cent ownership or control test, that person is a member of each group for the purposes of this section, and each group shall include in the group's taxable gross receipts fifty per cent of that person's taxable gross receipts. Otherwise, all of that person's taxable gross receipts shall be included in the taxable gross receipts of the consolidated elected taxpayer group of which the person is a member. In no event shall the ownership or control of fifty per cent of the value of a person's ownership interests by two otherwise unrelated groups form the basis for consolidating the groups into a single consolidated elected taxpayer group or permit any exclusion under division (C) of this section of taxable gross receipts between members of the two groups. Division (A)(3) of this section applies with respect to the elections described in this division.

(2) The group applies to the tax commissioner for approval to be treated as a consolidated elected taxpayer pursuant to division (D) of this section.

(3) The group agrees that if the commissioner approves the election, all of the following apply:

(a) The group shall file reports as a single taxpayer for at least the next eight calendar quarters following the election so long as at least two or more of the members of the group meet the requirements of division (A)(1) of this section.

(b) Before the expiration of the eighth such calendar quarter, the group shall notify the commissioner if it elects to cancel its designation as a consolidated elected taxpayer. If the group does not so notify the tax commissioner, the election remains in effect for another eight calendar quarters.

(c) If, at any time during any of those eight calendar quarters following the election, a former member of the group no longer meets the requirements under division (A)(1) of this section, that member shall report and pay the tax imposed under this chapter separately, as a member of a combined taxpayer, or, if the former member satisfies such requirements with respect to another consolidated elected group, as a member of that consolidated elected group.

(d) The group agrees to the application of division (B) of this section.

(B) A group of persons making the election under this section shall report and pay tax on all of the group's taxable gross receipts even if substantial nexus with this state does not exist for one or more persons in the group.

(C)(1) A consolidated elected taxpayer shall exclude taxable gross receipts between its members and taxable gross receipts received by a person enumerated in divisions (E)(2) to (10) of section 5751.01 of the Revised Code, except for taxable gross receipts received by a member described in division (E)(4) of section 5751.01 of the Revised Code that is not a qualifying dealer as defined in section 5725.24 of the Revised Code. Except as provided in division (C)(2) of this section, nothing in this section shall have the effect of excluding taxable gross receipts received from persons that are not members of the group.

(2) Gross receipts related to the sale or transmission of electricity through the use of an intermediary regional transmission organization approved by the federal energy regulatory commission shall be excluded from taxable gross receipts under division (C)(1) of this section if all other requirements of that division are met, even if the receipts are from and to the same member of the group.



(D) To make the election to be a consolidated elected taxpayer, a group of persons shall apply to the tax commissioner and pay the commissioner a registration fee equal to the lesser of two hundred dollars or twenty dollars for each person in the group. No additional fee shall be imposed for the addition of new members to the group once the group has remitted a fee in the amount of two hundred dollars. The application shall be filed and the fee paid before the later of the beginning of the first calendar quarter to which the election applies or November 15, 2005. The fee shall be collected and used in the same manner as provided in section 5751.04 of the Revised Code.

The election shall be made on a form prescribed by the tax commissioner for that purpose and shall be signed by one or more individuals with authority, separately or together, to make a binding election on behalf of all persons in the group. The tax commissioner shall approve a group's election if the group satisfies the requirements of division (A) of this section.

Any person acquired or formed after the filing of the registration shall be included in the group if the person meets the requirements of division (A)(1) of this section, and the group shall notify the tax commissioner of any additions to the group with the next tax return it files with the commissioner.

(E) Each member of a consolidated elected taxpayer is jointly and severally liable for the tax imposed by this chapter and any penalties or interest thereon. The tax commissioner may require one person in the group to be the taxpayer for purposes of registration and remittance of the tax, but all members of the group are subject to assessment under section 5751.09 of the Revised Code.

Sec. 5751.012. (A) All persons, other than persons enumerated in divisions (E)(2) to (10) of section 5751.01 of the Revised Code, having more than fifty per cent of the value of their ownership interest owned or controlled, directly or constructively through related interests, by common owners during all or any portion of the tax period, together with the common owners, shall be members of a combined taxpayer if those persons are not members of a consolidated elected taxpayer pursuant to an election under section 5751.011 of the Revised Code.

(B) A combined taxpayer shall register, file returns, and pay taxes under this chapter as a single taxpayer.

(C) A combined taxpayer shall neither exclude taxable gross receipts between its members nor from others that are not members.

(D) A combined taxpayer shall pay to the tax commissioner a

registration fee equal to the lesser of two hundred dollars or twenty dollars for each person in the group. No additional fee shall be imposed for the addition of new members to the group once the group has remitted a fee in the amount of two hundred dollars. The fee shall be timely paid before the later of the beginning of the first calendar quarter or November 15, 2005. The fee shall be collected and used in the same manner as provided in section 5751.04 of the Revised Code.

Any person acquired or formed after the filing of the registration shall be included in the group if the person meets the requirements of division (A) of this section, and the group must notify the tax commissioner of any additions with the next quarterly tax return it files with the commissioner.

(E) Each member of a combined taxpayer is jointly and severally liable for the tax imposed by this chapter and any penalties or interest thereon. The tax commissioner may require one person in the group to be the taxpayer for purposes of registration and remittance of the tax, but all members of the group are subject to assessment under section 5751.09 of the Revised Code.

Sec. 5751.013. (A) Except as provided in division (B) of this section:

(1) A person shall include as taxable gross receipts the value of property the person transfers into this state for the person's own use within one year after the person receives the property outside this state; and

(2) In the case of an elected consolidated taxpayer or a combined taxpayer, the taxpayer shall include as taxable gross receipts the value of property that any of the taxpayer's members transferred into this state for the use of any of the taxpayer's members within one year after the taxpayer receives the property outside this state.

(B) Property brought into this state within one year after it is received outside this state by a person or group described in division (A)(1) or (2) of this section shall not be included as taxable gross receipts as required under those divisions if the tax commissioner ascertains that the property's receipt outside this state by the person or group followed by its transfer into this state within one year was not intended in whole or in part to avoid in whole or in part the tax imposed under this chapter.

(C) The tax commissioner may adopt rules necessary to administer this section.

Sec. 5751.02. (A) For the purpose of funding the needs of this state and its local governments beginning with the tax period that commences July 1, 2005, and continuing for every tax period thereafter, there is hereby levied a commercial activity tax on each person with taxable gross receipts for the privilege of doing business in this state. For the purposes of this chapter, "doing business" means engaging in any activity, whether legal or illegal.

that is conducted for, or results in, gain, profit, or income, at any time during the calendar year. Persons on which the commercial activity tax is levied include, but are not limited to, persons with substantial nexus with this state. The tax imposed under this section is not a transactional tax and is not subject to Public Law No. 86-272, 73 Stat. 555. The tax imposed under this section is in addition to any other taxes or fees imposed under the Revised Code. The tax levied under this section is imposed on the person receiving the gross receipts and is not a tax imposed directly on a purchaser. The tax imposed by this section is an annual privilege tax for the calendar year that, in the case of calendar year taxpayers, is the annual tax period and, in the case of calendar quarter taxpayers, contains all quarterly tax periods in the calendar year. A taxpayer is subject to the annual privilege tax for doing business during any portion of such calendar year.

(B) The tax imposed by this section is a tax on the taxpayer and, except as otherwise provided in this section, shall not be billed or invoiced to another person. Even if the tax or any portion thereof is billed or invoiced and separately stated, such amounts remain part of the price for purposes of the sales and use taxes levied under Chapters 5739. and 5741. of the Revised Code. Nothing in division (B) of this section prohibits a person from including in the price charged for a good or service an amount sufficient to recover the tax imposed by this section or from recovering the amount of the tax imposed by this section as a combined or separately stated overhead charge or other charge as part of any legal contract, including an existing, an amended, or a future contract.

Sec. 5751.03. (A) Except as provided in divisions (B) and (D) of this section and in sections 5751.031 and 5751.032 of the Revised Code, the tax levied under this section for each tax period shall be the product of two and six-tenths mills per dollar times the remainder of the taxpayer's taxable gross receipts for the tax period after subtracting the exclusion amount provided for in division (C) of this section.

(B) Notwithstanding division (C) of this section, the tax on the first one million dollars in taxable gross receipts each calendar year shall be one hundred fifty dollars. For calendar year 2006, the tax imposed under this division shall be paid not later than May 10, 2006, by both calendar year taxpayers and calendar quarter taxpayers. For calendar year 2007 and thereafter, the tax imposed under this division shall be paid with the fourth-quarter tax return or annual tax return for the prior calendar year by both calendar year taxpayers and calendar quarter taxpayers.

(C)(1) Each calendar quarter taxpayer may exclude the first two hundred fifty thousand dollars of taxable gross receipts for a calendar

quarter and may carry forward and apply any unused exclusion amount to the three subsequent calendar quarters. Each calendar year taxpayer may exclude the first one million dollars of taxable gross receipts for a calendar year.

(2) A taxpayer switching from a calendar year tax period to a calendar quarter tax period may, for the first quarter of the change, apply the prior calendar quarter exclusion amounts to the first calendar quarter return the taxpayer files that calendar year. The tax rate shall be based on the rate imposed that calendar quarter when the taxpayer switches from a calendar year to a calendar quarter tax period.

(D) There is hereby allowed a credit against the tax imposed under this chapter for each of the following calendar years if a transfer was made in the preceding calendar year from the general revenue fund to the commercial activity tax refund fund under division (D) of section 5751.032 of the Revised Code: calendar years 2008, 2010, and 2012. The credit is allowed for taxpayers that paid in full the tax imposed under this chapter for the calendar year in which the transfer was made. The amount of a taxpayer's credit equals the amount computed under division (D) of section 5751.032 of the Revised Code.

Sec. 5751.031. This section applies only to calendar quarter taxpayers. The tax imposed per calendar quarter under division (A) of section 5751.03 of the Revised Code shall be computed as follows:

(A) From January 1, 2006, to March 31, 2006, by multiplying the tax otherwise due under that division by twenty-three per cent;

(B) From April 1, 2006, to March 31, 2007, by multiplying the tax otherwise due under that division by forty per cent;

(C) From April 1, 2007, to March 31, 2008, by multiplying the tax otherwise due under that division by sixty per cent;

(D) From April 1, 2008, to March 31, 2009, by multiplying the tax otherwise due under that division by eighty per cent;

(E) After March 31, 2009, one hundred per cent of the tax due under that division.

Sec. 5751.032. As used in this section:

(1) "CAT" refers to the tax levied by this chapter.

(2) "CAT collected" means, with regard to a CAT test period, the net amount of CAT, exclusive of registration fees, received in the period after subtracting any CAT refunded in the period.

(3) "First CAT test period" means the twenty-four month period beginning July 1, 2005, and ending June 30, 2007.

(4) "Second CAT test period" means the twelve-month period beginning

July 1, 2008, and ending June 30, 2009.

(5) "Third CAT test period" means the twelve-month period beginning July 1, 2010, and ending June 30, 2011.

(B) Not later than the last day of September immediately following the end of each CAT test period, the tax commissioner shall compute the amount of CAT collected during that test period. If the amount is less than ninety per cent or greater than one hundred ten per cent of the prescribed CAT collections for that period, the commissioner shall proceed as provided in division (C) or (D) of this section, as applicable. For the purposes of division (B) of this section, the prescribed CAT collections for the CAT test periods are as follows:

(1) For the first CAT test period, eight hundred fifteen million dollars;

(2) For the second CAT test period, one billion one hundred ninety million dollars less any amount credited to the commercial activity tax reduction fund with regard to the first CAT test period;

(3) For the third CAT test period, one billion six hundred ten million dollars less any amount credited to the commercial activity tax reduction fund with regard to the second CAT test period.

(C)(1) If the amount of CAT collected during a CAT test period is less than ninety per cent of the prescribed CAT collections for that test period, the tax commissioner shall determine a new tax rate equal to the tax rate that would have yielded the prescribed CAT collections during that test period. The tax rate shall be the rate that would have to be imposed under division (A) of section 5751.03 of the Revised Code before any applicable phase-in percentages under section 5751.031 of the Revised Code or otherwise provided by law to yield the prescribed CAT collection after applying any applicable phase-in percentages.

(2) If the amount of CAT collected during a CAT test period exceeds one hundred ten per cent of the prescribed CAT collections for that test period, the tax commissioner shall determine a new tax rate equal to the tax rate that would have yielded the prescribed CAT collections during that test period less one-half of the amount of the excess that was certified to the director of budget and management for the test period under division (D) of this section. The tax rate shall be the rate that would have to be imposed under division (A) of section 5751.03 of the Revised Code before any applicable phase-in percentages under section 5751.031 of the Revised Code or otherwise provided by law to yield the prescribed CAT collection after applying any applicable phase-in percentages.

(3) A new tax rate computed under division (C)(1) or (2) of this section shall be expressed as a number of mills per dollar, rounded to the nearest

one-hundredth of one mill. The rate shall be rounded upward by one-hundredth of one mill only if the next decimal digit is five or more.

(4) Not later than the last day of September following the end of the CAT test period on the basis of which a new tax rate is computed, the tax commissioner shall certify the new tax rate to the governor, the president of the senate, the speaker of the house of representatives, and all other members of the general assembly. The commissioner shall publish the new tax rate by journal entry and provide notice of the new tax rate to taxpayers. The new tax rate shall be the rate imposed under division (A) of section 5751.03 of the Revised Code beginning with the ensuing calendar year, and is subject to any applicable phase-in percentages provided for under section 5751.031 of the Revised Code.

(D) If the amount of CAT collected during a CAT test period exceeds one hundred ten per cent of the prescribed CAT collections for that test period, the tax commissioner shall certify the excess amount to the director of budget and management not later than the last day of September immediately following the end of that test period. The director shall forthwith transfer from the general revenue fund one-half of the amount of the excess so certified to the commercial activity tax refund fund, which is hereby created in the state treasury, and the remaining one-half of the amount of the excess to the budget stabilization fund. All money credited to the commercial activity tax refund fund shall be applied to reimburse the general revenue fund, school district tangible property tax replacement fund, and local government tangible property tax replacement fund for the diminution in revenue caused by the credit provided under division (D) of section 5751.03 of the Revised Code. On or before the last day of May, August, and October of the calendar year that begins after the end of the test period, and on or before the last day of February of the following calendar year, the director of budget and management shall transfer one-fourth of the amount that had been transferred to the commercial activity tax refund fund to each of those funds in the proportions specified under division (B) of section 5751.21 of the Revised Code.

In the calendar year that begins immediately after the year in which a transfer is made to the commercial activity tax refund fund, the tax commissioner shall compute the amount to be credited, under division (D) of section 5751.03 of the Revised Code, to each taxpayer that paid in full the tax imposed under this chapter for the calendar year in which the transfer was made. The credit allowed to each such taxpayer shall equal the amount transferred to the commercial activity tax refund fund multiplied by a fraction, the numerator of which is the amount of tax paid by that taxpayer

for that calendar year and the denominator of which is the total of the taxes paid by all such taxpayers for which the credit is allowed. The credit applies only to the calendar year that begins immediately after the year in which a transfer is made to the commercial activity tax refund fund under this division."

(E) It is the intent of the General Assembly to conduct a review of the prescribed CAT collections and rate adjustments provided for under divisions (A) to (D) of this section every two years in conjunction with its biennial budget deliberations, and to establish lower prescribed CAT collections or reduce the rate of tax levied under this chapter on the basis of the following three factors:

- (1) The revenue yield of the tax;
- (2) The condition of the Ohio economy;
- (3) Savings realized by ongoing reform to medicaid and other policy initiatives.

Sec. 5751.033. For the purposes of this chapter, gross receipts shall be sitused to this state as follows:

(A) Gross rents and royalties from real property located in this state shall be sitused to this state.

(B) Gross rents and royalties from tangible personal property shall be sitused to this state to the extent the tangible personal property is located or used in this state.

(C) Gross receipts from the sale of electricity and electric transmission and distribution services shall be sitused to this state in the manner provided under section 5733.059 of the Revised Code.

(D) Gross receipts from the sale of real property located in this state shall be sitused to this state.

(E) Gross receipts from the sale of tangible personal property shall be sitused to this state if the property is received in this state by the purchaser. In the case of delivery of tangible personal property by common carrier or by other means of transportation, the place at which such property is ultimately received after all transportation has been completed shall be considered the place where the purchaser receives the property. For purposes of this section, the phrase "delivery of tangible personal property by common carrier or by other means of transportation" includes the situation in which a purchaser accepts the property in this state and then transports the property directly or by other means to a location outside this state. Direct delivery in this state, other than for purposes of transportation, to a person or firm designated by a purchaser constitutes delivery to the purchaser in this state, and direct delivery outside this state to a person or

firm designated by a purchaser does not constitute delivery to the purchaser in this state, regardless of where title passes or other conditions of sale.

(F) Gross receipts from the sale, exchange, disposition, or other grant of the right to use trademarks, trade names, patents, copyrights, and similar intellectual property shall be situated to this state to the extent that the receipts are based on the amount of use of the property in this state. If the receipts are not based on the amount of use of the property, but rather on the right to use the property, and the payor has the right to use the property in this state, then the receipts from the sale, exchange, disposition, or other grant of the right to use such property shall be situated to this state to the extent the receipts are based on the right to use the property in this state.

(G) Gross receipts from the sale of transportation services by a common or contract carrier shall be situated to this state in proportion to the mileage traveled by the carrier during the tax period on roadways, waterways, airways, and railways in this state to the mileage traveled by the carrier during the tax period on roadways, waterways, airways, and railways everywhere. With prior written approval of the tax commissioner, a common or contract carrier may use an alternative situsing procedure for transportation services.

(H) Gross receipts from dividends, interest, and other sources of income from financial instruments described in division (F)(4), (5), (6), (7), (8), (9), (10), (11), and (13) of section 5733.056 of the Revised Code shall be situated to this state in accordance with the situsing provisions set forth in those divisions. When applying the provisions of divisions (F)(6), (8), and (13) of section 5733.056 of the Revised Code, "gross receipts" shall be substituted for "net gains" wherever "net gains" appears in those divisions. Nothing in this division limits or modifies the exclusions enumerated in divisions (E) and (F)(2) of section 5751.01 of the Revised Code. The tax commissioner may promulgate rules to further specify the manner in which to situs gross receipts subject to this division.

(I) Gross receipts from the sale of all other services, and all other gross receipts not otherwise situated under this section, shall be situated to this state in the proportion that the purchaser's benefit in this state with respect to what was purchased bears to the purchaser's benefit everywhere with respect to what was purchased. The physical location where the purchaser ultimately uses or receives the benefit of what was purchased shall be paramount in determining the proportion of the benefit in this state to the benefit everywhere.

(J) If the situsing provisions of divisions (A) to (H) of this section do not fairly represent the extent of a person's activity in this state, the person



may request, or the tax commissioner may require or permit, an alternative method. Such request by a person must be made within the applicable statute of limitations set forth in this chapter.

(K) The tax commissioner may adopt rules to provide additional guidance to the application of this section, and provide alternative methods of situsing gross receipts that apply to all persons, or subset of persons, that are engaged in similar business or trade activities.

Sec. 5751.04. (A) Not later than the later of November 15, 2005, or thirty days after a person first has more than one hundred fifty thousand dollars in taxable gross receipts in a calendar year, each person subject to this chapter shall register with the tax commissioner on the form prescribed by the commissioner. The form shall include the following:

(1) The person's name;

(2) If applicable, the name of the state or country under the laws of which the person is incorporated;

(3) If applicable, the location of a person's principal office, and, in the case of a foreign corporation, the location of its principal place of business in this state and the name and address of the officer or agent of the corporation in charge of the business in this state;

(4) If applicable, the names of the person's president, secretary, treasurer, and statutory agent designated pursuant to section 1703.041 of the Revised Code, with the post office address of each;

(5) The kind of business in which the person is engaged, including applicable business or industry codes;

(6) The date of the beginning of the person's annual accounting period that includes the first day of January of the taxable calendar year;

(7) If the person is not a corporation or a sole proprietor, the names of all the person's owners and officers;

(8) The person's federal employer identification number or numbers or, if those are not applicable, the person's social security number or equivalent;

(9) All other information that the commissioner requires to administer and enforce this chapter.

(B) Except as otherwise provided in this division, each person registering with the tax commissioner as required by division (A) of this section shall pay a registration fee. The fee shall be in the amount of fifteen dollars if a person registers electronically and twenty dollars if a person does not register electronically. The registration fee shall be paid in the manner prescribed by the tax commissioner at the same time the registration is due if a person is subject to the tax imposed under this chapter before January 1, 2006. If a person first becomes subject to the tax after that date, the

registration fee is payable with the first tax period return the person is required to file as prescribed by section 5751.051 of the Revised Code. If a registration fee is not paid when due, an additional fee is imposed in the amount of one hundred dollars per month or part thereof the fee is outstanding, not to exceed one thousand dollars. The tax commissioner may abate the additional fee. The fee imposed under this division may be assessed in the same manner as the tax imposed under this chapter. Proceeds from the fee shall be credited to the commercial activity tax administrative fund, which is hereby created in the state treasury for the commissioner to use in implementing and administering the tax imposed under this chapter.

No registration fee is payable by a person for a calendar year if the person first begins business operations in this state after the thirtieth day of November of that calendar year or if the person's taxable gross receipts for the calendar year exceed one hundred fifty thousand dollars but do not exceed one hundred fifty thousand dollars as of the first day of December of the calendar year.

Registration fees paid under this section, excluding any additional fee imposed for late payment of the registration fee, shall be credited against the first payment of tax payable under section 5751.03 of the Revised Code after the registration fee is paid.

(C) If a person that has registered under this section is no longer a taxpayer subject to this chapter, including no longer being a taxpayer because of the application of division (E)(1) of section 5751.01 of the Revised Code, the person shall notify the commissioner that the person's registration should be cancelled.

Sec. 5751.05. (A) If a person subject to this chapter anticipates that the person's taxable gross receipts will be less than one million dollars in calendar year 2006, the person may elect to be a calendar year taxpayer. If a person is not required to be registered under this section for calendar year 2006 and anticipates that the person's taxable gross receipts will be less than one million dollars in the first calendar year the person is required to register under this section, the person may elect to be a calendar year taxpayer.

(B) Any person that is a calendar year taxpayer pursuant to an election under division (A) of this section shall become a calendar quarter taxpayer in the subsequent calendar year if the person's taxable gross receipts for the prior calendar year are one million dollars or more, and shall remain a calendar quarter taxpayer until the person notifies the tax commissioner, and receives approval in writing from the tax commissioner, to switch back to being a calendar year taxpayer. Nothing in this division prohibits a person that has elected to be a calendar year taxpayer from notifying the tax

commissioner, using the procedures prescribed by the commissioner, that it is switching back to being a calendar quarter taxpayer.

(C) Any taxpayer that is not a calendar year taxpayer pursuant to this section is a calendar quarter taxpayer. The tax commissioner may grant written approval for a calendar quarter taxpayer to use an alternative reporting schedule or estimate the amount of tax due for a calendar quarter if the taxpayer demonstrates to the commissioner the need for such a deviation. The commissioner may adopt a rule to apply division (C) of this section to a group of taxpayers without the taxpayers having to receive written approval from the commissioner.

Sec. 5751.051. (A)(1) Not later than forty days after the end of each calendar quarter, every taxpayer other than a calendar year taxpayer shall file with the tax commissioner a tax return in such form as the commissioner prescribes. The return shall include, but is not limited to, the amount of the taxpayer's taxable gross receipts for the calendar quarter and shall indicate the amount of tax due under section 5751.03 of the Revised Code for the calendar quarter.

(2)(a) Subject to division (C) of section 5751.05 of the Revised Code, a calendar quarter taxpayer shall report the taxable gross receipts for that calendar quarter.

(b) With respect to taxable gross receipts incorrectly reported in a calendar quarter that has a lower tax rate, the tax shall be computed at the tax rate in effect for the quarterly return in which such receipts should have been reported. Nothing in division (A)(2)(b) of this section prohibits a taxpayer from filing an application for refund under section 5751.08 of the Revised Code with regard to the incorrect reporting of taxable gross receipts discovered after filing the annual return described in division (A)(3) of this section.

A tax return shall not be deemed to be an incorrect reporting of taxable gross receipts for the purposes of division (A)(2)(b) of this section if the return reflects between ninety-five and one hundred five per cent of the actual taxable gross receipts for the calendar quarter.

(3) The tax return filed for the fourth calendar quarter of a calendar year is the annual return for the privilege tax imposed by this chapter. Such return shall report any additional taxable gross receipts not previously reported in the calendar year and shall adjust for any over-reported taxable gross receipts in the calendar year. If the taxpayer ceases to be a taxpayer before the end of the calendar year, the last return the taxpayer is required to file shall be the annual return for the taxpayer and the taxpayer shall report any additional taxable gross receipts not previously reported in the calendar

year and shall adjust for any over-reported taxable gross receipts in the calendar year.

(4) Because the tax imposed by this chapter is a privilege tax, the tax rate with respect to taxable gross receipts for a calendar quarter is not fixed until the end of the measurement period for each calendar quarter. Subject to division (A)(2)(b) of this section, the total amount of taxable gross receipts reported for a given calendar quarter shall be subject to the tax rate in effect in that quarter.

(5) Not later than forty days after the end of each calendar year, every calendar year taxpayer shall file with the tax commissioner a tax return in such form as the commissioner prescribes. The return shall include, but is not limited to, the amount of the taxpayer's taxable gross receipts for the calendar year and shall indicate the amount of tax due under section 5751.03 of the Revised Code for the calendar year.

(B) A person that first becomes subject to this chapter during a calendar quarter on or after January 1, 2006, shall pay the minimum tax imposed under division (B) of section 5751.03 of the Revised Code along with the registration fee imposed under this section on or before the day the return is required to be filed for that quarter under division (A)(1) of this section, regardless of whether the person elects to be a calendar year taxpayer under section 5751.05 of the Revised Code.

The amount of the minimum tax shall be reduced to seventy-five dollars if the registration is timely filed after the first day of May and before the first day of December of the calendar year.

Sec. 5751.06. (A) Any taxpayer that fails to file a return or pay the full amount of the tax due within the period prescribed therefor under this chapter shall pay a penalty in an amount not exceeding the greater of fifty dollars or ten per cent of the tax required to be paid for the tax period.

(B)(1) If any additional tax is found to be due, the tax commissioner may impose an additional penalty of up to fifteen per cent on the additional tax found to be due.

(2) Any delinquent payments of the tax made after a taxpayer is notified of an audit or a tax discrepancy by the commissioner is subject to the penalty imposed by division (B) of this section. If an assessment is issued under section 5751.10 of the Revised Code in connection with such delinquent payments, the payments shall be credited to the assessment.

(C) After calendar year 2008, the tax commissioner may impose an additional penalty against a taxpayer that fails to switch to being a calendar quarter taxpayer at the time it had over two million in taxable gross receipts in the calendar year, as required under section 5751.04 of the Revised Code.

The penalty may be imposed in an amount not to exceed ten per cent of the tax due above two million dollars in taxable gross receipts for the calendar year. Any penalty imposed under this division is in addition to any other penalties imposed under this section.

(D) If the tax commissioner notifies a person required to register under section 5751.05 of the Revised Code of such requirement and of the requirement to remit the tax due under this chapter, and the person fails to so register and remit the tax within sixty days after such notice, the tax commissioner may impose an additional penalty of up to thirty-five per cent of the tax due. The penalty imposed under this division is in addition to any other penalties imposed under this section.

(E) The tax commissioner may collect any penalty or interest imposed by this section in the same manner as the tax imposed under this chapter. Penalties and interest so collected shall be considered as revenue arising from the tax imposed under this chapter.

(F) The tax commissioner may abate all or a portion of any penalties imposed under this section and may adopt rules governing such abatements.

(G) If any tax due is not timely paid in accordance with this chapter, the taxpayer shall pay interest, calculated at the rate per annum prescribed by section 5703.47 of the Revised Code, from the date the tax payment was due to the date of payment or to the date an assessment was issued, whichever occurs first.

(H) The tax commissioner may impose a penalty of up to ten per cent for any additional tax that is due under division (A)(2)(b) of section 5751.051 of the Revised Code from a taxpayer incorrectly reporting its taxable gross receipts.

Sec. 5751.07. (A) Any person required to file returns for a calendar quarter shall remit each tax payment, and, if required by the tax commissioner, file the tax return or the annual report, electronically. The commissioner may require taxpayers to use the Ohio business gateway as defined in section 718.051 of the Revised Code to file returns and remit the tax, or may provide another means for taxpayers to file and remit the tax electronically.

(B) A person required by this section to remit taxes or file returns electronically may apply to the tax commissioner, on the form prescribed by the commissioner, to be excused from that requirement. The commissioner may excuse a person from the requirements of this division for good cause.

(C)(1) If a person required to remit taxes or file a return electronically under this section fails to do so, the commissioner may impose a penalty not to exceed the following:

(a) For either of the first two calendar quarters the person so fails, five per cent of the amount of the payment that was required to be remitted;

(b) For the third and any subsequent calendar quarters the person so fails, ten per cent of the amount of the payment that was required to be remitted.

(2) The penalty imposed under division (C)(1) of this section is in addition to any other penalty imposed under this chapter and shall be considered as revenue arising from the tax imposed under this chapter. A penalty may be collected by assessment in the manner prescribed by section 5751.09 of the Revised Code. The tax commissioner may abate all or a portion of such a penalty.

Sec. 5751.08. (A) An application for refund to the taxpayer of the amount of taxes imposed under this chapter that are overpaid, paid illegally or erroneously, or paid on any illegal or erroneous assessment shall be filed with the tax commissioner, on the form prescribed by the commissioner, within four years after the date of the illegal or erroneous payment of the tax. The applicant shall provide the amount of the requested refund along with the claimed reasons for, and documentation to support, the issuance of a refund.

(B) On the filing of the refund application, the tax commissioner shall determine the amount of refund to which the applicant is entitled. If the amount is not less than that claimed, the commissioner shall certify the amount to the director of budget and management and treasurer of state for payment from the tax refund fund created under section 5703.052 of the Revised Code. If the amount is less than that claimed, the commissioner shall proceed in accordance with section 5703.70 of the Revised Code.

(C) Interest on a refund applied for under this section, computed at the rate provided for in section 5703.47 of the Revised Code, shall be allowed from the later of the date the tax was paid or when the tax payment was due.

(D) A calendar quarter taxpayer with more than one million dollars in taxable gross receipts in a calendar year other than calendar year 2005 and that is not able to exclude one million dollars in taxable gross receipts because of the operation of the taxpayer's business in that calendar year may file for a refund under this section to obtain the full exclusion of one million dollars in taxable gross receipts for that calendar year.

(E) No person with an active registration as a taxpayer under this chapter may claim a refund under this section for the tax imposed under division (B) of section 5751.03 of the Revised Code unless the person cancelled the registration before the tenth day of February of the current calendar year pursuant to division (C) of section 5751.04 of the Revised

Code.

(F) Except as provided in section 5751.091 of the Revised Code, the tax commissioner may, with the consent of the taxpayer, provide for the crediting against tax due for a tax year the amount of any refund due the taxpayer under this chapter for a preceding tax year.

Sec. 5751.081. As used in this section, "debt to this state" means unpaid taxes due the state, unpaid workers' compensation premiums due under section 4123.35 of the Revised Code, unpaid unemployment compensation contributions due under section 4141.25 of the Revised Code, unpaid unemployment compensation payment in lieu of contribution under section 4141.241 of the Revised Code, unpaid fee payable to the state or to the clerk of courts pursuant to section 4505.06 of the Revised Code, incorrect medical assistance payments under section 5111.02 of the Revised Code, or any unpaid charge, penalty, or interest arising from any of the foregoing.

If a taxpayer entitled to a refund under section 5751.08 of the Revised Code owes any debt to this state, the amount refundable may be applied in satisfaction of the debt. If the amount refundable is less than the amount of the debt, it may be applied in partial satisfaction of the debt. If the amount refundable is greater than the amount of the debt, the amount remaining after satisfaction of the debt shall be refunded. This section applies only to debts that have become final. For the purposes of this section, a debt becomes final when, under the applicable law, any time provided for petition for reassessment, request for reconsideration, or other appeal of the legality or validity of the amount giving rise to the debt expires without an appeal having been filed in the manner provided by law.

Sec. 5751.09. (A) The tax commissioner may make an assessment, based on any information in the commissioner's possession, against any person that fails to file a return or pay any tax as required by this chapter. The commissioner shall give the person assessed written notice of the assessment as provided in section 5703.37 of the Revised Code. With the notice, the commissioner shall provide instructions on the manner in which to petition for reassessment and request a hearing with respect to the petition.

(B) Unless the person assessed, within sixty days after service of the notice of assessment, files with the tax commissioner, either personally or by certified mail, a written petition signed by the person or the person's authorized agent having knowledge of the facts, the assessment becomes final, and the amount of the assessment is due and payable from the person assessed to the treasurer of state. The petition shall indicate the objections of the person assessed, but additional objections may be raised in writing if

received by the commissioner prior to the date shown on the final determination.

If a petition for reassessment has been properly filed, the commissioner shall proceed under section 5703.60 of the Revised Code.

(C)(1) After an assessment becomes final, if any portion of the assessment, including accrued interest, remains unpaid, a certified copy of the tax commissioner's entry making the assessment final may be filed in the office of the clerk of the court of common pleas in the county in which the person resides or has its principal place of business in this state, or in the office of the clerk of court of common pleas of Franklin county.

(2) Immediately upon the filing of the entry, the clerk shall enter judgment for the state against the person assessed in the amount shown on the entry. The judgment may be filed by the clerk in a loose-leaf book entitled, "special judgments for the commercial activity tax" and shall have the same effect as other judgments. Execution shall issue upon the judgment at the request of the tax commissioner, and all laws applicable to sales on execution shall apply to sales made under the judgment.

(3) The portion of the assessment not paid within sixty days after the day the assessment was issued shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code from the day the tax commissioner issues the assessment until it is paid. Interest shall be paid in the same manner as the tax and may be collected by the issuance of an assessment under this section.

(D) If the tax commissioner believes that collection of the tax will be jeopardized unless proceedings to collect or secure collection of the tax are instituted without delay, the commissioner may issue a jeopardy assessment against the person liable for the tax. Immediately upon the issuance of the jeopardy assessment, the commissioner shall file an entry with the clerk of the court of common pleas in the manner prescribed by division (C) of this section. Notice of the jeopardy assessment shall be served on the person assessed or the person's authorized agent in the manner provided in section 5703.37 of the Revised Code within five days of the filing of the entry with the clerk. The total amount assessed is immediately due and payable, unless the person assessed files a petition for reassessment in accordance with division (B) of this section and provides security in a form satisfactory to the commissioner and in an amount sufficient to satisfy the unpaid balance of the assessment. Full or partial payment of the assessment does not prejudice the commissioner's consideration of the petition for reassessment.

(E) The tax commissioner shall immediately forward to the treasurer of state all amounts the commissioner receives under this section, and such



amounts shall be considered as revenue arising from the tax imposed under this chapter.

(F) Except as otherwise provided in this division, no assessment shall be made or issued against a taxpayer for the tax imposed under this chapter more than four years after the due date for the filing of the return for the tax period for which the tax was reported, or more than four years after the return for the tax period was filed, whichever is later. Nothing in this division bars an assessment against a taxpayer that fails to file a return required by this chapter or that files a fraudulent return.

(G) If the tax commissioner possesses information that indicates that the amount of tax a taxpayer is required to pay under this chapter exceeds the amount the taxpayer paid, the tax commissioner may audit a sample of the taxpayer's gross receipts over a representative period of time to ascertain the amount of tax due, and may issue an assessment based on the audit. The tax commissioner shall make a good faith effort to reach agreement with the taxpayer in selecting a representative sample. The tax commissioner may apply a sampling method only if the commissioner has prescribed the method by rule.

(H) If the whereabouts of a person subject to this chapter is not known to the tax commissioner, the secretary of state is hereby deemed to be that person's agent for purposes of service of process of notice of any assessment, action, or proceedings instituted in this state against the person under this chapter. Such process or notice shall be served on such person by the commissioner or by one of the commissioner's agents by leaving at the office of the secretary of state, at least fifteen days before the return day of such process or notice, a true and attested copy of the notice, and by sending to such person by ordinary mail, with an endorsement thereon of the service upon the secretary of state, addressed to such person at the person's last known address.

Sec. 5751.10. If any person liable for the tax imposed under this chapter sells the trade or business, disposes in any manner other than in the regular course of business at least seventy-five per cent of assets of the trade or business, or quits the trade or business, any tax owed by such person shall become due and payable immediately, and the person shall pay the tax under this section, including any applicable penalties and interest, within fifteen days after the date of selling or quitting the trade or business. The person's successor shall withhold a sufficient amount of the purchase money to cover the amount due and unpaid until the former owner produces a receipt from the tax commissioner showing that the amounts are paid or a certificate indicating that no taxes are due. If a purchaser fails to withhold purchase

money, that person is personally liable up to the purchase money amount, for such amounts that are unpaid during the operation of the business by the former owner.

The tax commissioner may adopt rules regarding the issuance of certificates under this section, including the waiver of the need for a certificate if certain criteria are met.

Sec. 5751.11. If any person subject to this chapter fails to report or pay the tax as required under this chapter, or fails to pay any penalty imposed under this chapter within ninety days after the time prescribed for payment of the penalty, the attorney general, on the request of the tax commissioner, shall commence an action in quo warranto in the court of appeals of the county in which the person has its principal place of business to forfeit and annul its privileges or franchise within this state. If the court finds that the person is in default for the amount claimed, it shall render judgment revoking the person's privileges or franchise within this state and shall otherwise proceed as provided in Chapter 2733. of the Revised Code.

Sec. 5751.12. The tax commissioner may prescribe requirements for the keeping of records and other pertinent documents, the filing of copies of federal income tax returns and determinations, and computations reconciling federal income tax returns with the returns and reports required by section 5751.05 of the Revised Code. The commissioner may require any person, by rule or notice served on that person, to keep those records that the commissioner considers necessary to show whether, and the extent to which, a person is subject to this chapter. Those records and other documents shall be open during business hours to the inspection of the commissioner, and shall be preserved for a period of four years unless the commissioner, in writing, consents to their destruction within that period, or by order requires that they be kept longer. If such records are normally kept by the person electronically, the person shall provide such records to the commissioner electronically at the commissioner's request.

Any information required by the tax commissioner under this chapter is confidential as provided for in section 5703.21 of the Revised Code. However, the commissioner shall make public an electronic list of all actively registered persons required to remit the tax under this chapter, including legal names, trade names, addresses, and account numbers. In addition, such list shall include all persons that cancelled their registration at any time during the preceding four calendar years, including the date the registration was cancelled.

Sec. 5751.20. (A) As used in sections 5751.20 to 5751.22 of the Revised Code:

(1) "School district," "joint vocational school district," "local taxing unit," "state education aid," "recognized valuation," "fixed-rate levy," and "fixed-sum levy" have the same meanings as used in section 5727.84 of the Revised Code.

(2) "State education aid offset" means the amount determined for each school district or joint vocational school district under division (A)(1) of section 5751.21 of the Revised Code.

(3) "Machinery and equipment property tax value loss" means the amount determined under division (C)(1) of this section.

(4) "Inventory property tax value loss" means the amount determined under division (C)(2) of this section.

(5) "Furniture and fixtures property tax value loss" means the amount determined under division (C)(3) of this section.

(6) "Machinery and equipment fixed-rate levy loss" means the amount determined under division (D)(1) of this section.

(7) "Inventory fixed-rate levy loss" means the amount determined under division (D)(2) of this section.

(8) "Furniture and fixtures fixed-rate levy loss" means the amount determined under division (D)(3) of this section.

(9) "Total fixed-rate levy loss" means the sum of the machinery and equipment fixed-rate levy loss, the inventory fixed-rate levy loss, the furniture and fixtures fixed-rate levy loss, and the telephone company fixed-rate levy loss.

(10) "Fixed-sum levy loss" means the amount determined under division (E) of this section.

(11) "Machinery and equipment" means personal property subject to the assessment rate specified in division (F) of section 5711.22 of the Revised Code.

(12) "Inventory" means personal property subject to the assessment rate specified in division (E) of section 5711.22 of the Revised Code.

(13) "Furniture and fixtures" means personal property subject to the assessment rate specified in division (G) of section 5711.22 of the Revised Code.

(14) "Qualifying levies" are levies in effect for tax year 2004 or applicable to tax year 2005 or approved at an election conducted before September 1, 2005, and first levied in tax year 2006. For the purpose of determining the rate of a qualifying levy authorized by section 5705.212 or 5705.213 of the Revised Code, the rate shall be the rate that would be in effect for tax year 2010.

(15) "Telephone property" means tangible personal property of a

telephone, telegraph, or interexchange telecommunications company subject to an assessment rate specified in section 5727.111 of the Revised Code in tax year 2004.

(16) "Telephone property tax value loss" means the amount determined under division (C)(4) of this section.

(17) "Telephone property fixed-rate levy loss" means the amount determined under division (D)(4) of this section.

(B) The commercial activities tax receipts fund is hereby created in the state treasury and shall consist of money arising from the tax imposed under this chapter. All money in that fund shall be credited for each fiscal year in the following percentages to the general revenue fund, to the school district tangible property tax replacement fund, which is hereby created in the state treasury for the purpose of making the payments described in section 5751.21 of the Revised Code, and to the local government tangible property tax replacement fund, which is hereby created in the state treasury for the purpose of making the payments described in section 5751.22 of the Revised Code, in the following percentages:

<u>Fiscal year</u>	<u>General Revenue Fund</u>	<u>School District Tangible Property Tax Replacement Fund</u>	<u>Local Government Tangible Property Tax Replacement Fund</u>
<u>2006</u>	<u>67.7%</u>	<u>22.6%</u>	<u>9.7%</u>
<u>2007</u>	<u>0%</u>	<u>70.0%</u>	<u>30.0%</u>
<u>2008</u>	<u>0%</u>	<u>70.0%</u>	<u>30.0%</u>
<u>2009</u>	<u>0%</u>	<u>70.0%</u>	<u>30.0%</u>
<u>2010</u>	<u>0%</u>	<u>70.0%</u>	<u>30.0%</u>
<u>2011</u>	<u>0%</u>	<u>70.0%</u>	<u>30.0%</u>
<u>2012</u>	<u>5.3%</u>	<u>70.0%</u>	<u>24.7%</u>
<u>2013</u>	<u>19.4%</u>	<u>70.0%</u>	<u>10.6%</u>
<u>2014</u>	<u>14.1%</u>	<u>70.0%</u>	<u>15.9%</u>
<u>2015</u>	<u>17.6%</u>	<u>70.0%</u>	<u>12.4%</u>
<u>2016</u>	<u>21.1%</u>	<u>70.0%</u>	<u>8.9%</u>
<u>2017</u>	<u>24.6%</u>	<u>70.0%</u>	<u>5.4%</u>
<u>2018</u>	<u>28.1%</u>	<u>70.0%</u>	<u>1.9%</u>
<u>2019 and thereafter</u>	<u>100%</u>	<u>0%</u>	<u>0%</u>

(C) Not later than September 15, 2005, the tax commissioner shall determine for each school district, joint vocational school district, and local

taxing unit its machinery and equipment, inventory property, furniture and fixtures property, and telephone property tax value losses, which are the applicable amounts described in divisions (C)(1), (2), (3), and (4) of this section:

(1) Machinery and equipment property tax value loss is the taxable value of machinery and equipment property as reported by taxpayers for tax year 2004 multiplied by:

- (a) For tax year 2006, thirty-three and eight-tenths per cent;
- (b) For tax year 2007, sixty-one and three-tenths per cent;
- (c) For tax year 2008, eighty-three per cent;
- (d) For tax year 2009 and thereafter, one hundred per cent.

(2) Inventory property tax value loss is the taxable value of inventory property as reported by taxpayers for tax year 2004 multiplied by:

- (a) For tax year 2006, a fraction, the numerator of which is five and three-fourths and the denominator of which is twenty-three;
- (b) For tax year 2007, a fraction, the numerator of which is nine and one-half and the denominator of which is twenty-three;
- (c) For tax year 2008, a fraction, the numerator of which is thirteen and one-fourth and the denominator of which is twenty-three;
- (d) For tax year 2009 and thereafter a fraction, the numerator of which is seventeen and the denominator of which is twenty-three.

(3) Furniture and fixtures property tax value loss is the taxable value of furniture and fixture property as reported by taxpayers for tax year 2004 multiplied by:

- (a) For tax year 2006, twenty-five per cent;
- (b) For tax year 2007, fifty per cent;
- (c) For tax year 2008, seventy-five per cent;
- (d) For tax year 2009 and thereafter, one hundred per cent.

The taxable value of property reported by taxpayers used in divisions (C)(1), (2), and (3) of this section shall be such values as determined to be final by the tax commissioner as of August 31, 2005. Such determinations shall be final except for any correction of a clerical error that was made prior to August 31, 2005, by the tax commissioner.

(4) Telephone property tax value loss is the taxable value of telephone property as taxpayers would have reported that property for tax year 2004 if the assessment rate for all telephone property for that year were twenty-five per cent, multiplied by:

- (a) For tax year 2006, zero per cent;
- (b) For tax year 2007, zero per cent;
- (c) For tax year 2008, zero per cent;

(d) For tax year 2009, sixty per cent;

(e) For tax year 2010, eighty per cent;

(f) For tax year 2011 and thereafter, one hundred per cent.

To facilitate the calculations required under division (C) of this section, the county auditor, upon request from the tax commissioner, shall provide by August 1, 2005, the values of machinery and equipment, inventory, and furniture and fixtures for all single-county personal property taxpayers for tax year 2004.

(D) Not later than September 15, 2005, the tax commissioner shall determine for each tax year from 2006 through 2009 for each school district, joint vocational school district, and local taxing unit its machinery and equipment, inventory, and furniture and fixtures fixed-rate levy losses, and for each tax year from 2006 through 2011 its telephone property fixed-rate levy loss, which are the applicable amounts described in divisions (D)(1), (2), (3), and (4) of this section:

(1) The machinery and equipment fixed-rate levy loss is the machinery and equipment property tax value loss multiplied by the sum of the tax rates of fixed-rate qualifying levies.

(2) The inventory fixed-rate loss is the inventory property tax value loss multiplied by the sum of the tax rates of fixed-rate qualifying levies.

(3) The furniture and fixtures fixed-rate levy loss is the furniture and fixture property tax value loss multiplied by the sum of the tax rates of fixed-rate qualifying levies.

(4) The telephone property fixed-rate levy loss is the telephone property tax value loss multiplied by the sum of the tax rates of fixed-rate qualifying levies.

(E) Not later than September 15, 2005, the tax commissioner shall determine for each school district, joint vocational school district, and local taxing unit its fixed-sum levy loss. The fixed-sum levy loss is the amount obtained by subtracting the amount described in division (E)(2) of this section from the amount described in division (E)(1) of this section:

(1) The sum of the machinery and equipment property tax value loss, the inventory property tax value loss, and the furniture and fixtures property tax value loss, and, for 2008 through 2017 the telephone property tax value loss of the district or unit multiplied by the sum of the fixed-sum tax rates of qualifying levies. For 2006 through 2010, this computation shall include all qualifying levies remaining in effect for the current tax year and any school district emergency levies that are qualifying levies not remaining in effect for the current year. For 2011 through 2017, this computation shall include only qualifying levies remaining in effect for the current year. For purposes

of this computation, a qualifying school district emergency levy remains in effect in a year after 2010 only if, for that year, the board of education levies a school district emergency levy for an annual sum at least equal to the annual sum levied by the board in tax year 2004 less the amount of the payment certified under this division for 2006.

(2) The total taxable value in tax year 2004 less the sum of the machinery and equipment, inventory, furniture and fixtures, and telephone property tax value losses in each school district, joint vocational school district, and local taxing unit multiplied by one-half of one mill per dollar.

(3) For the calculations in divisions (E)(1) and (2) of this section, the tax value losses are those that would be calculated for tax year 2009 under divisions (C)(1), (2), and (3) of this section and for tax year 2011 under division (C)(4) of this section.

(4) To facilitate the calculation under divisions (D) and (E) of this section, not later than September 1, 2005, any school district, joint vocational school district, or local taxing unit that has a qualifying levy that was approved at an election conducted during 2005 before September 1, 2005, shall certify to the tax commissioner a copy of the county auditor's certificate of estimated property tax millage for such levy as required under division (B) of section 5705.03 of the Revised Code, which is the rate that shall be used in the calculations under such divisions.

If the amount determined under division (E) of this section for any school district, joint vocational school district, or local taxing unit is greater than zero, that amount shall equal the reimbursement to be paid pursuant to division (D) of section 5751.21 or division (A)(3) of section 5751.22 of the Revised Code, and the one-half of one mill that is subtracted under division (E)(2) of this section shall be apportioned among all contributing fixed-sum levies in the proportion that each levy bears to the sum of all fixed-sum levies within each school district, joint vocational school district, or local taxing unit.

(F) Not later than October 1, 2005, the tax commissioner shall certify to the department of education for every school district and joint vocational school district the machinery and equipment, inventory, furniture and fixtures, and telephone property tax value losses determined under division (C) of this section, the machinery and equipment, inventory, furniture and fixtures, and telephone fixed-rate levy losses determined under division (D) of this section, and the fixed-sum levy losses calculated under division (E) of this section. The calculations under divisions (D) and (E) of this section shall separately display the levy loss for each levy eligible for reimbursement.

(G) Not later than October 1, 2005, the tax commissioner shall certify the amount of the fixed-sum levy losses to the county auditor of each county in which a school district, joint vocational school district, or local taxing unit with a fixed-sum levy loss reimbursement has territory.

Sec. 5751.21. (A) Not later than the thirty-first day of July of 2007 through 2017, the department of education shall determine the following for each school district and each joint vocational school district eligible for payment under division (B) of this section:

(1) The state education aid offset, which is the difference obtained by subtracting the amount described in division (A)(1)(b) of this section from the amount described in division (A)(1)(a) of this section:

(a) The state education aid computed for the school district or joint vocational school district for the current fiscal year as of the thirty-first day of July;

(b) The state education aid that would be computed for the school district or joint vocational school district for the current fiscal year as of the thirty-first day of July if the recognized valuation included the machinery and equipment, inventory, furniture and fixtures, and telephone property tax value losses for the school district or joint vocational school district for the second preceding tax year.

(2) The greater of zero or the difference obtained by subtracting the state education aid offset determined under division (A)(1) of this section from the sum of the machinery and equipment fixed-rate levy loss, the inventory fixed-rate levy loss, furniture and fixtures fixed-rate levy loss, and telephone property fixed-rate levy loss certified under division (F) of section 5751.20 of the Revised Code for all taxing districts in each school district and joint vocational school district for the second preceding tax year.

By the fifth day of August of each such year, the department of education shall certify the amount so determined under division (A)(1) of this section to the director of budget and management.

(B) The department of education shall pay from the school district tangible property tax replacement fund to each school district and joint vocational school district all of the following for fixed-rate levy losses certified under division (F) of section 5751.20 of the Revised Code:

(1) On or before May 31, 2006, one-seventh of the total fixed-rate levy loss for tax year 2006;

(2) On or before August 31, 2006, and October 31, 2006, one-half of six-sevenths of the total fixed-rate levy loss for tax year 2006;

(3) On or before May 31, 2007, one-seventh of the total fixed-rate levy loss for tax year 2007;



(4) On or before August 31, 2007, and October 31, 2007, forty-three per cent of the amount determined under division (A)(2) of this section for fiscal year 2008, but not less than zero, plus one-half of six-sevenths of the difference between the total fixed-rate levy loss for tax year 2007 and the total fixed-rate levy loss for tax year 2006.

(5) On or before May 31, 2008, fourteen per cent of the amount determined under division (A)(2) of this section for fiscal year 2008, but not less than zero, plus one-seventh of the difference between the total fixed-rate levy loss for tax year 2008 and the total fixed-rate levy loss for tax year 2006.

(6) On or before August 31, 2008, and October 31, 2008, forty-three per cent of the amount determined under division (A)(2) of this section for fiscal year 2009, but not less than zero, plus one-half of six-sevenths of the difference between the total fixed-rate levy loss in tax year 2008 and the total fixed-rate levy loss in tax year 2007.

(7) On or before May 31, 2009, fourteen per cent of the amount determined under division (A)(2) of this section for fiscal year 2009, but not less than zero, plus one-seventh of the difference between the total fixed-rate levy loss for tax year 2009 and the total fixed-rate levy loss for tax year 2007.

(8) On or before August 31, 2009, and October 31, 2009, forth-three per cent of the amount determined under division (A)(2) of this section for fiscal year 2010, but not less than zero, plus one-half of six-sevenths of the difference between the total fixed-rate levy loss in tax year 2009 and the total fixed-rate levy loss in tax year 2008.

(9) On or before May 31, 2010, fourteen per cent of the amount determined under division (A)(2) of this section for fiscal year 2010, but not less than zero, plus one-seventh of the difference between the total fixed-rate levy loss in tax year 2010 and the total fixed-rate levy loss in tax year 2008.

(10) On or before August 31, 2010, and October 31, 2010, one-third of the amount determined under division (A)(2) of this section for fiscal year 2011, but not less than zero, plus one-half of six-sevenths of the difference between the telephone property fixed-rate levy loss for tax year 2010 and the telephone property fixed-rate levy loss for tax year 2009.

(11) On or before May 31, 2011, fourteen per cent of the amount determined under division (A)(2) of this section for fiscal year 2011, but not less than zero, plus one-seventh of the difference between the telephone property fixed-rate levy loss for tax year 2011 and the telephone property fixed-rate levy loss for tax year 2009.

(12) On or before August 31, 2011, October 31, 2011, and May 31, 2012, the amount determined under division (A)(2) of this section multiplied by a fraction, the numerator of which is fourteen and the denominator of which is seventeen, but not less than zero, multiplied by one-third, plus one-half of six-sevenths of the difference between the telephone property fixed-rate levy loss for tax year 2011 and the telephone property fixed-rate levy loss for tax year 2010.

(13) On or before May 31, 2012, fourteen per cent of the amount determined under division (A)(2) of this section for fiscal year 2012, multiplied by a fraction, the numerator of which is fourteen and the denominator of which is seventeen, plus one-seventh of the difference between the telephone property fixed-rate levy loss for tax year 2011 and the telephone property fixed-rate levy loss for tax year 2010.

(14) On or before August 31, 2012, October 31, 2012, and May 31, 2013, the amount determined under division (A)(2) of this section multiplied by a fraction, the numerator of which is eleven and the denominator of which is seventeen, but not less than zero, multiplied by one-third.

(15) On or before August 31, 2013, October 31, 2013, and May 31, 2014, the amount determined under division (A)(2) of this section multiplied by a fraction, the numerator of which is nine and the denominator of which is seventeen, but not less than zero, multiplied by one-third.

(16) On or before August 31, 2014, October 31, 2014, and May 31, 2015, the amount determined under division (A)(2) of this section multiplied by a fraction, the numerator of which is seven and the denominator of which is seventeen, but not less than zero, multiplied by one-third.

(17) On or before August 31, 2015, October 31, 2015, and May 31, 2016, the amount determined under division (A)(2) of this section multiplied by a fraction, the numerator of which is five and the denominator of which is seventeen, but not less than zero, multiplied by one-third.

(18) On or before August 31, 2016, October 31, 2016, and May 31, 2017, the amount determined under division (A)(2) of this section multiplied by a fraction, the numerator of which is three and the denominator of which is seventeen, but not less than zero, multiplied by one-third.

(19) On or before August 31, 2017, October 31, 2017, and May 31, 2018, the amount determined under division (A)(2) of this section multiplied by a fraction, the numerator of which is one and the denominator of which is seventeen, but not less than zero, multiplied by one-third.

(20) After May 31, 2018, no payments shall be made under this section.

The department of education shall report to each school district and joint vocational school district the apportionment of the payments among the

school district's or joint vocational school district's funds based on the certifications under division (F) of section 5751.20 of the Revised Code.

Any qualifying levy that is a fixed-rate levy that is not applicable to a tax year after 2010 does not qualify for any reimbursement after the tax year to which it is last applicable.

(C) For taxes levied within the ten-mill limitation for debt purposes in tax year 2005, payments shall be made equal to one hundred per cent of the loss computed as if the tax were a fixed-rate levy, but those payments shall extend from fiscal year 2006 through fiscal year 2018, as long as the qualifying levy continues to be used for debt purposes. If the purpose of such a qualifying levy is changed, that levy becomes subject to the payments determined in division (B) of this section.

(D)(1) Not later than January 1, 2006, for each fixed-sum levy of each school district or joint vocational school district and for each year for which a determination is made under division (F) of section 5751.20 of the Revised Code that a fixed-sum levy loss is to be reimbursed, the tax commissioner shall certify to the department of education the fixed-sum levy loss determined under that division. The certification shall cover a time period sufficient to include all fixed-sum levies for which the commissioner made such a determination. The department shall pay from the school district property tax replacement fund to the school district or joint vocational school district one-third of the fixed-sum levy loss so certified for each year on or before the last day of May, August, and November of the current year.

(2) Beginning in 2006, by the first day of January of each year, the tax commissioner shall review the certification originally made under division (D)(1) of this section. If the commissioner determines that a debt levy that had been scheduled to be reimbursed in the current year has expired, a revised certification for that and all subsequent years shall be made to the department of education.

(E) Beginning in September 2007 and through June 2018, the director of budget and management shall transfer from the school district tangible property tax replacement fund to the general revenue fund each of the following:

(1) On the first day of September, the lesser of one-fourth of the amount certified for that fiscal year under division (A)(1) of this section or the balance in the school district tangible property tax replacement fund;

(2) On the first day of December, the lesser of one-fourth of the amount certified for that fiscal year under division (A)(1) of this section or the balance in the school district tangible property tax replacement fund;

(3) On the first day of March, the lesser of one-fourth of the amount

certified for that fiscal year under division (A)(1) of this section or the balance in the school district tangible property tax replacement fund;

(4) On the first day of June, the lesser of one-fourth of the amount certified for that fiscal year under division (A)(1) of this section or the balance in the school district tangible property tax replacement fund.

(F) For each of the fiscal years 2006 through 2018, if the total amount in the school district tangible property tax replacement fund is insufficient to make all payments under divisions (B), (C), or (D) of this section at the times the payments are to be made, the director of budget and management shall transfer from the general revenue fund to the school district tangible property tax replacement fund the difference between the total amount to be paid and the amount in the school district tangible property tax replacement fund. For each fiscal year after 2018, at the time payments under division (D) of this section are to be made, the director of budget and management shall transfer from the general revenue fund to the school district property tax replacement fund the amount necessary to make such payments.

(G) On the fifteenth day of June of 2006 through 2011, the director of budget and management may transfer any balance in the school district tangible property tax replacement fund to the general revenue fund. At the end of fiscal years 2012 through 2018, any balance in the school district tangible property tax replacement fund shall remain in the fund to be used in future fiscal years for school purposes.

(H) If all of the territory of a school district or joint vocational school district is merged with another district, or if a part of the territory of a school district or joint vocational school district is transferred to an existing or newly created district, the department of education, in consultation with the tax commissioner, shall adjust the payments made under this section as follows:

(1) For a merger of two or more districts, the machinery and equipment, inventory, furniture and fixtures, and telephone property fixed-rate levy losses and the fixed-sum levy losses of the successor district shall be equal to the sum of the machinery and equipment, inventory, furniture and fixtures, and telephone property fixed-rate levy losses and debt levy losses as determined in section 5751.20 of the Revised Code, for each of the districts involved in the merger.

(2) If property is transferred from one district to a previously existing district, the amount of machinery and equipment, inventory, furniture and fixtures, and telephone property fixed-rate levy losses that shall be transferred to the recipient district shall be an amount equal to the total machinery and equipment, inventory, furniture and fixtures, and telephone

property fixed-rate levy losses times a fraction, the numerator of which is the value of business tangible personal property on the land being transferred in the most recent year for which data are available, and the denominator of which is the total value of business tangible personal property in the district from which the land is being transferred in the most recent year for which data are available.

(3) After December 31, 2004, if property is transferred from one or more districts to a district that is newly created out of the transferred property, the newly created district shall be deemed not to have any machinery and equipment, inventory, furniture and fixtures, or telephone property fixed-rate levy losses and the districts from which the property was transferred shall have no reduction in their machinery and equipment, inventory, furniture and fixtures, and telephone property fixed-rate levy losses.

(4) If the recipient district under division (H)(2) of this section or the newly created district under divisions (H)(3) of this section is assuming debt from one or more of the districts from which the property was transferred and any of the districts losing the property had fixed-sum levy losses, the department of education, in consultation with the tax commissioner, shall make an equitable division of the fixed-sum levy loss reimbursements.

Sec. 5751.22. (A) Not later than January 1, 2006, the tax commissioner shall compute the payments to be made to each local taxing unit for each year according to divisions (A)(1), (2), (3), and (4) of this section, and shall distribute the payments in the manner prescribed by division (C) of this section. The calculation of the fixed-sum levy loss shall cover a time period sufficient to include all fixed-sum levies for which the commissioner determined, pursuant to division (E) of section 5751.20 of the Revised Code, that a fixed-sum levy loss is to be reimbursed.

(1) Except as provided in division (A)(4) of this section, for machinery and equipment, inventory, and furniture and fixtures fixed-rate levy losses determined under division (D) of section 5751.20 of the Revised Code, payments shall be made in an amount equal to each of those losses multiplied by the following:

(a) For tax years 2006 through 2010, one hundred per cent;

(b) For tax year 2011, a fraction, the numerator of which is fourteen and the denominator of which is seventeen;

(c) For tax year 2012, a fraction, the numerator of which is eleven and the denominator of which is seventeen;

(d) For tax year 2013, a fraction, the numerator of which is nine and the denominator of which is seventeen;

(e) For tax year 2014, a fraction, the numerator of which is seven and the denominator of which is seventeen;

(f) For tax year 2015, a fraction, the numerator of which is five and the denominator of which is seventeen;

(g) For tax year 2016, a fraction, the numerator of which is three and the denominator of which is seventeen;

(h) For tax year 2017, a fraction, the numerator of which is one and the denominator of which is seventeen;

(i) For tax years 2018 and thereafter, no fixed-rate payments shall be made.

Any qualifying levy that is a fixed-rate levy that is not applicable to a tax year after 2010 shall not qualify for any reimbursement after the tax year to which it is last applicable.

(2) Except as provided in division (A)(4) of this section, for telephone property fixed-rate levy losses determined under division (D)(4) of section 5751.20 of the Revised Code, payments shall be made in an amount equal to each of those losses multiplied by the following:

(a) For tax years 2009 through 2011, one hundred per cent;

(b) For tax year 2012, seven-eighths;

(c) For tax year 2013, six-eighths;

(d) For tax year 2014, five-eighths;

(e) For tax year 2015, four-eighths;

(f) For tax year 2016, three-eighths;

(g) For tax year 2017, two-eighths;

(h) For tax year 2018, one-eighth;

(i) For tax years 2019 and thereafter, no fixed-rate payments shall be made.

Any qualifying levy that is a fixed-rate levy that is not applicable to a tax year after 2011 shall not qualify for any reimbursement after the tax year to which it is last applicable.

(3) For fixed-sum levy losses determined under division (E) of section 5751.20 of the Revised Code, payments shall be made in the amount of one hundred per cent of the fixed-sum levy loss for payments required to be made in 2006 and thereafter.

(4) For taxes levied within the ten-mill limitation for debt purposes in tax year 2005, payments shall be made based on the schedule in division (A)(1) of this section for each of the calendar years 2006 through 2010. For each of the calendar years 2011 through 2017, the percentages for calendar year 2010 shall be used, as long as the qualifying levy continues to be used for debt purposes. If the purpose of such a qualifying levy is changed, that

levy becomes subject to the payment schedules in divisions (A)(1)(a) to (h) of this section. No payments shall be made for such levies after calendar year 2017.

(B) Beginning in 2007, by the thirty-first day of January of each year, the tax commissioner shall review the calculation originally made under division (A) of this section of the fixed-sum levy losses determined under division (E) of section 5751.20 of the Revised Code. If the commissioner determines that a fixed-sum levy that had been scheduled to be reimbursed in the current year has expired, a revised calculation for that and all subsequent years shall be made.

(C) Payments to local taxing units required to be made under division (A) of this section shall be paid from the local government tangible property tax replacement fund to the county undivided income tax fund in the proper county treasury. Beginning in May 2006, one-third of the amount certified under that division shall be paid by the last day of May, August, and October. Within forty-five days after receipt of such payments, the county treasurer shall distribute amounts determined under division (A) of this section to the proper local taxing unit as if they had been levied and collected as taxes, and the local taxing unit shall apportion the amounts so received among its funds in the same proportions as if those amounts had been levied and collected as taxes.

(D) For each of the fiscal years 2006 through 2019, if the total amount in the local government tangible property tax replacement fund is insufficient to make all payments under division (C) of this section at the times the payments are to be made, the director of budget and management shall transfer from the general revenue fund to the local government tangible property tax replacement fund the difference between the total amount to be paid and the amount in the local government tangible property tax replacement fund. For each fiscal year after 2019, at the time payments under division (A)(2) of this section are to be made, the director of budget and management shall transfer from the general revenue fund to the local government property tax replacement fund the amount necessary to make such payments.

(E) On the fifteenth day of June of each year from 2006 through 2018, the director of budget and management may transfer any balance in the local government tangible property tax replacement fund to the general revenue fund.

(F) If all or a part of the territories of two or more local taxing units are merged, or unincorporated territory of a township is annexed by a municipal corporation, the tax commissioner shall adjust the payments made under this

section to each of the local taxing units in proportion to the tax value loss apportioned to the merged or annexed territory, or as otherwise provided by a written agreement between the legislative authorities of the local taxing units certified to the commissioner not later than the first day of June of the calendar year in which the payment is to be made.

Sec. 5751.23. (A) As used in this section:

(1) "Administrative fees" means the dollar percentages allowed by the county auditor for services or by the county treasurer as fees, or paid to the credit of the real estate assessment fund, under divisions (A) and (B) of section 319.54 and division (A) of section 321.26 of the Revised Code.

(2) "Administrative fee loss" means a county's loss of administrative fees due to its tax value loss, determined as follows:

(a) For purposes of the determination made under division (B) of this section in the years 2006 through 2010, the administrative fee loss shall be computed by multiplying the amounts determined for all taxing districts in the county under divisions (D) and (E) of section 5751.20 of the Revised Code by nine thousand six hundred fifty-nine ten-thousandths of one per cent if total taxes collected in the county in 2004 exceeded one hundred fifty million dollars, or one and one thousand one hundred fifty-nine ten-thousandths of one per cent if total taxes collected in the county in 2004 were one hundred fifty million dollars or less;

(b) For purposes of the determination under division (B) of this section in the years after 2010, the administrative fee losses shall be determined by multiplying the administrative fee losses calculated for 2010 by the fractions in divisions (A)(1)(b) to (i) of section 5751.22 of the Revised Code.

(3) "Total taxes collected" means all money collected on any tax duplicate of the county, other than the estate tax duplicates. "Total taxes collected" does not include amounts received pursuant to divisions (F) and (G) of section 321.24 or section 323.156 of the Revised Code.

(B) Not later than December 31, 2005, the tax commissioner shall certify to each county auditor the tax levy losses calculated under divisions (D) and (E) of section 5751.20 of the Revised Code for each school district, joint vocational school district, and local taxing unit in the county. Not later than the thirty-first day of January of 2006 through 2017, the county auditor shall determine the administrative fee loss for the county and apportion that loss ratably among the school districts, joint vocational school districts, and local taxing units on the basis of the tax levy losses certified under this division.

(C) On or before each of the days prescribed for the settlements under divisions (A) and (C) of section 321.24 of the Revised Code in the years



2006 through 2017, the county treasurer shall deduct one-half of the amount apportioned to each school district, joint vocational school district, and local taxing unit from the portions of revenue payable to them.

(D) On or before each of the days prescribed for settlements under divisions (A) and (C) of section 321.24 of the Revised Code in the years 2006 through 2017, the county auditor shall cause to be deposited an amount equal to one-half of the amount of the administrative fee loss in the same funds as if allowed as administrative fees.

Sec. 5751.31. Notwithstanding any section of law to the contrary, the tax commissioner may issue one or more final determinations under section 5703.60 of the Revised Code for which any appeal must be made directly to the supreme court within thirty days after the date the commissioner issued the determination if the primary issue raised by the petitioner is the constitutionality of division (H)(3) of section 5751.01 of the Revised Code or an issue arising under Section 3, 5a, or 13 of Article XII, Ohio Constitution. Such final determination shall clearly indicate that any appeal thereof must be made directly to the supreme court within the thirty-day period prescribed in this division.

Sec. 5751.50. (A) For tax periods beginning on or after January 1, 2008, a refundable credit granted by the tax credit authority under section 122.17 of the Revised Code may be claimed under this chapter in the order required under section 5751.98 of the Revised Code. For purposes of making tax payments under this chapter, taxes equal to the amount of the refundable credit shall be considered to be paid to this state on the first day of the tax period. A credit claimed in calendar year 2008 may not be applied against the tax otherwise due for a tax period beginning before July 1, 2008. The refundable credit shall not be claimed against the tax otherwise due for any tax period beginning after the date on which a relocation of employment positions occurs in violation of an agreement entered into under sections 122.17 or 122.171 of the Revised Code.

(B) For tax periods beginning on or after January 1, 2008, a nonrefundable credit granted by the tax credit authority under section 122.171 of the Revised Code may be claimed under this chapter in the order required under section 5751.98 of the Revised Code. A credit claimed in calendar year 2008 may not be applied against the tax otherwise due under this chapter for a tax period beginning before July 1, 2008. The credit shall not be claimed against the tax otherwise due for any tax period beginning after the date on which a relocation of employment positions occurs in violation of an agreement entered into under sections 122.17 or 122.171 of the Revised Code. No credit shall be allowed under this chapter if the credit

was available against the tax imposed by section 5733.06 or 5747.02 of the Revised Code, except to the extent the credit was not applied against such tax.

Sec. 5751.51. (A) As used in this section, "qualified research expenses" has the same meaning as in section 41 of the Internal Revenue Code.

(B)(1) For tax periods beginning on or after January 1, 2008, a nonrefundable credit may be claimed under this chapter equal to seven per cent of the excess of (a) qualified research expenses incurred in this state by the taxpayer in the tax period for which the credit is claimed over (b) the taxpayer's average annual qualified research expenses incurred in this state for the three preceding tax periods.

(2) The taxpayer shall claim the credit allowed under division (B)(1) of this section in the order required by section 5751.98 of the Revised Code. A credit claimed in tax year 2008 may not be applied against the tax otherwise due under this chapter for a tax period beginning before July 1, 2008. Any credit amount in excess of the tax due under section 5751.03 of the Revised Code, after allowing for any other credits that precede the credit under this section in the order required under that section, may be carried forward for seven tax years, but the amount of the excess credit claimed against the tax for any tax period shall be deducted from the balance carried forward to the next tax period.

(3) No credit shall be allowed under this chapter if the credit was available against the tax imposed by section 5733.06 of the Revised Code, except to the extent the credit was not applied against such tax.

Sec. 5751.52. (A) As used in this section:

(1) "Borrower" means any person that receives a loan from the director of development under section 166.21 of the Revised Code, regardless of whether the borrower is subject to the tax imposed by this chapter.

(2) "Qualified research and development loan payments" has the same meaning as in section 166.21 of the Revised Code.

(3) "Related member" has the same meaning as in section 5733.042 of the Revised Code.

(B) For tax periods beginning on or after January 1, 2008, a nonrefundable credit may be claimed under this chapter equal to a borrower's qualified research and development loan payments made during the calendar year immediately preceding the tax period for which the credit is claimed. The amount of the credit for a calendar year shall not exceed one hundred fifty thousand dollars. No taxpayer is entitled to claim a credit under this section unless the taxpayer has obtained a certificate issued by the director of development under division (D) of section 166.21 of the Revised

Code. The credit shall be claimed in the order required under section 5151.98 of the Revised Code. A credit claimed in calendar year 2008 may not be applied against the tax otherwise due under this chapter for a tax period beginning before July 1, 2008. No credit shall be allowed under this chapter if the credit was available against the tax imposed by section 5733.06 or 5747.02 of the Revised Code except to the extent the credit was not applied against such tax. The credit, to the extent it exceeds the taxpayer's tax liability for a tax period after allowance for any other credits that precede the credit under this section in that order, shall be carried forward to the next succeeding tax period or periods, but the amount of the excess credit claimed against the tax for any tax period shall be deducted from the balance carried forward to the next tax period.

(C) A borrower entitled to a credit under this section may assign the credit, or a portion thereof, to any of the following:

(1) A related member of that borrower;

(2) The owner or lessee of the eligible research and development project;

(3) A related member of the owner or lessee of the eligible research and development project.

A borrower making an assignment under this division shall provide written notice of the assignment to the tax commissioner and the director of development, in such form as the commissioner prescribes, before the credit that was assigned is used. The assignor may not claim the credit to the extent it was assigned to an assignee. The assignee may claim the credit only to the extent the assignor has not claimed it.

(D) If any taxpayer is a partner in a partnership or a member in a limited liability company treated as a partnership for federal income tax purposes, the taxpayer shall be allowed the taxpayer's distributive or proportionate share of the credit available through the partnership or limited liability company.

Sec. 5751.53. (A) As used in this section:

(1) "Net income" and "taxable year" have the same meanings as in section 5733.04 of the Revised Code.

(2) "Franchise tax year" means "tax year" as defined in section 5733.04 of the Revised Code.

(3) "Deductible temporary differences" and "taxable temporary differences" have the same meanings as those terms have for purposes of paragraph 13 of the statement of financial accounting standards, number 109.

(4) "Qualifying taxpayer" means a taxpayer under this chapter that has a

qualifying Ohio net operating loss carryforward equal to or greater than the qualifying amount.

(5) "Qualifying Ohio net operating loss carryforward" means an Ohio net operating loss carryforward that the taxpayer could deduct in whole or in part for franchise tax year 2006 under section 5733.04 of the Revised Code but for the application of division (H) of this section. A qualifying Ohio net operating loss carryforward shall not exceed the amount of loss carryforward from franchise tax year 2005 as reported by the taxpayer either on a franchise tax report for franchise tax year 2005 pursuant to section 5733.02 of the Revised Code or on an amended franchise tax report prepared in good faith for such year and filed before July 1, 2006.

(6) "Disallowed Ohio net operating loss carryforward" means the lesser of the amounts described in division (A)(6)(a) or (b) of this section, but the amounts described in divisions (A)(6)(a) and (b) of this section shall each be reduced by the qualifying amount.

(a) The qualifying taxpayer's qualifying Ohio net operating loss carryforward:

(b) The Ohio net operating loss carryforward amount that the qualifying taxpayer used to compute the related deferred tax asset reflected on its books and records on the last day of its taxable year ending in 2004, adjusted for return to accrual, but this amount shall be reduced by the qualifying related valuation allowance amount. For the purposes of this section, the "qualifying related valuation allowance amount" is the amount of Ohio net operating loss reflected in the qualifying taxpayer's computation of the valuation allowance account, as shown on its books and records on the last day of its taxable year ending in 2004, with respect to the deferred tax asset relating to its Ohio net operating loss carryforward amount.

(7) "Other net deferred tax items apportioned to this state" is the product of (a) the amount of net deferred tax items and (b) the fraction described in division (B)(2) of section 5733.05 for the qualifying taxpayer's franchise tax year 2005.

(8)(a) Subject to divisions (A)(8)(b) to (d) of this section, the "amount of other net deferred tax items" is the difference between (i) the qualifying taxpayer's deductible temporary differences, net of related valuation allowance amounts, shown on the qualifying taxpayer's books and records on the last day of its taxable year ending in 2004, and (ii) the qualifying taxpayer's taxable temporary differences as shown on those books and records on that date. The amount of other net deferred tax items may be less than zero.

(b) For the purposes of computing the amount of the qualifying

taxpayer's other net deferred tax items described in division (A)(8)(a) of this section, any credit carryforward allowed under Chapter 5733. of the Revised Code shall be excluded from the amount of deductible temporary differences to the extent such credit carryforward amount, net of any related valuation allowance amount, is otherwise included in the qualifying taxpayer's deductible temporary differences, net of related valuation allowance amounts, shown on the qualifying taxpayer's books and records on the last day of the qualifying taxpayer's taxable year ending in 2004.

(c) No portion of the disallowed Ohio net operating loss carryforward shall be included in the computation of the amount of the qualifying taxpayer's net deferred tax items described in division (A)(8)(a) of this section.

(d) In no event shall the amount of other net deferred tax items apportioned to this state exceed twenty-five per cent of the qualifying Ohio net operating loss carryforward.

(9) "Amortizable amount" means:

(a) If the qualifying taxpayer's other net deferred tax items apportioned to this state is equal to or greater than zero, eight per cent of the sum of the qualifying taxpayer's disallowed Ohio net operating loss carryforward and the qualifying taxpayer's other net deferred tax items apportioned to this state;

(b) If the amount of the qualifying taxpayer's other net deferred tax items apportioned to this state is less than zero and if the absolute value of the amount of qualifying taxpayer's other net deferred tax items apportioned to this state is less than the qualifying taxpayer's disallowed net operating loss, eight per cent of the difference between the qualifying taxpayer's disallowed net operating loss carryforward and the absolute value of the qualifying taxpayer's other net deferred tax items apportioned to this state;

(c) If the amount of the qualifying taxpayer's other net deferred tax items apportioned to this state is less than zero and if the absolute value of the amount of qualifying taxpayer's other net deferred tax items apportioned to this state is equal to or greater than the qualifying taxpayer's disallowed net operating loss, zero.

(10) "Books and records" means the qualifying taxpayer's books, records, and all other information, all of which the qualifying taxpayer maintains and uses to prepare and issue its financial statements in accordance with generally accepted accounting principles.

(11)(a) Except as modified by division (A)(11)(b) of this section, "qualifying amount" means fifty million dollars per person.

(b) If for franchise tax year 2005 the person was a member of a

combined franchise tax report, as provided by section 5733.052 of the Revised Code, the "qualifying amount" is, in the aggregate, fifty million dollars for all members of that combined franchise tax report, and for purposes of divisions (A)(6)(a) and (b) of this section, those members shall allocate to each member any portion of the fifty million dollar amount. The total amount allocated to the members who are qualifying taxpayers shall equal fifty million dollars.

(B) For each calendar period beginning prior to January 1, 2030, there is hereby allowed a nonrefundable tax credit against the tax levied each year by this chapter on each qualifying taxpayer, on each consolidated elected taxpayer having one or more qualifying taxpayers as a member, and on each combined taxpayer having one or more qualifying taxpayers as a member. The credit shall be claimed in the order specified in section 5751.98 of the Revised Code and is allowed only to reduce the first one-half of any tax remaining after allowance of the credits that precede it in section 5751.98 of the Revised Code. No credit under division (B) of this section shall be allowed against the second one-half of such remaining tax.

Except as otherwise limited by divisions (C) and (D) of this section, the maximum amount of the nonrefundable credit that may be used against the first one-half of the remaining tax for each calendar year is as follows:

- (1) For calendar year 2010, ten per cent of the amortizable amount;
- (2) For calendar year 2011, twenty per cent of the amortizable amount, less all amounts previously used;
- (3) For calendar year 2012, thirty per cent of the amortizable amount, less all amounts previously used;
- (4) For calendar year 2013, forty per cent of the amortizable amount, less all amounts previously used;
- (5) For calendar year 2014, fifty per cent of the amortizable amount, less all amounts previously used;
- (6) For calendar year 2015, sixty per cent of the amortizable amount, less all amounts previously used;
- (7) For calendar year 2016, seventy per cent of the amortizable amount, less all amounts previously used;
- (8) For calendar year 2017, eighty per cent of the amortizable amount, less all amounts previously used;
- (9) For calendar year 2018, ninety per cent of the amortizable amount, less all amounts previously used;
- (10) For each of calendar years 2019 through 2029, one hundred per cent of the amortizable amount, less all amounts used in all previous years.

In no event shall the cumulative credit used for calendar years 2010

through 2029 exceed one hundred per cent of the amortizable amount.

(C)(1) Except as otherwise set forth in division (C)(2) of this section, a refundable credit is allowed in calendar year 2030 for any portion of the qualifying taxpayer's amortizable amount that is not used in accordance with division (B) of this section against the tax levied by this chapter on all taxpayers.

(2) Division (C)(1) of this section shall not apply and no refundable credit shall be available to any person if during any portion of the calendar year 2030 the person is not subject to the tax imposed by this chapter.

(D) Not later than June 30, 2006, each qualifying taxpayer, consolidated elected taxpayer, or combined taxpayer that will claim for any year the credit allowed in divisions (B) and (C) of this section shall file with the tax commissioner a report setting forth the amortizable amount available to such taxpayer and all other related information that the commissioner, by rule, requires. If the taxpayer does not timely file the report or fails to provide timely all information required by this division, the taxpayer is precluded from claiming any credit amounts described in divisions (B) and (C) of this section. Unless extended by mutual consent, the tax commissioner may, until June 30, 2010, audit the accuracy of the amortizable amount available to each taxpayer that will claim the credit, and adjust the amortizable amount or, if appropriate, issue any assessment necessary to correct any errors found upon audit.

(E) For the purpose of calculating the amortizable amount, if the tax commissioner ascertains that any portion of that amount is the result of a sham transaction as described in section 5703.56 of the Revised Code, the commissioner shall reduce the amortizable amount by two times the adjustment.

(F) If one entity transfers all or a portion of its assets and equity to another entity as part of an entity organization or reorganization or subsequent entity organization or reorganization for which no gain or loss is recognized in whole or in part for federal income tax purposes under the Internal Revenue Code, the credits allowed by this section shall be computed in a manner consistent with that used to compute the portion, if any, of federal net operating losses allowed to the respective entities under the Internal Revenue Code. The tax commissioner may prescribe forms or rules for making the computations required by this division.

(G)(1) Except as provided in division (F) of this section, no person shall pledge, collateralize, hypothecate, assign, convey, sell, exchange, or otherwise dispose of any or all tax credits, or any portion of any or all tax credits allowed under this section.

(2) No credit allowed under this section is subject to execution, attachment, lien, levy, or other judicial proceeding.

(H)(1)(a) Except as set forth in division (H)(1)(b) of this section and notwithstanding division (I)(1) of section 5733.04 of the Revised Code to the contrary, each person timely and fully complying with the reporting requirements set forth in division (D) of this section shall not claim, and shall not be entitled to claim, any deduction or adjustment for any Ohio net operating loss carried forward to any one or more franchise tax years after franchise tax year 2005.

(b) Division (H)(1)(a) of this section applies only to the portion of the Ohio net operating loss represented by the disallowed Ohio net operating loss carryforward.

(2) Notwithstanding division (I) of section 5733.04 of the Revised Code to the contrary, with respect to all franchise tax years after franchise tax year 2005, each person timely and fully complying with the reporting requirements set forth in division (D) of this section shall not claim, and shall not be entitled to claim, any deduction, exclusion, or adjustment with respect to deductible temporary differences reflected on the person's books and records on the last day of its taxable year ending in 2004.

(3)(a) Except as set forth in division (H)(3)(b) of this section and notwithstanding division (I) of section 5733.04 of the Revised Code to the contrary, with respect to all franchise tax years after franchise tax year 2005, each person timely and fully complying with the reporting requirements set forth in division (D) of this section shall exclude from Ohio net income all taxable temporary differences reflected on the person's books and records on the last day of its taxable year ending in 2004.

(b) In no event shall the exclusion provided by division (H)(3)(a) of this section for any franchise tax year exceed the amount of the taxable temporary differences otherwise included in Ohio net income for that year.

(4) Divisions (H)(2) and (3) of this section shall apply only to the extent such items were used in the calculations of the credit provided by this section.

Sec. 5751.98. (A) To provide a uniform procedure for calculating the amount of tax due under this chapter, a taxpayer shall claim any credits to which it is entitled in the following order:

(1) The nonrefundable jobs retention credit under division (B) of section 5751.50 of the Revised Code;

(2) The nonrefundable credit for qualified research expenses under division (B) of section 5751.51 of the Revised Code;

(3) The nonrefundable credit for a borrower's qualified research and



development loan payments under division (B) of section 5751.52 of the Revised Code;

(4) The nonrefundable credit for calendar years 2010 to 2029 for unused net operating losses under division (B) of section 5751.53 of the Revised Code;

(5) The refundable credit for calendar year 2030 for unused net operating losses under division (C) of section 5751.53 of the Revised Code;

(6) The refundable jobs creation credit under division (A) of section 5751.50 of the Revised Code.

(B) For any credit except the credit enumerated in division (A)(4) of this section, the amount of the credit for a tax period shall not exceed the tax due after allowing for any other credit that precedes it in the order required under this section. Any excess amount of a particular credit may be carried forward if authorized under the section creating the credit.

Sec. 5751.99. (A) Whoever files a fraudulent refund claim under section 5751.08 of the Revised Code shall be fined the greater of not more than one thousand dollars or the amount of the fraudulent refund requested or imprisoned not more than sixty days, or both.

(B) Except as provided in this section, whoever violates any section of this chapter, or any rule adopted by the tax commissioner under this chapter, shall be fined not more than five hundred dollars or imprisoned not more than thirty days, or both.

(C) The penalties provided in this section are in addition to any penalties imposed by the tax commissioner under section 5751.06 of the Revised Code.

Sec. 5907.15. There is hereby created in the state treasury the Ohio veterans' homes rental, service, and medicare reimbursement fund. Revenue generated from temporary use agreements of a veterans' home, from the sale of meals at a home's dining halls, from rental, lease, or sharing agreements for the use of facilities, supplies, equipment, utilities, or services provided by a home, and from medicare reimbursements shall be credited to the fund. The fund shall be used only for maintenance costs of the homes and for the purchase of medications, medication services, medical supplies, and medical equipment by the homes.

Sec. 5919.31. (A) If an active duty member of the Ohio national guard chooses to purchase life insurance pursuant to the "Servicemembers' Group Life Insurance Act," 79 Stat. 880 et seq. (1965), 38 U.S.C. 1965 et seq., the adjutant general shall reimburse the member in an amount equal to the monthly premium paid for each month or part of a month by the member pursuant to the act while being an active duty member.

(B) The adjutant general may request additional money from the controlling board if the adjutant general does not have sufficient available unencumbered funds to reimburse active duty members for life insurance premiums pursuant to this section.

(C) The adjutant general may prescribe and enforce regulations to implement the requirements of this section. In prescribing and enforcing those regulations, the adjutant general need not comply with section 111.15 or Chapter 119. of the Revised Code.

(D) As used in this section, "active duty member" means a member of the Ohio national guard on active duty pursuant to an executive order of the president of the United States, the "Act of October 28, 2004," 118 Stat. 1878, 32 U.S.C. 901 to 908, as amended, another act of the congress of the United States, or a proclamation of the governor, but does not include a member performing full-time Ohio national guard duty or performing special work active duty under the "Act of October 3, 1964," 78 Stat. 999, 32 U.S.C. 502(f).

~~Sec. 5919.33. Upon certification of availability of funds by the director of budget and management, the~~ (A) The adjutant general shall pay a death benefit of ~~twenty~~ one hundred thousand dollars from the appropriations for operating expenses made for the purpose to the beneficiary or beneficiaries of any active duty member of the Ohio national guard who dies while performing state active duty under orders issued by the adjutant general on behalf of the governor, if the beneficiary or beneficiaries has or have been so designated in a written statement as prescribed by the adjutant general.

(B) As used in this section, "active duty member" means a member of the Ohio national guard on active duty pursuant to an executive order of the president of the United States, the "Act of October 28, 2004," 118 Stat. 1878, 32 U.S.C. 901 to 908, as amended, another act of the congress of the United States, or a proclamation of the governor, but does not include a member performing full-time Ohio national guard duty or performing special work active duty under the "Act of October 3, 1964," 78 Stat. 999, 32 U.S.C. 502(f).

Sec. 5919.341. There is hereby created in the state treasury the national guard scholarship reserve fund. Not later than the first day of July of each fiscal year, the Ohio board of regents shall certify to the director of budget and management the unencumbered balance of the general revenue fund appropriations made in the immediately preceding fiscal year for purposes of the Ohio national guard scholarship program created under division (B) of section 5919.34 of the Revised Code. Upon receipt of the certification, the director may transfer an amount not exceeding the certified amount from

the general revenue fund to the national guard scholarship reserve fund. Moneys in the national guard scholarship reserve fund shall be used to pay scholarship obligations in excess of the general revenue fund appropriations made for that purpose. Upon request of the adjutant general, the Ohio board of regents shall seek controlling board approval to establish appropriations as necessary.

The director may transfer any unencumbered balance from the national guard scholarship reserve fund to the general revenue fund.

Sec. 5920.01. (A) The governor shall organize and maintain within this state on a cadre or reserve basis military forces capable of being expanded and trained to defend this state whenever the Ohio national guard, or a part thereof, is employed so as to leave this state without adequate defense. In case of an emergency proclaimed by the president, or the Congress of the United States, or the governor, or caused by enemy action or imminent danger thereof, the governor, as commander in chief, shall expand such forces as the exigency of the occasion requires. Such forces shall be organized and maintained under regulations which shall not be inconsistent with such regulations as the secretary of defense prescribes for discipline and training and shall be composed of officers commissioned and assigned, and such able-bodied citizens of the state as are accepted therein. Such forces shall be equipped with suitable uniforms not in violation of federal laws or contrary to the regulations of the secretary of defense. Such forces shall be known as the Ohio military reserve. During the period of organization on a cadre or reserve basis the commander in chief may fix lesser rates of pay for armory drill purposes or for service in encampments and maneuvers. In the event that the regulations of the department of defense are modified so as to recognize the Ohio military reserve as a part of the Ohio national guard not subject to induction into federal service, the laws pertaining to the Ohio national guard shall apply to the Ohio military reserve and it shall be known as a component of the Ohio national guard.

(B) The commander of the Ohio military reserve shall report all expenditures and the use of all funds by the Ohio military reserve to the general assembly. The commander annually shall deliver the report, in writing, within three months of the end of the state fiscal year.

Sec. 6109.21. (A) Except as provided in divisions (D) and (E) of this section, on and after January 1, 1994, no person shall operate or maintain a public water system in this state without a license issued by the director of environmental protection. A person who operates or maintains a public water system on January 1, 1994, shall obtain an initial license under this section in accordance with the following schedule:

(1) If the public water system is a community water system, not later than January 31, 1994;

(2) If the public water system is not a community water system and serves a nontransient population, not later than January 31, 1994;

(3) If the public water system is not a community water system and serves a transient population, not later than January 31, 1995.

A person proposing to operate or maintain a new public water system after January 1, 1994, in addition to complying with section 6109.07 of the Revised Code and rules adopted under it, shall submit an application for an initial license under this section to the director prior to commencing operation of the system.

A license or license renewal issued under this section shall be renewed annually. Such a license or license renewal shall expire on the thirtieth day of January in the year following its issuance. A license holder that proposes to continue operating the public water system for which the license or license renewal was issued shall apply for a license renewal at least thirty days prior to that expiration date.

The director shall adopt, and may amend and rescind, rules in accordance with Chapter 119. of the Revised Code establishing procedures governing and information to be included on applications for licenses and license renewals under this section. Through June 30, ~~2006~~ 2008, each application shall be accompanied by the appropriate fee established under division (M) of section 3745.11 of the Revised Code, provided that an applicant for an initial license who is proposing to operate or maintain a new public water system after January 1, 1994, shall submit a fee that equals a prorated amount of the appropriate fee established under that division for the remainder of the licensing year.

(B) Not later than thirty days after receiving a completed application and the appropriate license fee for an initial license under division (A) of this section, the director shall issue the license for the public water system. Not later than thirty days after receiving a completed application and the appropriate license fee for a license renewal under division (A) of this section, the director shall do one of the following:

(1) Issue the license renewal for the public water system;

(2) Issue the license renewal subject to terms and conditions that the director determines are necessary to ensure compliance with this chapter and rules adopted under it;

(3) Deny the license renewal if the director finds that the public water system was not operated in substantial compliance with this chapter and rules adopted under it.

(C) The director may suspend or revoke a license or license renewal issued under this section if the director finds that the public water system was not operated in substantial compliance with this chapter and rules adopted under it. The director shall adopt, and may amend and rescind, rules in accordance with Chapter 119. of the Revised Code governing such suspensions and revocations.

(D)(1) As used in division (D) of this section, "church" means a fellowship of believers, congregation, society, corporation, convention, or association that is formed primarily or exclusively for religious purposes and that is not formed or operated for the private profit of any person.

(2) This section does not apply to a church that operates or maintains a public water system solely to provide water for that church or for a campground that is owned by the church and operated primarily or exclusively for members of the church and their families. A church that, on or before March 5, 1996, has obtained a license under this section for such a public water system need not obtain a license renewal under this section.

(E) This section does not apply to any public or nonpublic school that meets minimum standards of the state board of education that operates or maintains a public water system solely to provide water for that school.

Sec. 6111.30. (A) Applications for a section 401 water quality certification required under division (P) of section 6111.03 of the Revised Code shall be submitted on forms provided by the director of environmental protection and shall include all information required on those forms as well as all of the following:

(1) A copy of a letter from the United States army corps of engineers documenting its jurisdiction over the wetlands, streams, or other waters of the state that are the subject of the section 401 water quality certification application;

(2) If the project involves impacts to a wetland, a wetland characterization analysis consistent with the Ohio rapid assessment method;

(3) If the project involves a stream for which a specific aquatic life use designation has not been made, a use attainability analysis;

(4) A specific and detailed mitigation proposal, including the location and proposed legal mechanism for protecting the property in perpetuity;

(5) Applicable fees;

(6) Site photographs;

(7) Adequate documentation confirming that the applicant has requested comments from the department of natural resources and the United States fish and wildlife service regarding threatened and endangered species, including the presence or absence of critical habitat;

(8) Descriptions, schematics, and appropriate economic information concerning the applicant's preferred alternative, nondegradation alternatives, and minimum degradation alternatives for the design and operation of the project;

(9) The applicant's investigation report of the waters of the United States in support of a section 404 permit application concerning the project;

(10) A copy of the United States army corps of engineers' public notice regarding the section 404 permit application concerning the project.

(B) Not later than fifteen business days after the receipt of an application for a section 401 water quality certification, the director shall review the application to determine if it is complete and shall notify the applicant in writing as to whether the application is complete. If the director fails to notify the applicant within fifteen business days regarding the completeness of the application, the application is considered complete. If the director determines that the application is not complete, the director shall include with the written notification an itemized list of the information or materials that are necessary to complete the application. If the applicant fails to provide the information or materials within sixty days after the director's receipt of the application, the director may return the incomplete application to the applicant and take no further action on the application. If the application is returned to the applicant because it is incomplete, the director shall return the review fee levied under division (A)(1), (2), or (3) of section 3745.114 of the Revised Code to the applicant, but shall retain the application fee levied under that section.

(C) Not later than twenty-one days after a determination that an application is complete under division (B) of this section, the applicant shall publish public notice of the director's receipt of the complete application in a newspaper of general circulation in the county in which the project that is the subject of the application is located. The public notice shall be in a form acceptable to the director. The applicant shall promptly provide the director with proof of publication. The applicant may choose, subject to review by and approval of the director, to include in the public notice an advertisement for an antidegradation public hearing on the application pursuant to section 6111.12 of the Revised Code. There shall be a public comment period of thirty days following the publication of the public notice.

(D) If the director determines that there is significant public interest in a public hearing as evidenced by the public comments received concerning the application and by other requests for a public hearing on the application, the director or the director's representative shall conduct a public hearing concerning the application. Notice of the public hearing shall be published

by the applicant, subject to review and approval by the director, at least thirty days prior to the date of the hearing in a newspaper of general circulation in the county in which the project that is the subject of the application is to take place. If a public hearing is requested concerning an application, the director shall accept comments concerning the application until five business days after the public hearing. A public hearing conducted under this division shall take place not later than one hundred days after the application is determined to be complete.

(E) The director shall forward all public comments concerning an application submitted under this section that are received through the public involvement process required by rules adopted under this chapter to the applicant not later than five business days after receipt of the comments by the director.

(F) The applicant shall respond in writing to written comments or to deficiencies identified by the director during the course of reviewing the application not later than fifteen days after receiving or being notified of them.

(G) The director shall issue or deny a section 401 water quality certification not later than one hundred eighty days after the complete application for the certification is received. The director shall provide an applicant for a section 401 water quality certification with an opportunity to review the certification prior to its issuance.

(H) The director shall maintain an accessible database that includes environmentally beneficial water restoration and protection projects that may serve as potential mitigation projects for projects in the state for which a section 401 water quality certification is required. A project's inclusion in the database does not constitute an approval of the project.

(I) As used in this section and sections 6111.31 and 6111.32 of the Revised Code, "section 401 water quality certification" means certification pursuant to section 401 of the Federal Water Pollution Control Act and this chapter and rules adopted under it that any discharge, as set forth in section 401, will comply with sections 301, 302, 303, 306, and 307 of the Federal Water Pollution Control Act.

Sec. 6111.31. All substantive wetland, stream, or lake mitigation standards, criteria, scientific methods, processes, or other procedures or policies that are used in a uniform manner by the director of environmental protection in evaluating the adequacy of a mitigation proposal contained in an application for a section 401 water quality certification shall be adopted and reviewed in accordance with sections 119.03 and 119.032 of the Revised Code before those standards, criteria, or scientific methods have the

force of law. Until that time, any such mitigation standards, criteria, scientific methods, processes, or other procedures or policies that are used by or approved for use by the director to evaluate, measure, or determine the success, approval, or denial of a mitigation proposal, but that have not been subject to review under sections 119.03 and 119.032 of the Revised Code shall not be used as the basis for any certification or permit denial or as a standard applied to mitigation unless the applicant has been notified in advance that additional mitigation standards, criteria, scientific methods, processes, or procedures will be considered as part of the review process.

Sec. 6111.32. (A) Mitigation for wetland or stream impacts for which a section 401 water quality certification has been issued under section 6111.30 of the Revised Code shall be conducted by the applicant for the certification in accordance with the following requirements:

(1) For impacts to one acre or less of category 1 or category 2 wetlands, the applicant shall conduct mitigation within the same United States army corps of engineers district as the impacts, provided that the mitigation is conducted within that portion of the district that is located within this state.

(2) For all other wetland or stream impacts, mitigation shall occur in the following preferred order:

(a) Practicable on-site mitigation;

(b) Mitigation within the eight-digit United States geological survey watershed or mitigation within the service area of a wetland mitigation bank approved by a mitigation bank team;

(c) Mitigation in an adjacent eight-digit United States geological survey watershed;

(d) Mitigation within the same United States army corps of engineers district as the impacts, provided that the mitigation is conducted within that portion of the district that is located within this state.

(B) As used in this section, "category 1 wetland" and "category 2 wetland" have the same meanings as in section 6111.02 of the Revised Code.

Sec. 6121.04. The Ohio water development authority may do any or all of the following:

(A) Adopt bylaws for the regulation of its affairs and the conduct of its business;

(B) Adopt an official seal;

(C) Maintain a principal office and suboffices at places within the state that it designates;

(D) Sue and plead in its own name and be sued and impleaded in its own name with respect to its contracts or torts of its members, employees, or



agents acting within the scope of their employment, or to enforce its obligations and covenants made under sections 6121.06, 6121.08, and 6121.13 of the Revised Code. Any such actions against the authority shall be brought in the court of common pleas of the county in which the principal office of the authority is located or in the court of common pleas of the county in which the cause of action arose, provided that the county is located within this state, and all summonses, exceptions, and notices of every kind shall be served on the authority by leaving a copy thereof at the principal office with the person in charge thereof or with the secretary-treasurer of the authority.

(E) Make loans and grants to governmental agencies for the acquisition or construction of water development projects by any such governmental agency and adopt rules and procedures for making such loans and grants;

(F) Acquire, construct, reconstruct, enlarge, improve, furnish, equip, maintain, repair, operate, or lease or rent to, or contract for operation by, a governmental agency or person, water development projects, and establish rules for the use of those projects;

(G) Make available the use or services of any water development project to one or more persons, one or more governmental agencies, or any combination thereof;

(H) Issue water development revenue bonds and notes and water development revenue refunding bonds of the state, payable solely from revenues as provided in section 6121.06 of the Revised Code, unless the bonds are refunded by refunding bonds, for the purpose of paying any part of the cost of one or more water development projects or parts thereof;

(I) Acquire by gift or purchase, hold, and dispose of real and personal property in the exercise of its powers and the performance of its duties under this chapter;

(J) Acquire, in the name of the state, by purchase or otherwise, on terms and in the manner that it considers proper, or by the exercise of the right of condemnation in the manner provided by section 6121.18 of the Revised Code, public or private lands, including public parks, playgrounds, or reservations, or parts thereof or rights therein, rights-of-way, property, rights, easements, and interests that it considers necessary for carrying out this chapter, but excluding the acquisition by the exercise of the right of condemnation of any waste water facility or water management facility owned by any person or governmental agency, and compensation shall be paid for public or private lands so taken, except that a government-owned waste water facility may be appropriated in accordance with section 6121.041 of the Revised Code;

(K) Adopt rules to protect augmented flow in waters of the state, to the extent augmented by a water development project, from depletion so it will be available for beneficial use, and to provide standards for the withdrawal from waters of the state of the augmented flow created by a water development project that is not returned to the waters of the state so augmented and to establish reasonable charges therefor if considered necessary by the authority;

(L) Make and enter into all contracts and agreements and execute all instruments necessary or incidental to the performance of its duties and the execution of its powers under this chapter in accordance with the following requirements:

(1) When the cost under any such contract or agreement, other than compensation for personal services, involves an expenditure of more than ~~ten~~ twenty-five thousand dollars, the authority shall make a written contract with the lowest responsive and responsible bidder, in accordance with section 9.312 of the Revised Code, after advertisement for not less than two consecutive weeks in a newspaper of general circulation in Franklin county, and in other publications that the authority determines, which shall state the general character of the work and the general character of the materials to be furnished, the place where plans and specifications therefor may be examined, and the time and place of receiving bids, provided that a contract or lease for the operation of a water development project constructed and owned by the authority or an agreement for cooperation in the acquisition or construction of a water development project pursuant to section 6121.13 of the Revised Code or any contract for the construction of a water development project that is to be leased by the authority to, and operated by, persons who are not governmental agencies and the cost of the project is to be amortized exclusively from rentals or other charges paid to the authority by persons who are not governmental agencies is not subject to the foregoing requirements and the authority may enter into such a contract or lease or such an agreement pursuant to negotiation and upon terms and conditions and for the period that it finds to be reasonable and proper in the circumstances and in the best interests of proper operation or of efficient acquisition or construction of the project.

(2) Each bid for a contract for the construction, demolition, alteration, repair, or reconstruction of an improvement shall contain the full name of every person interested in it and shall meet the requirements of section 153.54 of the Revised Code.

(3) Each bid for a contract except as provided in division (L)(2) of this section shall contain the full name of every person or company interested in

it and shall be accompanied by a sufficient bond or certified check on a solvent bank that if the bid is accepted, a contract will be entered into and the performance thereof secured.

(4) The authority may reject any and all bids.

(5) A bond with good and sufficient surety, approved by the authority, shall be required of every contractor awarded a contract except as provided in division (L)(2) of this section, in an amount equal to at least fifty per cent of the contract price, conditioned upon the faithful performance of the contract.

(M) Employ managers, superintendents, and other employees and retain or contract with consulting engineers, financial consultants, accounting experts, architects, attorneys, and other consultants and independent contractors that are necessary in its judgment to carry out this chapter, and fix the compensation thereof. All expenses thereof shall be payable solely from the proceeds of water development revenue bonds or notes issued under this chapter, from revenues, or from funds appropriated for that purpose by the general assembly.

(N) Receive and accept from any federal agency, subject to the approval of the governor, grants for or in aid of the construction of any water development project or for research and development with respect to waste water or water management facilities, and receive and accept aid or contributions from any source of money, property, labor, or other things of value, to be held, used, and applied only for the purposes for which the grants and contributions are made;

(O) Engage in research and development with respect to waste water or water management facilities;

(P) Purchase fire and extended coverage and liability insurance for any water development project and for the principal office and suboffices of the authority, insurance protecting the authority and its officers and employees against liability for damage to property or injury to or death of persons arising from its operations, and any other insurance the authority may agree to provide under any resolution authorizing its water development revenue bonds or in any trust agreement securing the same;

(Q) Charge, alter, and collect rentals and other charges for the use or services of any water development project as provided in section 6121.13 of the Revised Code;

(R) Provide coverage for its employees under Chapters 145., 4123., and 4141. of the Revised Code;

(S) Assist in the implementation and administration of the drinking water assistance fund and program created in section 6109.22 of the Revised

Code and the water pollution control loan fund and program created in section 6111.036 of the Revised Code, including, without limitation, performing or providing fiscal management for the funds and investing and disbursing moneys in the funds, and enter into all necessary and appropriate agreements with the director of environmental protection for those purposes;

(T) Issue water development revenue bonds and notes of the state in principal amounts that are necessary for the purpose of raising moneys for the sole benefit of the water pollution control loan fund created in section 6111.036 of the Revised Code, including moneys to meet the requirement for providing matching moneys under division (D) of that section. The bonds and notes may be secured by appropriate trust agreements and repaid from moneys credited to the fund from payments of principal and interest on loans made from the fund, as provided in division (F) of section 6111.036 of the Revised Code.

(U) Issue water development revenue bonds and notes of the state in principal amounts that are necessary for the purpose of raising moneys for the sole benefit of the drinking water assistance fund created in section 6109.22 of the Revised Code, including moneys to meet the requirement for providing matching moneys under divisions (B) and (F) of that section. The bonds and notes may be secured by appropriate trust agreements and repaid from moneys credited to the fund from payments of principal and interest on loans made from the fund, as provided in division (F) of section 6109.22 of the Revised Code.

(V) Make loans to and enter into agreements with boards of county commissioners for the purposes of section 1521.26 of the Revised Code and adopt rules establishing requirements and procedures for making the loans and entering into the agreements;

(W) Do all acts necessary or proper to carry out the powers expressly granted in this chapter.

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

Sec. 6123.04. For the purposes of this chapter, the Ohio water development authority may:

(A) Adopt bylaws for the regulation of its affairs and the conduct of its business under this chapter;

(B) Sue and plead in its own name; be sued and impleaded in its own name with respect to its contracts or torts of its members, employees, or agents acting within the scope of their employment, or to enforce its obligations and covenants made under sections 6123.06, 6123.08, and

6123.13 of the Revised Code. Any such actions against the authority shall be brought in the court of common pleas of the county in which the principal office of the authority is located, or in the court of common pleas of the county in which the cause of action arose, provided such county is located within this state, and all summonses, exceptions, and notices of every kind shall be served on the authority by leaving a copy thereof at the principal office with the person in charge thereof or with the secretary-treasurer of the authority.

(C) Make loans and grants to governmental agencies for the acquisition or construction of development projects by any such governmental agency and adopt rules and procedures for making such loans and grants;

(D) Acquire, construct, reconstruct, enlarge, improve, furnish, equip, maintain, repair, operate, lease or rent to, or contract for operation by, a person or governmental agency, development projects, and establish rules for the use of such projects;

(E) Make available the use or services of any development project to one or more persons, one or more governmental agencies, or any combination thereof;

(F) Issue development revenue bonds and notes and development revenue refunding bonds of the state, payable solely from revenues as provided in section 6123.06 of the Revised Code, unless the bonds be refunded by refunding bonds, for the purpose of paying any part of the cost of one or more development projects or parts thereof;

(G) Acquire by gift or purchase, hold, and dispose of real and personal property in the exercise of the powers of the authority and the performance of its duties under this chapter;

(H) Acquire, in the name of the state, by purchase or otherwise, on such terms and in such manner as the authority determines proper, public or private lands, or parts thereof or rights therein, rights-of-way, property, rights, easements, and interests as it finds necessary for carrying out this chapter; and compensation shall be paid for public or private lands so taken;

(I) Make and enter into all contracts and agreements and execute all instruments necessary or incidental to the performance of its duties and the execution of its powers under this chapter:

(1) When the cost under any such contract or agreement, other than compensation for personal services, involves an expenditure of more than ~~two~~ twenty-five thousand dollars, the authority shall make a written contract with the lowest responsive and responsible bidder, in accordance with section 9.312 of the Revised Code, after advertisement for not less than two consecutive weeks in a newspaper of general circulation in Franklin county,

and in such other publications as the authority determines, such notice shall state the general character of the work and materials to be furnished, the place where plans and specifications therefor may be examined, and the time and place of receiving bids. Provided, that a contract or lease for the operation of a development project constructed and owned by the authority or an agreement for cooperation in the acquisition or construction of a development project pursuant to section 6123.13 of the Revised Code or any contract for the construction of a development project that is to be leased by the authority to, and operated by, persons who are not governmental agencies and the cost of such project is to be amortized exclusively from rentals or other charges paid to the authority by persons who are not governmental agencies or by governmental agencies that receive the use or services of such project, including governmental agencies that are parties to an agreement for cooperation in the acquisition or construction of such development project pursuant to section 6123.13 of the Revised Code, is not subject to the foregoing requirements and the authority may enter into such contract or lease or such agreement pursuant to negotiation and upon such terms and conditions and for such period as it finds to be reasonable and proper in the circumstances and in the best interests of proper operation or of efficient acquisition or construction of such project.

(2) Each bid for a contract for the construction, demolition, alteration, repair, or reconstruction of an improvement shall contain the full name of every person interested in it and who meets the requirements of section 153.54 of the Revised Code.

(3) Each bid for a contract, except as provided in division (I)(2) of this section, shall contain the full name of every person or company interested in it and shall be accompanied by a sufficient bond or certified check on a solvent bank that if the bid is accepted a contract will be entered into and the performance thereof secured.

(4) The authority may reject any and all bids.

(5) A bond with good and sufficient surety, approved by the authority, shall be required of every contractor awarded a contract except as provided in division (I)(2) of this section, in an amount equal to at least fifty per cent of the contract price, conditioned upon the faithful performance of the contract.

(J) Employ managers, superintendents, and other employees and retain or contract with consulting engineers, financial consultants, accounting experts, architects, attorneys, and such other consultants and independent contractors as are necessary in its judgment to carry out this chapter, and fix the compensation thereof. All expenses thereof shall be payable solely from

the proceeds of development revenue bonds or notes issued under this chapter, from revenues, or from funds appropriated for such purpose by the general assembly.

(K) Receive and accept from any federal agency, subject to the approval of the governor, grants for or in aid of the construction of any development project or for research and development with respect to solid waste facilities or energy resource development facilities, and receive and accept aid or contributions from any source of money, property, labor, or other things of value, to be held, used, and applied only for the purposes for which such grants and contributions are made;

(L) Engage in research and development with respect to solid waste facilities or energy resource development facilities;

(M) Purchase fire and extended coverage and liability insurance for any development project and for the principal office and sub-offices of the authority, insurance protecting the authority and its officers and employees against liability for damage to property or injury to or death of persons arising from its operations, and any other insurance the authority may agree to provide under any resolution authorizing its development revenue bonds or in any trust agreement securing the same;

(N) Charge, alter, and collect rentals and other charges for the use or services of any development project as provided in section 6123.13 of the Revised Code;

(O) Provide coverage for its employees under Chapters 145., 4123., and 4141. of the Revised Code;

(P) Do all acts necessary or proper to carry out the powers expressly granted in this chapter.

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

SECTION 101.02. That existing sections 9.24, 9.833, 9.90, 9.981, 101.68, 102.02, 102.06, 108.05, 109.54, 109.57, 109.79, 109.91, 109.98, 117.10, 120.06, 120.13, 120.23, 120.52, 120.53, 121.37, 121.38, 122.011, 122.17, 122.171, 122.18, 122.40, 122.603, 122.71, 122.72, 122.73, 122.74, 122.75, 122.751, 122.76, 122.77, 122.78, 122.79, 122.82, 122.83, 122.95, 122.951, 123.01, 123.152, 123.17, 124.07, 124.321, 124.328, 125.041, 125.05, 125.11, 125.831, 125.832, 126.25, 127.16, 131.02, 131.23, 133.08, 133.081, 133.09, 140.01, 141.011, 141.04, 145.01, 145.33, 147.05, 147.10, 147.11, 147.12, 147.371, 149.30, 150.07, 150.10, 154.11, 173.26, 173.40, 173.99, 181.251, 181.51, 181.52, 181.54, 181.55, 181.56, 183.28, 184.02, 305.171,

307.37, 307.695, 307.86, 307.88, 317.08, 317.36, 319.20, 319.302, 321.24, 323.01, 323.152, 325.31, 329.04, 329.051, 339.72, 339.88, 340.03, 340.16, 351.01, 351.021, 351.06, 351.141, 351.16, 718.09, 718.10, 731.14, 731.141, 742.59, 901.43, 903.05, 905.32, 905.33, 905.331, 905.36, 905.37, 905.38, 905.381, 905.50, 905.501, 905.66, 907.16, 913.02, 913.23, 915.02, 915.16, 915.24, 921.02, 921.16, 923.44, 923.45, 923.46, 926.01, 927.69, 1111.04, 1327.511, 1502.02, 1509.06, 1509.072, 1509.31, 1515.14, 1517.02, 1521.062, 1531.27, 1533.10, 1533.11, 1533.111, 1533.112, 1533.12, 1533.32, 1541.03, 1548.06, 1707.01, 1707.17, 1707.19, 1707.20, 1707.22, 1707.23, 1707.25, 1707.261, 1707.431, 1707.44, 1707.46, 1711.52, 1711.53, 1713.03, 1751.03, 1751.04, 1751.05, 1901.26, 1901.31, 1907.24, 2113.041, 2117.061, 2151.352, 2151.416, 2152.43, 2152.74, 2303.201, 2305.234, 2329.66, 2743.191, 2744.05, 2744.08, 2901.07, 2913.40, 2921.13, 2923.25, 2923.35, 2923.46, 2925.44, 2933.43, 2933.74, 2949.092, 2971.05, 3107.10, 3111.04, 3119.54, 3121.12, 3121.50, 3125.18, 3301.079, 3301.0710, 3301.0711, 3301.0714, 3301.0715, 3301.12, 3301.16, 3301.311, 3301.32, 3301.56, 3301.86, 3301.88, 3302.03, 3311.19, 3313.12, 3313.202, 3313.207, 3313.208, 3313.209, 3313.33, 3313.489, 3313.975, 3313.976, 3313.977, 3313.978, 3313.98, 3314.013, 3314.015, 3314.02, 3314.021, 3314.03, 3314.031, 3314.032, 3314.034, 3314.06, 3314.074, 3314.08, 3314.13, 3315.17, 3315.18, 3315.37, 3316.06, 3316.16, 3317.01, 3317.013, 3317.02, 3317.021, 3317.022, 3317.023, 3317.024, 3317.026, 3317.027, 3317.028, 3317.029, 3317.0216, 3317.0217, 3317.03, 3317.031, 3317.05, 3317.052, 3317.053, 3317.06, 3317.063, 3317.07, 3317.081, 3317.09, 3317.10, 3317.16, 3317.20, 3317.21, 3317.22, 3317.23, 3317.50, 3317.51, 3318.091, 3318.33, 3319.081, 3319.17, 3319.22, 3319.235, 3319.55, 3323.021, 3323.091, 3323.14, 3323.16, 3327.01, 3332.092, 3333.04, 3333.044, 3333.12, 3333.121, 3333.27, 3333.28, 3333.36, 3333.38, 3334.01, 3334.02, 3334.03, 3334.07, 3334.08, 3334.09, 3334.10, 3334.11, 3334.12, 3334.15, 3334.16, 3334.17, 3334.18, 3334.19, 3335.02, 3345.10, 3345.19, 3345.32, 3353.01, 3353.04, 3353.06, 3353.07, 3362.02, 3365.01, 3365.02, 3365.04, 3365.041, 3365.05, 3365.08, 3375.40, 3375.48, 3375.49, 3375.54, 3375.55, 3381.02, 3381.04, 3381.05, 3381.06, 3381.07, 3381.15, 3383.02, 3383.09, 3501.141, 3501.17, 3513.04, 3513.041, 3513.05, 3513.052, 3513.257, 3513.259, 3513.261, 3517.13, 3517.151, 3701.023, 3701.146, 3701.65, 3702.141, 3702.51, 3702.68, 3702.71, 3702.74, 3703.01, 3703.03, 3703.04, 3703.05, 3703.06, 3703.07, 3703.08, 3703.10, 3703.99, 3704.035, 3704.143, 3704.99, 3705.24, 3712.03, 3714.07, 3721.01, 3721.011, 3721.02, 3721.03, 3721.07, 3721.121, 3721.15, 3721.19, 3721.21, 3721.50, 3721.51, 3721.52,



3721.56, 3721.58, 3722.01, 3722.02, 3722.04, 3734.01, 3734.20, 3734.21, 3734.22, 3734.23, 3734.28, 3734.57, 3734.573, 3734.85, 3734.901, 3734.9010, 3735.27, 3743.01, 3743.02, 3743.04, 3743.05, 3743.06, 3743.15, 3743.17, 3743.18, 3743.19, 3743.57, 3743.59, 3743.65, 3743.75, 3745.11, 3745.12, 3746.04, 3746.071, 3748.07, 3748.13, 3773.34, 3773.38, 3773.39, 3773.40, 3773.57, 3781.07, 3781.10, 3781.102, 3793.09, 3901.021, 3901.17, 3901.3814, 3901.78, 3903.14, 3903.42, 3905.04, 3905.36, 3905.40, 3923.27, 4112.12, 4115.32, 4115.34, 4117.03, 4117.08, 4117.10, 4117.24, 4121.12, 4121.121, 4121.125, 4123.27, 4123.44, 4123.47, 4301.10, 4301.43, 4303.182, 4501.01, 4501.37, 4503.103, 4503.471, 4503.48, 4503.50, 4503.53, 4503.571, 4503.59, 4503.73, 4503.85, 4503.91, 4505.06, 4506.03, 4506.07, 4511.191, 4511.75, 4517.01, 4519.01, 4519.02, 4519.09, 4561.17, 4561.18, 4561.21, 4703.15, 4705.09, 4709.05, 4713.02, 4717.05, 4723.32, 4723.33, 4723.34, 4723.341, 4723.63, 4731.65, 4731.71, 4736.11, 4736.12, 4740.14, 4753.03, 4753.06, 4753.071, 4753.08, 4753.09, 4755.03, 4755.48, 4766.09, 4905.10, 4905.54, 4905.95, 4911.18, 4973.171, 5101.16, 5101.181, 5101.184, 5101.21, 5101.241, 5101.26, 5101.31, 5101.35, 5101.36, 5101.46, 5101.47, 5101.75, 5101.752, 5101.80, 5101.801, 5101.821, 5104.01, 5104.02, 5104.32, 5107.05, 5107.10, 5107.26, 5107.30, 5107.58, 5110.01, 5110.05, 5110.352, 5110.39, 5111.011, 5111.019, 5111.0112, 5111.02, 5111.021, 5111.022, 5111.023, 5111.025, 5111.042, 5111.06, 5111.082, 5111.11, 5111.111, 5111.112, 5111.113, 5111.16, 5111.17, 5111.19, 5111.20, 5111.204, 5111.21, 5111.22, 5111.221, 5111.23, 5111.231, 5111.235, 5111.241, 5111.25, 5111.251, 5111.255, 5111.257, 5111.26, 5111.261, 5111.263, 5111.264, 5111.27, 5111.28, 5111.29, 5111.291, 5111.30, 5111.31, 5111.32, 5111.33, 5111.62, 5111.81, 5111.85, 5111.87, 5111.871, 5111.88, 5111.97, 5111.99, 5112.03, 5112.08, 5112.17, 5112.30, 5112.31, 5115.20, 5115.22, 5115.23, 5119.61, 5120.09, 5120.51, 5121.01, 5121.02, 5121.03, 5121.04, 5121.05, 5121.06, 5121.061, 5121.07, 5121.08, 5121.09, 5121.10, 5121.11, 5121.12, 5121.21, 5122.03, 5122.31, 5123.01, 5123.045, 5123.046, 5123.047, 5123.049, 5123.0412, 5123.34, 5123.41, 5123.701, 5123.71, 5123.76, 5126.01, 5126.035, 5126.042, 5126.054, 5126.055, 5126.056, 5126.057, 5126.12, 5139.01, 5139.36, 5153.16, 5502.01, 5502.03, 5531.10, 5540.01, 5540.09, 5549.01, 5552.01, 5573.13, 5703.052, 5703.053, 5703.47, 5703.50, 5703.70, 5703.80, 5705.091, 5705.391, 5705.40, 5709.07, 5709.12, 5709.121, 5709.40, 5709.73, 5709.77, 5709.78, 5711.01, 5711.16, 5711.21, 5711.22, 5711.28, 5713.01, 5715.01, 5715.24, 5719.041, 5725.01, 5725.19, 5727.01, 5727.02, 5727.06, 5727.08, 5727.10, 5727.11, 5727.111, 5727.12, 5727.23, 5727.84, 5727.85, 5728.01,

5728.02, 5728.03, 5728.04, 5728.06, 5728.08, 5729.08, 5731.01, 5731.05, 5731.131, 5731.14, 5731.18, 5731.181, 5731.22, 5731.23, 5731.39, 5731.41, 5733.01, 5733.065, 5733.066, 5733.33, 5733.351, 5733.352, 5733.40, 5733.41, 5733.49, 5733.98, 5737.03, 5739.01, 5739.02, 5739.025, 5739.03, 5739.033, 5739.034, 5739.035, 5739.08, 5739.09, 5739.10, 5739.12, 5739.16, 5739.17, 5741.02, 5741.16, 5743.01, 5743.02, 5743.03, 5743.05, 5743.071, 5743.08, 5743.10, 5743.111, 5743.112, 5743.14, 5743.15, 5743.16, 5743.18, 5743.19, 5743.20, 5743.32, 5743.33, 5747.01, 5747.012, 5747.02, 5747.05, 5747.08, 5747.113, 5747.212, 5747.331, 5747.70, 5747.80, 5747.98, 5748.01, 5748.02, 5748.03, 5748.04, 5748.08, 5749.02, 5907.15, 5919.33, 5920.01, 6109.21, 6121.04, and 6123.04 of the Revised Code are hereby repealed. Existing Section 41.36 of Am. Sub. H.B. 95 of the 125th General Assembly is hereby repealed.

SECTION 105.01. That sections 181.53, 339.77, 742.36, 1541.221, 3301.31, 3301.33, 3301.34, 3301.35, 3301.36, 3301.37, 3301.38, 3301.80, 3301.85, 3301.87, 3311.40, 3314.15, 3317.012, 3317.0212, 3317.0213, 3353.02, 3353.03, 3506.17, 3704.14, 3704.142, 3704.17, 3721.511, 3901.41, 3901.781, 3901.782, 3901.783, 3901.784, 4519.06, 4519.07, 5101.751, 5101.753, 5101.754, 5111.041, 5111.205, 5111.24, 5111.262, 5111.34, 5115.10, 5115.11, 5115.12, 5115.13, 5115.14, 5123.041, 5123.048, 5571.13, 5731.20, and 5733.122 of the Revised Code are hereby repealed.

SECTION 200.01. Except as otherwise provided, all appropriation items (AI) in this act are appropriated out of any moneys in the state treasury to the credit of the designated fund that are not otherwise appropriated. For all appropriations made in this act, the amounts in the first column are for fiscal year 2006 and the amounts in the second column are for fiscal year 2007.

FNDAI	AI TITLE	APPROPRIATIONS	
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#### SECTION 203.03. ACC ACCOUNTANCY BOARD OF OHIO

##### General Services Fund Group

4J8 889-601	CPA Education Assistance	\$	209,510	\$	209,510
4K9 889-609	Operating Expenses	\$	1,069,776	\$	1,069,776
TOTAL GSF General Services Fund					
Group		\$	1,279,286	\$	1,279,286
TOTAL ALL BUDGET FUND GROUPS		\$	1,279,286	\$	1,279,286

**SECTION 203.06. PAY ACCRUED LEAVE LIABILITY****Accrued Leave Liability Fund Group**

806	995-666	Accrued Leave Fund	\$	68,846,630	\$	77,950,372
807	995-667	Disability Fund	\$	48,057,723	\$	50,955,496
TOTAL ALF Accrued Leave Liability Fund Group			\$	116,904,353	\$	128,905,868

**Agency Fund Group**

808	995-668	State Employee Health Benefit Fund	\$	480,879,258	\$	550,922,742
809	995-669	Dependent Care Spending Account	\$	2,801,543	\$	2,969,635
810	995-670	Life Insurance Investment Fund	\$	1,943,789	\$	2,031,381
811	995-671	Parental Leave Benefit Fund	\$	4,040,434	\$	4,282,860
813	995-672	Health Care Spending Account	\$	8,000,000	\$	12,000,000
TOTAL AGY Agency Fund Group			\$	497,665,024	\$	572,206,618
TOTAL ALL BUDGET FUND GROUPS			\$	614,569,377	\$	701,112,486

**ACCRUED LEAVE LIABILITY FUND**

The foregoing appropriation item 995-666, Accrued Leave Fund, shall be used to make payments from the Accrued Leave Liability Fund (Fund 806), pursuant to section 125.211 of the Revised Code. If it is determined by the Director of Budget and Management that additional amounts are necessary, the amounts are appropriated.

**STATE EMPLOYEE DISABILITY LEAVE BENEFIT FUND**

The foregoing appropriation item 995-667, Disability Fund, shall be used to make payments from the State Employee Disability Leave Benefit Fund (Fund 807), pursuant to section 124.83 of the Revised Code. If it is determined by the Director of Budget and Management that additional amounts are necessary, the amounts are appropriated.

**STATE EMPLOYEE HEALTH BENEFIT FUND**

The foregoing appropriation item 995-668, State Employee Health Benefit Fund, shall be used to make payments from the State Employee Health Benefit Fund (Fund 808), pursuant to section 124.87 of the Revised Code. If it is determined by the Director of Budget and Management that additional amounts are necessary, the amounts are appropriated.

Effective July 1, 2005, or as soon thereafter as possible, the Director of Budget and Management may transfer up to \$70,000 in cash from the General Revenue Fund to the State Employee Health Benefit Fund (Fund 808). The amount of the transfer shall not exceed the amount of cash transferred from the State Employee Health Benefit Fund to the Health Care Spending Account Fund (Fund 813) during fiscal year 2005.

**DEPENDENT CARE SPENDING ACCOUNT**

The foregoing appropriation item 995-669, Dependent Care Spending Account, shall be used to make payments from the Dependent Care Spending Account (Fund 809) to employees eligible for dependent care expenses. If it is determined by the Director of Budget and Management that additional amounts are necessary, the amounts are appropriated.

**LIFE INSURANCE INVESTMENT FUND**

The foregoing appropriation item 995-670, Life Insurance Investment Fund, shall be used to make payments from the Life Insurance Investment Fund (Fund 810) for the costs and expenses of the state's life insurance benefit program pursuant to section 125.212 of the Revised Code. If it is determined by the Director of Budget and Management that additional amounts are necessary, the amounts are appropriated.

**PARENTAL LEAVE BENEFIT FUND**

The foregoing appropriation item 995-671, Parental Leave Benefit Fund, shall be used to make payments from the Parental Leave Benefit Fund (Fund 811) to employees eligible for parental leave benefits pursuant to section 124.137 of the Revised Code. If it is determined by the Director of Budget and Management that additional amounts are necessary, the amounts are appropriated.

**HEALTH CARE SPENDING ACCOUNT**

There is hereby established in the State Treasury the Health Care Spending Account Fund (Fund 813). The foregoing appropriation item 995-672, Health Care Spending Account, shall be used to make payments from the fund. The fund shall be under the supervision of the Department of Administrative Services and shall be used to make payments pursuant to state employees' participation in a flexible spending account for non-reimbursed health care expenses and pursuant to Section 125 of the Internal Revenue Code. All income derived from the investment of the fund shall accrue to the fund. If it is determined by the Director of Administrative Services that additional appropriation amounts are necessary, the Director of Administrative Services may request that the Director of Budget and Management increase such amounts. Such amounts are hereby appropriated.

At the request of the Director of Administrative Services, the Director of Budget and Management shall transfer up to \$400,000 from the State Employee Health Benefit Fund (Fund 808) to the Health Care Spending Account Fund during fiscal years 2006 and 2007. This cash shall be transferred as needed to provide adequate cash flow for the Health Care Spending Account Fund during fiscal year 2006 and fiscal year 2007. At the end of fiscal years 2006 and 2007, the Director of Budget and Management

shall transfer cash up to the amount previously transferred in the respective year back from the Health Care Spending Account (Fund 813) to the State Employee Health Benefit Fund (Fund 808). If funds are not available in the Health Care Spending Account Fund, the Director of Administrative Services may request, and the Director of Budget and Management may transfer, the balance of the funds needed from the General Revenue Fund.

#### SECTION 203.09. ADJ ADJUTANT GENERAL

##### General Revenue Fund

GRF 745-401	Ohio Military Reserve	\$	15,188	\$	15,188
GRF 745-404	Air National Guard	\$	1,939,762	\$	1,939,762
GRF 745-407	National Guard Benefits	\$	1,400,000	\$	1,400,000
GRF 745-409	Central Administration	\$	3,949,590	\$	3,949,590
GRF 745-499	Army National Guard	\$	4,086,222	\$	4,086,222
GRF 745-502	Ohio National Guard Unit Fund	\$	102,973	\$	102,973
TOTAL GRF General Revenue Fund		\$	11,493,735	\$	11,493,735

##### General Services Fund Group

534 745-612	Armory Improvements	\$	534,304	\$	534,304
536 745-620	Camp Perry/Buckeye Inn Operations	\$	1,094,970	\$	1,094,970
537 745-604	Ohio National Guard Facility Maintenance	\$	219,826	\$	219,826
TOTAL GSF General Services Fund Group		\$	1,849,100	\$	1,849,100

##### Federal Special Revenue Fund Group

3E8 745-628	Air National Guard Agreement	\$	12,174,760	\$	12,174,760
3R8 745-603	Counter Drug Operations	\$	25,000	\$	25,000
341 745-615	Air National Guard Base Security	\$	2,424,740	\$	2,424,740
342 745-616	Army National Guard Agreement	\$	8,686,893	\$	8,686,893
TOTAL FED Federal Special Revenue Fund Group		\$	23,311,393	\$	23,311,393

##### State Special Revenue Fund Group

5U8 745-613	Community Match Armories	\$	90,000	\$	91,800
528 745-605	Marksmanship Activities	\$	126,078	\$	128,600
TOTAL SSR State Special Revenue Fund Group		\$	216,078	\$	220,400
TOTAL ALL BUDGET FUND GROUPS		\$	36,870,306	\$	36,874,628

#### NATIONAL GUARD BENEFITS

The foregoing appropriation item 745-407, National Guard Benefits, shall be used for purposes of sections 5919.31 and 5919.33 of the Revised Code, and for administrative costs of the associated programs.

For active duty members of the Ohio National Guard who died after October 7, 2001, while performing active duty, the death benefit, pursuant to section 5919.33 of the Revised Code, shall be paid to the beneficiary or

beneficiaries designated on the member's Servicemembers' Group Life Insurance Policy.

#### STATE ACTIVE DUTY COSTS

Of the foregoing appropriation item 745-409, Central Administration, \$50,000 in each fiscal year shall be used for the purpose of paying expenses related to state active duty of members of the Ohio organized militia, in accordance with a proclamation of the Governor. Expenses include, but are not limited to, the cost of equipment, supplies, and services, as determined by the Adjutant General's Department.

### SECTION 203.12. DAS DEPARTMENT OF ADMINISTRATIVE SERVICES

#### General Revenue Fund

GRF 100-403	Public School Employee Benefits	\$	1,200,000	\$	1,500,000
GRF 100-404	CRP Procurement Program	\$	248,040	\$	268,040
GRF 100-405	Agency Audit Expenses	\$	329,000	\$	329,000
GRF 100-406	County & University Human Resources Services	\$	60,000	\$	60,000
GRF 100-410	Veterans' Records Conversion	\$	69,000	\$	48,600
GRF 100-418	Web Sites and Business Gateway	\$	3,275,280	\$	3,275,280
GRF 100-419	IT Security Infrastructure	\$	1,636,247	\$	1,636,247
GRF 100-421	OAKS Project Implementation	\$	484,000	\$	410,839
GRF 100-433	State of Ohio Computer Center	\$	4,991,719	\$	4,991,719
GRF 100-439	Equal Opportunity Certification Programs	\$	726,481	\$	728,384
GRF 100-447	OBA - Building Rent Payments	\$	115,740,400	\$	116,091,300
GRF 100-448	OBA - Building Operating Payments	\$	25,393,250	\$	25,647,183
GRF 100-449	DAS - Building Operating Payments	\$	4,160,383	\$	4,170,623
GRF 100-451	Minority Affairs	\$	47,000	\$	47,000
GRF 100-734	Major Maintenance - State Bldgs	\$	50,000	\$	50,000
GRF 102-321	Construction Compliance	\$	1,190,959	\$	1,206,779
GRF 130-321	State Agency Support Services	\$	2,693,788	\$	2,668,986
TOTAL GRF General Revenue Fund		\$	162,295,547	\$	163,129,980

#### General Services Fund Group

112 100-616	DAS Administration	\$	5,221,393	\$	5,299,427
115 100-632	Central Service Agency	\$	466,517	\$	485,178
117 100-644	General Services Division - Operating	\$	6,834,247	\$	7,245,772
122 100-637	Fleet Management	\$	4,025,043	\$	4,032,968
125 100-622	Human Resources Division - Operating	\$	18,864,179	\$	19,220,614

127	100-627	Vehicle Liability Insurance	\$	3,344,644	\$	3,344,644
128	100-620	Collective Bargaining	\$	3,410,952	\$	3,410,952
130	100-606	Risk Management Reserve	\$	223,904	\$	223,904
131	100-639	State Architect's Office	\$	6,977,274	\$	7,047,427
132	100-631	DAS Building Management	\$	10,721,430	\$	11,066,228
133	100-607	IT Services Delivery	\$	81,418,432	\$	80,345,564
188	100-649	Equal Opportunity Division - Operating	\$	993,378	\$	1,010,256
201	100-653	General Services Resale Merchandise	\$	1,553,000	\$	1,553,000
210	100-612	State Printing	\$	5,931,421	\$	5,931,421
229	100-630	IT Governance	\$	18,531,812	\$	17,601,712
4N6	100-617	Major IT Purchases	\$	10,617,166	\$	10,617,166
4P3	100-603	DAS Information Services	\$	5,902,099	\$	6,117,004
427	100-602	Investment Recovery	\$	5,580,208	\$	5,683,564
5C2	100-605	MARCS Administration	\$	9,268,178	\$	9,268,178
5C3	100-608	Skilled Trades	\$	1,406,278	\$	1,434,982
5D7	100-621	Workforce Development	\$	12,000,000	\$	12,000,000
5L7	100-610	Professional Development	\$	2,700,000	\$	2,700,000
5V6	100-619	Employee Educational Development	\$	936,129	\$	936,129
TOTAL GSF General Services Fund Group			\$	216,927,684	\$	216,576,090
<b>Federal Special Revenue Fund Group</b>						
3AJ	100-623	Information Technology Grants	\$	82,048	\$	82,048
TOTAL FSR Federal Special Revenue Fund Group			\$	82,048	\$	82,048
<b>Agency Fund Group</b>						
124	100-629	Payroll Deductions	\$	2,050,000,000	\$	2,050,000,000
TOTAL AGY Agency Fund Group			\$	2,050,000,000	\$	2,050,000,000
<b>Holding Account Redistribution Fund Group</b>						
R08	100-646	General Services Refunds	\$	20,000	\$	20,000
TOTAL 090 Holding Account Redistribution Fund Group			\$	20,000	\$	20,000
TOTAL ALL BUDGET FUND GROUPS			\$	2,429,325,279	\$	2,429,808,118

#### SECTION 203.12.01. TRANSFERS OF STATE USE PROGRAM FROM THE DEPARTMENT OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES

Effective July 1, 2005, or the earliest date thereafter permitted by law, the State Committee for the Purchase of Products and Services Provided by Persons with Severe Disabilities created by sections 4115.31 to 4115.35 of the Revised Code is part of the Department of Administrative Services. The committee's functions, assets, and liabilities, including, but not limited to, records regardless of form or medium, are transferred to the Department of Administrative Services. The Department of Administrative Services is thereupon and thereafter successor to, assumes the obligations of, and

otherwise constitutes the continuation of the State Committee for the Purchase of Products and Services Provided by Persons with Severe Disabilities. The functions of the Executive Director of the committee are thereupon and thereafter transferred to the Department of Administrative Services.

Any business commenced but not completed by the committee on June 30, 2005, shall be completed by the Department of Administrative Services, in the same manner, and with the same effect, as if completed by the committee. No validation, cure, right, privilege, remedy, obligation, or liability is lost or impaired by reason of the transfer required under this section and shall be administered by the Department of Administrative Services. All of the committee's rules, orders, and determinations continue in effect as rules, orders, and determinations of the Department of Administrative Services, until modified or rescinded by the Department of Administrative Services. If necessary to ensure the integrity of the Administrative Code numbering system, the Director of the Legislative Service Commission shall renumber the committee's rules to reflect their transfer to the Department of Administrative Services.

Employees of the Department of Mental Retardation and Developmental Disabilities designated as staff for the committee shall be transferred to the Department of Administrative Services as necessary. Subject to lay-off provisions of sections 124.321 to 124.328 of the Revised Code, as well as provisions of the contract between the state and all bargaining units affected, those employees so transferred to the Department of Administrative Services retain their positions and all benefits accruing thereto.

No judicial or administrative action or proceeding to which the committee is a party that is pending on July 1, 2005, is affected by the transfer of functions. Such action or proceeding shall be prosecuted or defended in the name of the Director of the Department of Administrative Services. On application to the court or other tribunal, the Director of Administrative Services shall be substituted for the Director of Mental Retardation and Developmental Disabilities as a party to such action or proceeding.

On and after July 1, 2005, notwithstanding any provision of law to the contrary, the Director of Budget and Management shall take the actions with respect to budget changes made necessary by the transfer, including administrative reorganization, program transfers, the creation of new funds, and the consolidation of funds as authorized by this section. The Director may cancel encumbrances and re-establish encumbrances or parts of



encumbrances as needed in fiscal year 2006 in the appropriate fund and appropriation item for the same purpose and to the same vendor. The Director, as determined necessary, may re-establish such encumbrances in fiscal year 2006 in a different fund or appropriation item within an agency or between agencies. The re-established encumbrances are here by appropriated. The Director shall reduce each year's appropriation balances by the amount of the encumbrance canceled in their respective funds and appropriation item.

Not later than sixty days after the transfer of the committee to the Department of Administrative Services, the Director of Mental Retardation and Developmental Disabilities shall certify to the Director of Budget and Management the amount of any unexpended balance of General Revenue Fund appropriations made to GRF appropriation item 322-405, State Use Program. Upon receipt of the certification, the Director of Budget and Management shall transfer the appropriations from GRF appropriation item 322-405, State Use Program, to GRF appropriation item 100-404, CRP Procurement Program.

#### SECTION 203.12.02. PUBLIC SCHOOL EMPLOYEE BENEFITS

The foregoing appropriation item 100-403, Public School Employee Benefits, shall be used by the Director of Administrative Services to hire an executive director and an assistant responsible for providing administrative support to the School Employee Health Care Board and the public school employee health insurance program established under section 9.901 of the Revised Code.

At any time during the biennium, when the Director of Administrative Services certifies that there is a sufficient reserve available from premium payments made to the School Employees Health Care Fund (Fund 815), the Director of Budget and Management shall transfer \$2,700,000 from the School Employees Health Care Fund to the General Revenue Fund.

#### SECTION 203.12.03. AGENCY AUDIT EXPENSES

The foregoing appropriation item 100-405, Agency Audit Expenses, shall be used for auditing expenses designated in division (A)(1) of section 117.13 of the Revised Code for those state agencies audited on a biennial basis.

#### SECTION 203.12.06. OHIO BUILDING AUTHORITY

The foregoing appropriation item 100-447, OBA - Building Rent Payments, shall be used to meet all payments at the times they are required to be made during the period from July 1, 2005, to June 30, 2007, by the Department of Administrative Services to the Ohio Building Authority pursuant to leases and agreements under Chapter 152. of the Revised Code, but limited to the aggregate amount of \$231,831,700. These appropriations are the source of funds pledged for bond service charges on obligations issued pursuant to Chapter 152. of the Revised Code.

The foregoing appropriation item 100-448, OBA - Building Operating Payments, shall be used to meet all payments at the times that they are required to be made during the period from July 1, 2005, to June 30, 2007, by the Department of Administrative Services to the Ohio Building Authority pursuant to leases and agreements under Chapter 152. of the Revised Code, but limited to the aggregate amount of \$51,040,433.

The payments to the Ohio Building Authority are for the purpose of paying the expenses of agencies that occupy space in the various state facilities. The Department of Administrative Services may enter into leases and agreements with the Ohio Building Authority providing for the payment of these expenses. The Ohio Building Authority shall report to the Department of Administrative Services and the Office of Budget and Management not later than five months after the start of a fiscal year the actual expenses incurred by the Ohio Building Authority in operating the facilities and any balances remaining from payments and rentals received in the prior fiscal year. The Department of Administrative Services shall reduce subsequent payments by the amount of the balance reported to it by the Ohio Building Authority.

#### SECTION 203.12.09. DAS - BUILDING OPERATING PAYMENTS

The foregoing appropriation item 100-449, DAS - Building Operating Payments, shall be used to pay the rent expenses of veterans organizations pursuant to section 123.024 of the Revised Code in fiscal years 2006 and 2007.

The foregoing appropriation item, 100-449, DAS - Building Operating Payments, may be used to provide funding for the cost of property appraisals or building studies that the Department of Administrative Services may be required to obtain for property that is being sold by the state or property under consideration to be renovated or purchased by the state.

Notwithstanding section 125.28 of the Revised Code, the remaining portion of the appropriation may be used to pay the operating expenses of

state facilities maintained by the Department of Administrative Services that are not billed to building tenants. These expenses may include, but are not limited to, the costs for vacant space and space undergoing renovation, and the rent expenses of tenants that are relocated due to building renovations. These payments shall be processed by the Department of Administrative Services through intrastate transfer vouchers and placed in the Building Management Fund (Fund 132).

#### SECTION 203.12.12. CENTRAL SERVICE AGENCY FUND

The Director of Budget and Management may transfer up to \$363,851 in fiscal year 2006 from the Occupational Licensing and Regulatory Fund (Fund 4K9) to the Central Service Agency Fund (Fund 115). The Director of Budget and Management may transfer up to \$45,184 in fiscal year 2006 from the State Medical Board Operating Fund (Fund 5C6) to the Central Service Agency Fund (Fund 115). The Director of Budget and Management may transfer up to \$625 in fiscal year 2006 from the Motor Vehicle Collision Repair Registration Fund (Fund 5H9) to the Central Service Agency Fund (Fund 115). The appropriation item 100-632, Central Service Agency, shall be used to purchase the necessary equipment, products, and services to maintain an automated application for the professional licensing boards, and to support their licensing functions in fiscal year 2006. The amount of the cash transfers is appropriated to appropriation item 100-632, Central Service Agency.

#### SECTION 203.12.15. COLLECTIVE BARGAINING ARBITRATION EXPENSES

With approval of the Director of Budget and Management, the Department of Administrative Services may seek reimbursement from state agencies for the actual costs and expenses the department incurs in the collective bargaining arbitration process. The reimbursements shall be processed through intrastate transfer vouchers and placed in the Collective Bargaining Fund (Fund 128).

#### SECTION 203.12.18. OFFICE OF INFORMATION TECHNOLOGY

The foregoing appropriation item 100-607, IT Service Delivery, shall be used by the Office of Information Technology to carry out its responsibilities under section 125.18 of the Revised Code. The foregoing appropriation item 100-630, IT Governance, shall be used by the Office of

Information Technology to carry out its responsibilities under section 125.18 of the Revised Code.

As soon as possible on or after July 1, 2005, the Director of Administrative Services shall certify to the Director of Budget and Management the amount of cash up to \$5,000,000 to be transferred from the IT Service Delivery Fund (Fund 133) to the IT Governance Fund (Fund 229). This amount represents a portion of the cash balance in the IT Service Delivery Fund attributable to IT Governance programs. The Director of Budget and Management shall transfer the certified amount.

After final payments are made from fiscal year 2005 encumbrances in the IT Service Delivery Fund (Fund 133), the Department of Administrative Services shall reconcile fiscal year 2005 financial activity in the IT Service Delivery Fund and determine the amount of the fund cash balance due to the IT Governance Fund (Fund 229). The reconciliation shall be done in accordance with federal cost accounting regulations. Not later than June 30, 2006, the Director of Administrative Services shall make a determination of any additional transfers of cash necessary for reconciliation purposes. Upon concurrence with this determination, the Director of Budget and Management may transfer such cash between the IT Service Delivery Fund and the IT Governance Fund.

#### SECTION 203.12.21. EQUAL OPPORTUNITY PROGRAM

The Department of Administrative Services, with the approval of the Director of Budget and Management, shall establish charges for recovering the costs of administering the activities supported by the State EEO Fund (Fund 188). These charges shall be deposited to the credit of the State EEO Fund (Fund 188) upon payment made by state agencies, state-supported or state-assisted institutions of higher education, and tax-supported agencies, municipal corporations, and other political subdivisions of the state, for services rendered.

#### SECTION 203.12.24. MERCHANDISE FOR RESALE

The foregoing appropriation item 100-653, General Services Resale Merchandise, shall be used to account for merchandise for resale, which is administered by the General Services Division. Deposits to the fund may comprise the cost of merchandise for resale and shipping fees.

#### SECTION 203.12.27. DAS INFORMATION SERVICES

There is hereby established in the State Treasury the DAS Information Services Fund. The foregoing appropriation item 100-603, DAS Information Services, shall be used to pay the costs of providing information systems and services in the Department of Administrative Services.

The Department of Administrative Services shall establish user charges for all information systems and services that are allowable in the statewide indirect cost allocation plan submitted annually to the United States Department of Health and Human Services. These charges shall comply with federal regulations and shall be deposited to the credit of the DAS Information Services Fund (Fund 4P3).

#### SECTION 203.12.30. INVESTMENT RECOVERY FUND

Notwithstanding division (B) of section 125.14 of the Revised Code, cash balances in the Investment Recovery Fund (Fund 427) may be used to support the operating expenses of the Federal Surplus Operating Program created in sections 125.84 to 125.90 of the Revised Code.

Notwithstanding division (B) of section 125.14 of the Revised Code, cash balances in the Investment Recovery Fund may be used to support the operating expenses of the State Property Inventory and Fixed Assets Management System Program.

Of the foregoing appropriation item 100-602, Investment Recovery, up to \$2,147,024 in fiscal year 2006 and up to \$2,205,594 in fiscal year 2007 shall be used to pay the operating expenses of the State Surplus Property Program, the Surplus Federal Property Program, and the State Property Inventory and Fixed Assets Management System Program under Chapter 125. of the Revised Code and this section. If additional appropriations are necessary for the operations of these programs, the Director of Administrative Services shall seek increased appropriations from the Controlling Board under section 131.35 of the Revised Code.

Of the foregoing appropriation item 100-602, Investment Recovery, \$3,433,184 in fiscal year 2006 and \$3,477,970 in fiscal year 2007 shall be used to transfer proceeds from the sale of surplus property from the Investment Recovery Fund to non-General Revenue Funds under division (A)(2) of section 125.14 of the Revised Code. If it is determined by the Director of Administrative Services that additional appropriations are necessary for the transfer of such sale proceeds, the Director of Administrative Services may request the Director of Budget and Management to increase the amounts. Such amounts are hereby appropriated.

Notwithstanding division (B) of section 125.14 of the Revised Code, the

Director of Budget and Management, at the request of the Director of Administrative Services, shall transfer up to \$500,000 of the amounts held for transfer to the General Revenue Fund from the Investment Recovery Fund to the State Architect's Fund (Fund 131) to provide operating cash.

#### SECTION 203.12.33. MULTI-AGENCY RADIO COMMUNICATIONS SYSTEM

Effective with the implementation of the Multi-Agency Radio Communications System, the Director of Administrative Services shall collect user fees from participants in the system. The Director of Administrative Services, with the advice of the Multi-Agency Radio Communications System Steering Committee and the Director of Budget and Management, shall determine the amount of the fees and the manner by which the fees shall be collected. Such user charges shall comply with the applicable cost principles issued by the federal Office of Management and Budget. All moneys from user charges and fees shall be deposited in the state treasury to the credit of the Multi-Agency Radio Communications System Administration Fund (Fund 5C2), which is hereby established in the state treasury. All interest income derived from the investment of the fund shall accrue to the fund.

#### SECTION 203.12.36. WORKFORCE DEVELOPMENT FUND

There is hereby established in the state treasury the Workforce Development Fund (Fund 5D7). The foregoing appropriation item 100-621, Workforce Development, shall be used to make payments from the fund. The fund shall be under the supervision of the Department of Administrative Services, which may adopt rules with regard to administration of the fund. The fund shall be used to pay the costs of the Workforce Development Program, established by Article 37 of the contract between the State of Ohio and OCSEA/AFSCME, Local 11, effective March 1, 2003, and as modified by any successor labor contract between the State of Ohio and OCSEA/AFSCME. The program shall be administered in accordance with the contract. Revenues shall accrue to the fund as specified in the contract. The fund may be used to pay direct and indirect costs of the program that are attributable to staff, consultants, and service providers. All income derived from the investment of the fund shall accrue to the fund.

If it is determined by the Director of Administrative Services that additional appropriation amounts are necessary, the Director of Administrative Services may request that the Director of Budget and

Management increase such amounts. Such amounts are hereby appropriated.

SECTION 203.12.39. PROFESSIONAL DEVELOPMENT FUND

The foregoing appropriation item 100-610, Professional Development, shall be used to make payments from the Professional Development Fund (Fund 5L7) under section 124.182 of the Revised Code.

SECTION 203.12.42. EMPLOYEE EDUCATIONAL DEVELOPMENT

There is hereby established in the state treasury the Employee Educational Development Fund (Fund 5V6). The foregoing appropriation item 100-619, Employee Educational Development, shall be used to make payments from the fund. The fund shall be used to pay the costs of the administration of educational programs per existing collective bargaining agreements with District 1199, the Health Care and Social Service Union; State Council of Professional Educators; Ohio Education Association and National Education Association; the Fraternal Order of Police Ohio Labor Council, Unit 2; and the Ohio State Troopers Association, Units 1 and 15. The fund shall be under the supervision of the Department of Administrative Services, which may adopt rules with regard to administration of the fund. The fund shall be administered in accordance with the applicable sections of the collective bargaining agreements between the State and the aforementioned unions. The Department of Administrative Services, with the approval of the Director of Budget and Management, shall establish charges for recovering the costs of administering the educational programs. Receipts for these charges shall be deposited into the Employee Educational Development Fund. All income derived from the investment of the funds shall accrue to the fund.

If it is determined by the Director of Administrative Services that additional appropriation amounts are necessary, the Director of Administrative Services may request that the Director of Budget and Management increase such amounts. Such amounts are hereby appropriated with the approval of the Director of Budget and Management.

SECTION 203.12.45. MAJOR IT PURCHASES

The Director of Administrative Services shall compute the amount of revenue attributable to the amortization of all equipment purchases and capitalized systems from appropriation item 100-607, IT Service Delivery; appropriation item 100-617, Major IT Purchases; and appropriation item

CAP-837, Major IT Purchases, which is recovered by the Department of Administrative Services as part of the rates charged by the IT Service Delivery Fund (Fund 133) created in section 125.15 of the Revised Code. The Director of Budget and Management may transfer cash in an amount not to exceed the amount of amortization computed from the IT Service Delivery Fund (Fund 133) to the Major IT Purchases Fund (Fund 4N6).

#### SECTION 203.12.48. INFORMATION TECHNOLOGY ASSESSMENT

The Director of Administrative Services, with the approval of the Director of Budget and Management, may establish an information technology assessment for the purpose of recovering the cost of selected infrastructure and statewide programs. Such assessment shall comply with applicable cost principles issued by the federal Office of Management and Budget. The information technology assessment shall be charged to all organized bodies, offices, or agencies established by the laws of the state for the exercise of any function of state government except for the General Assembly, any legislative agency, the Supreme Court, the other courts of record in Ohio, or any judicial agency, the Adjutant General, the Bureau of Workers' Compensation, and institutions administered by a board of trustees. Any state-entity exempted by this section may utilize the infrastructure or statewide program by participating in the information technology assessment. All charges for the information technology assessment shall be deposited to the credit of the IT Service Delivery Fund (Fund 133) created in section 125.15 of the Revised Code.

#### SECTION 203.12.51. UNEMPLOYMENT COMPENSATION FUND

Within thirty days after the effective date of this section, or as soon as possible thereafter, the Director of Administrative Services shall certify the remaining cash in the Unemployment Compensation Fund (Fund 113) to the Director of Budget and Management who shall transfer that amount to the General Revenue Fund and abolish the Unemployment Compensation Fund (Fund 113).

#### SECTION 203.12.54. PAYROLL WITHHOLDING FUND

The foregoing appropriation item 100-629, Payroll Deductions, shall be used to make payments from the Payroll Withholding Fund (Fund 124). If it is determined by the Director of Budget and Management that additional appropriation amounts are necessary, such amounts are hereby appropriated.



**SECTION 203.12.57. GENERAL SERVICES REFUNDS**

The foregoing appropriation item 100-646, General Services Refunds, shall be used to hold bid guarantee and building plans and specifications deposits until they are refunded. The Director of Administrative Services may request that the Director of Budget and Management transfer cash received for the costs of providing the building plans and specifications to contractors from the General Services Refunds Fund to the State Architect's Office Fund (Fund 131). Prior to the transfer of cash, the Director of Administrative Services shall certify that such amounts are in excess of amounts required for refunding deposits and are directly related to costs of producing building plans and specifications. If it is determined that additional appropriations are necessary, such amounts are hereby appropriated.

**SECTION 203.12.60. MULTI-AGENCY RADIO COMMUNICATION SYSTEM DEBT SERVICE PAYMENTS**

The Director of Administrative Services, in consultation with the Multi-Agency Radio Communication System (MARCS) Steering Committee and the Director of Budget and Management, shall determine the share of debt service payments attributable to spending for MARCS components that are not specific to any one agency and that shall be charged to agencies supported by the motor fuel tax. Such share of debt service payments shall be calculated for MARCS capital disbursements made beginning July 1, 1997. Within thirty days of any payment made from appropriation item 100-447, OBA - Building Rent Payments, the Director of Administrative Services shall certify to the Director of Budget and Management the amount of this share. The Director of Budget and Management shall transfer such amounts to the General Revenue Fund from the State Highway Safety Fund (Fund 036) established in section 4501.06 of the Revised Code.

The Director of Administrative Services shall consider renting or leasing existing tower sites at reasonable or current market rates, so long as these existing sites are equipped with the technical capabilities to support the MARCS project.

**SECTION 203.12.63. DIRECTOR'S DECLARATION OF PUBLIC EXIGENCY**

Whenever the Director of Administrative Services declares a "public exigency," as provided in division (C) of section 123.15 of the Revised Code, the Director shall also notify the members of the Controlling Board.

#### SECTION 203.12.66. GENERAL SERVICE CHARGES

The Department of Administrative Services, with the approval of the Director of Budget and Management, shall establish charges for recovering the costs of administering the programs in the General Services Fund (Fund 117) and the State Printing Fund (Fund 210).

#### SECTION 203.15. AAM COMMISSION ON AFRICAN AMERICAN MALES

##### General Revenue Fund

GRF 036-100	Personal Services	\$	220,091	\$	220,091
GRF 036-200	Maintenance	\$	39,909	\$	39,909
GRF 036-300	Equipment	\$	1,000	\$	1,000
GRF 036-501	CAAM Awards and Scholarships	\$	1,000	\$	1,000
GRF 036-502	Community Projects	\$	20,000	\$	20,000
TOTAL GRF General Revenue Fund		\$	282,000	\$	282,000

##### State Special Revenue Fund Group

4H3 036-601	Commission on African American Males - Gifts/Grants	\$	10,000	\$	10,000
TOTAL SSR State Special Revenue Fund Group		\$	10,000	\$	10,000
TOTAL ALL BUDGET FUND GROUPS		\$	292,000	\$	292,000

#### COMMISSION ON AFRICAN AMERICAN MALES PROGRESS REVIEW

Annually, not later than the thirty-first day of December, the Commission on African American Males shall internally prepare and submit to the chairperson and ranking minority member of the Human Services Subcommittee of the Finance and Appropriations Committee of the House of Representatives a report that demonstrates the progress that has been made toward meeting the Commission's mission statement.

#### SECTION 203.18. JCR JOINT COMMITTEE ON AGENCY RULE REVIEW

##### General Revenue Fund

GRF 029-321	Operating Expenses	\$	379,769	\$	387,364
TOTAL GRF General Revenue Fund		\$	379,769	\$	387,364
TOTAL ALL BUDGET FUND GROUPS		\$	379,769	\$	387,364

**OPERATING**

The Chief Administrative Officer of the House of Representatives and the Clerk of the Senate shall determine, by mutual agreement, which of them shall act as fiscal agent for the Joint Committee on Agency Rule Review.

**OPERATING EXPENSES**

The unencumbered balance of appropriation item 029-321, Operating Expenses, at the end of fiscal year 2006 shall be transferred to fiscal year 2007 for use under the same appropriation item.

**SECTION 203.21. AGE DEPARTMENT OF AGING****General Revenue Fund**

GRF 490-321	Operating Expenses	\$	2,579,867	\$	2,308,867
GRF 490-403	PASSPORT	\$	112,045,715	\$	121,009,372
GRF 490-405	Golden Buckeye Card	\$	467,614	\$	467,614
GRF 490-406	Senior Olympics	\$	15,638	\$	15,638
GRF 490-409	Ohio Community Service Council Operations	\$	203,647	\$	193,465
GRF 490-410	Long-Term Care Ombudsman	\$	689,437	\$	689,437
GRF 490-411	Senior Community Services	\$	10,630,988	\$	10,630,988
GRF 490-412	Residential State Supplement	\$	9,156,771	\$	9,156,771
GRF 490-414	Alzheimers Respite	\$	4,085,888	\$	4,085,888
GRF 490-416	JCFS Elderly Transportation	\$	100,000	\$	100,000
GRF 490-421	PACE	\$	11,354,145	\$	10,214,809
GRF 490-422	Assisted Living Waiver	\$	0	\$	359,919
GRF 490-506	National Senior Service Corps	\$	352,943	\$	352,943
TOTAL GRF General Revenue Fund		\$	151,682,653	\$	159,585,711

**General Services Fund Group**

480 490-606	Senior Community Outreach and Education	\$	372,677	\$	372,677
TOTAL GSF General Services Fund Group		\$	372,677	\$	372,677

**Federal Special Revenue Fund Group**

3C4 490-607	PASSPORT	\$	198,683,143	\$	218,196,387
3C4 490-621	PACE-Federal	\$	10,854,083	\$	14,586,135
3C4 490-622	Assisted Living-Federal	\$	0	\$	5,687,374
3M3 490-611	Federal Aging Nutrition	\$	27,622,693	\$	28,037,034
3M4 490-612	Federal Independence Services	\$	27,907,287	\$	28,325,896
3R7 490-617	Ohio Community Service Council Programs	\$	9,170,000	\$	9,170,000
322 490-618	Federal Aging Grants	\$	14,834,354	\$	15,014,494
TOTAL FED Federal Special Revenue Fund Group		\$	289,071,560	\$	319,017,320

**State Special Revenue Fund Group**

4C4 490-609	Regional Long-Term Care Ombudsman Program	\$	910,000	\$	935,000
4J4 490-610	PASSPORT/Residential State	\$	33,263,984	\$	33,263,984

		Supplement			
4U9	490-602	PASSPORT Fund	\$	4,424,969	\$ 4,424,969
5BA	490-620	Ombudsman Support	\$	615,000	\$ 0
5CE	490-624	Special Projects	\$	350,000	\$ 0
5K9	490-613	Long Term Care Consumers Guide	\$	298,400	\$ 820,400
5W1	490-616	Resident Services Coordinator Program	\$	262,500	\$ 262,500
624	490-604	OCSC Community Support	\$	2,500	\$ 2,500
TOTAL SSR State Special Revenue Fund Group			\$	40,127,353	\$ 39,709,353
TOTAL ALL BUDGET FUND GROUPS			\$	481,254,243	\$ 518,685,061

### SECTION 203.21.03. PRE-ADMISSION REVIEW FOR NURSING FACILITY ADMISSION

Pursuant to an interagency agreement, the Department of Job and Family Services shall designate the Department of Aging to perform assessments under sections 173.42 and 5111.204 of the Revised Code. Of the foregoing appropriation item 490-403, PASSPORT, the Department of Aging may use not more than \$2,586,648 in fiscal year 2006 and \$2,651,315 in fiscal year 2007 to perform the assessments for persons not eligible for Medicaid under the department's interagency agreement with the Department of Job and Family Services and to assist individuals in planning for their long-term health care needs.

### SECTION 203.21.06. PASSPORT

Of the foregoing appropriation item 490-607, PASSPORT, Fund 3C4, up to \$200,000 in fiscal year 2006 shall be used for an evaluation of the PASSPORT Program.

(A) There is hereby created the PASSPORT Evaluation Panel to oversee the performance of an evaluation of the PASSPORT Home and Community Based Waiver Program conducted by an independent contractor. The Panel shall be composed of the following members:

- (1) The Director of Aging or the Director's designee;
- (2) The Director of Job and Family Services or the Director's designee;
- (3) A representative of the Ohio Association of Area Agencies on Aging, appointed by the Association;
- (4) A representative of PASSPORT providers, appointed by the Director of Aging;
- (5) A representative of the Ohio Academy of Nursing Homes, appointed by the Academy;
- (6) A representative of the Ohio Health Care Association, appointed by

the Association;

(7) A representative of the Association for Ohio Philanthropic Homes and Housing for the Aging, appointed by the Association;

(8) A representative of the American Association of Retired Persons, appointed by the Association;

(9) A representative of Scripps Gerontology Center at Miami University, appointed by the Center.

Panel members shall serve without compensation. The Department of Aging shall provide assistance to the PASSPORT Evaluation Panel, including support services and meeting space. The Panel shall convene not later than sixty days after the effective date of this section.

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

(1) Establish criteria to be used in selecting an independent contractor to evaluate the PASSPORT Program. The criteria shall specify that the independent contractor must not be affiliated with any state agency.

(2) In accordance with the request for proposal process administered by the Department of Administrative Services, accept and evaluate bids from potential contractors;

(3) Select to evaluate the PASSPORT Program an independent contractor that meets the criteria established by the Panel and the Department.

(C) The independent contractor selected by the PASSPORT Evaluation Panel shall, in conducting the evaluation of the PASSPORT Program, do all of the following:

(1) Examine the implementation by the existing PASSPORT system of the long-term care recommendations of the Ohio Commission to Reform Medicaid and coordinate the work of the PASSPORT evaluation with the Medicaid Transition Council and the Medicaid Care Management Work Group;

(2) Evaluate the cost-effectiveness of services provided under the program;

(3) Evaluate the population served and the appropriateness of the program for that population;

(4) Evaluate program outcomes to determine the program's effectiveness in preventing nursing home admissions;

(5) Evaluate the effectiveness of area agencies on aging in efficiently linking older Ohioans to the appropriate level of assistance based on the screening and assessment activities of the PASSPORT system;

(6) Examine the cost effectiveness of increasing the care management responsibilities of area agencies on aging to include the management of the

Medicaid state plan services;

(7) Evaluate the effectiveness of client-to-case management ratios of area agencies on aging to assess whether clients receive quality outcomes in a cost-effective manner;

(8) Evaluate and assess the effectiveness of the PASSPORT program's authority to provide interventions that increase enrollment and decrease disenrollment and increase flexibility to provide quality, timely service to clients with special service needs;

(9) Evaluate the PASSPORT program's rate structure and contracting process to determine fair market rates and quality incentive indicators;

(10) Evaluate the effectiveness of the PASSPORT program's current provider procurement process;

(11) Determine elements of the program that may be vulnerable to fraud;

(12) Any additional action requested by the PASSPORT Evaluation Panel.

The independent contractor shall issue to the Panel quarterly reports and, by not later than May 15, 2007, a final report, of its findings. By not later than June 30, 2007, the PASSPORT Evaluation Panel shall approve a final report.

Appropriation item 490-403, PASSPORT, and the amounts set aside for the PASSPORT Waiver Program in appropriation item 490-610, PASSPORT/Residential State Supplement, may be used to assess clients regardless of Medicaid eligibility.

The Director of Aging shall adopt rules under section 111.15 of the Revised Code governing the nonwaiver funded PASSPORT program, including client eligibility.

The Department of Aging shall administer the Medicaid waiver-funded PASSPORT Home Care Program as delegated by the Department of Job and Family Services in an interagency agreement. The foregoing appropriation item 490-403, PASSPORT, and the amounts set aside for the PASSPORT Waiver Program in appropriation item 490-610, PASSPORT/Residential State Supplement, shall be used to provide the required state match for federal Medicaid funds supporting the Medicaid Waiver-funded PASSPORT Home Care Program. Appropriation item 490-403, PASSPORT, and the amounts set aside for the PASSPORT Waiver Program in appropriation item 490-610, PASSPORT/Residential State Supplement, may also be used to support the Department of Aging's administrative costs associated with operating the PASSPORT program.

The foregoing appropriation item 490-607, PASSPORT, shall be used to

provide the federal matching share for all PASSPORT program costs determined by the Department of Job and Family Services to be eligible for Medicaid reimbursement.

#### OHIO COMMUNITY SERVICE COUNCIL

The foregoing appropriation items 490-409, Ohio Community Service Council Operations, and 490-617, Ohio Community Service Council Programs, shall be used in accordance with section 121.40 of the Revised Code.

#### TRANSFER OF RESIDENT PROTECTION FUNDS

The Director of Budget and Management shall transfer, by intrastate transfer voucher, in fiscal year 2006, \$615,000 from Fund 4E3, Resident Protection Fund, in the Department of Job and Family Services, to Fund 5BA in the Department of Aging, to be used for program management for the Office of the State Long-Term Care Ombudsman created by the Department of Aging under division (M) of section 173.01 of the Revised Code.

The Director of Budget and Management shall transfer, by intrastate transfer voucher, in fiscal year 2006, \$350,000 from Fund 4E3, Resident Protection Fund, in the Department of Job and Family Services to Fund 5CE in the Department of Aging to be used by the Alzheimer's Association to develop a pilot training program on person-centered dementia care for long term care staff who interact with people with dementia.

#### SENIOR COMMUNITY SERVICES

Appropriation item 490-411, Senior Community Services, shall be used for services designated by the Department of Aging, including, but not limited to, home-delivered and congregate meals, transportation services, personal care services, respite services, adult day services, home repair, care coordination, and decision support systems. Service priority shall be given to low income, frail, and cognitively impaired persons 60 years of age and over. The department shall promote cost sharing by service recipients for those services funded with block grant funds, including, when possible, sliding-fee scale payment systems based on the income of service recipients.

#### ALZHEIMERS RESPITE

The foregoing appropriation item 490-414, Alzheimers Respite, shall be used to fund only Alzheimer's disease services under section 173.04 of the Revised Code.

#### JCFS ELDERLY TRANSPORTATION

The foregoing appropriation item 490-416, JCFS Elderly Transportation, shall be used for noncapital expenses related to transportation services for the elderly that provide access to such things as

healthcare services, congregate meals, socialization programs, and grocery shopping. The funds shall pass through and shall be administered by the Area Agencies on Aging.

Agencies receiving funding from appropriation item 490-416, JCFS Elderly Transportation, shall coordinate services with other local service agencies. The appropriation shall be allocated to the following agencies:

(A) \$30,000 in both fiscal years to Cincinnati Jewish Vocational Services;

(B) \$20,000 in both fiscal years to Wexner Heritage Village;

(C) \$20,000 in both fiscal years to Yassenoff Jewish Community Center;

(D) \$30,000 in both fiscal years to Cleveland Jewish Community Center.

#### RESIDENTIAL STATE SUPPLEMENT

Under the Residential State Supplement Program, the amount used to determine whether a resident is eligible for payment and for determining the amount per month the eligible resident will receive shall be as follows:

(A) \$900 for a residential care facility, as defined in section 3721.01 of the Revised Code;

(B) \$900 for an adult group home, as defined in Chapter 3722. of the Revised Code;

(C) \$800 for an adult foster home, as defined in Chapter 173. of the Revised Code;

(D) \$800 for an adult family home, as defined in Chapter 3722. of the Revised Code;

(E) \$800 for an adult community alternative home, as defined in Chapter 3724. of the Revised Code;

(F) \$800 for an adult residential facility, as defined in Chapter 5119. of the Revised Code;

(G) \$600 for adult community mental health housing services, as defined in division (B)(5) of section 173.35 of the Revised Code.

The Departments of Aging and Job and Family Services shall reflect these amounts in any applicable rules the departments adopt under section 173.35 of the Revised Code.

#### LONG-TERM CARE OMBUDSMAN

The foregoing appropriation item 490-410, Long-Term Care Ombudsman, shall be used for a program to fund ombudsman program activities in nursing homes, adult care facilities, boarding homes, and home and community care services.

#### TRANSFER OF RESIDENTIAL STATE SUPPLEMENT



**APPROPRIATIONS**

The Department of Aging may transfer cash by intrastate transfer vouchers from the foregoing appropriation items 490-412, Residential State Supplement, and 490-610, PASSPORT/Residential State Supplement, to the Department of Job and Family Services' Fund 4J5, Home and Community-Based Services for the Aged Fund. The funds shall be used to make benefit payments to Residential State Supplement recipients.

**ALLOCATION OF PACE SLOTS**

For fiscal years 2006 and 2007, of the 880 slots approved by the Centers for Medicare and Medicaid Services for the PACE Program, the Department of Aging shall allocate, to the extent funding is available, 500 slots to Tri-Health Senior Link located in Cincinnati and 380 slots to Concordia Care located in Cleveland. In fiscal year 2007, the Department of Aging shall allocate, to the extent funding is available, up to 60 additional slots from Concordia Care to Tri-Health Senior Link if the Department projects Concordia Care will not fill all of its allotted slots.

**TRANSFER OF APPROPRIATIONS - FEDERAL AGING NUTRITION, FEDERAL INDEPENDENCE SERVICES, AND FEDERAL AGING GRANTS**

Upon written request of the Director of Aging, the Director of Budget and Management may transfer appropriation authority among appropriation items 490-611, Federal Aging Nutrition, 490-612, Federal Independence Services, and 490-618, Federal Aging Grants, in amounts not to exceed 30 per cent of the appropriation from which the transfer is made. The Department of Aging shall report a transfer to the Controlling Board at the next regularly scheduled meeting of the board.

**REGIONAL LONG-TERM CARE OMBUDSMAN PROGRAM**

The foregoing appropriation item 490-609, Regional Long-Term Care Ombudsman Program, shall be used solely to pay the costs of operating the regional long-term care ombudsman programs.

**PASSPORT/RESIDENTIAL STATE SUPPLEMENT**

Of the foregoing appropriation item 490-610, PASSPORT/Residential State Supplement, up to \$2,835,000 each fiscal year may be used to fund the Residential State Supplement Program. The remaining available funds shall be used to fund the PASSPORT program.

**TRANSITION PLAN FOR RESIDENTIAL STATE SUPPLEMENT**

Subject to approval by the Social Security Administration, of the foregoing appropriation items 490-412, Residential State Supplement, and 490-610, PASSPORT/Residential State Supplement, Fund 4J4, in fiscal year 2007 the Department of Aging shall transfer to the Ohio Department of

Mental Health sufficient funds to make benefit payments for all Residential State Supplement recipients who are less than 60 years of age diagnosed with mental illness, mental retardation, or a developmental disability and are enrolled in the program on June 30, 2006. Upon the request of the Directors of Aging and of Mental Health, the Director of Budget and Management may transfer appropriations from GRF appropriation item 490-412, Residential State Supplement, in the Department of Aging to GRF appropriation item 335-505, Local Mental Health Systems of Care, in the Department of Mental Health. In addition, upon the request of the Directors of Aging and Mental Health, the Director of Budget and Management may transfer cash from Fund 4J4, PASSPORT Fund, into the General Revenue Fund and increase the appropriation in Department of Mental Health GRF appropriation item 335-505, Local Mental Health Systems of Care, by an equal amount.

The departments of Aging and Mental Health shall jointly petition the Social Security Administration to approve changes to the Residential State Supplement program. Changes proposed by the two departments shall ensure that Residential State Supplement program recipients on June 30, 2006, continue to receive benefit payments as long as they remain in the program. Changes proposed by the departments of Aging and Mental Health may include provisions that improve local accountability to county boards of mental health, maximize available funding, and improve the quality of residential settings approved for recipients. If the Social Security Administration does not approve these changes, the Department of Aging shall continue to be responsible for the Residential State Supplement Program.

#### SECTION 203.21.09. AGING AND DISABILITY RESOURCE CENTERS

The Department of Aging shall apply for the 2005 Aging and Disability Resource Center Grant Initiative of the Administration on Aging and the Centers for Medicare and Medicaid Services. If the application is accepted, the Department shall create an Aging and Disability Resource Center beginning in fiscal year 2006. The Department of Job and Family Services shall endorse the Department's application to the extent required by the invitation to apply.

#### SECTION 203.24. AGR DEPARTMENT OF AGRICULTURE General Revenue Fund

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GRF 700-321	Operating Expenses	\$	2,605,330	\$	2,605,330
GRF 700-401	Animal Disease Control	\$	3,574,506	\$	3,574,506
GRF 700-403	Dairy Division	\$	1,304,504	\$	1,304,504
GRF 700-404	Ohio Proud	\$	185,395	\$	185,395
GRF 700-405	Animal Damage Control	\$	60,000	\$	60,000
GRF 700-406	Consumer Analytical Lab	\$	819,907	\$	819,907
GRF 700-407	Food Safety	\$	939,099	\$	939,099
GRF 700-409	Farmland Preservation	\$	241,573	\$	241,573
GRF 700-410	Plant Industry	\$	391,216	\$	50,000
GRF 700-411	International Trade and Market Development	\$	617,524	\$	517,524
GRF 700-412	Weights and Measures	\$	1,100,000	\$	1,300,000
GRF 700-413	Gypsy Moth Prevention	\$	200,000	\$	200,000
GRF 700-415	Poultry Inspection	\$	325,000	\$	325,000
GRF 700-418	Livestock Regulation Program	\$	1,428,496	\$	1,428,496
GRF 700-424	Livestock Testing and Inspections	\$	115,946	\$	115,946
GRF 700-499	Meat Inspection Program - State Share	\$	4,696,889	\$	4,696,889
GRF 700-501	County Agricultural Societies	\$	358,226	\$	358,226
TOTAL GRF	General Revenue Fund	\$	18,963,611	\$	18,722,395
<b>Federal Special Revenue Fund Group</b>					
3J4 700-607	Indirect Cost	\$	1,500,027	\$	1,500,027
3R2 700-614	Federal Plant Industry	\$	4,800,000	\$	4,800,000
326 700-618	Meat Inspection Program - Federal Share	\$	5,201,291	\$	5,201,291
336 700-617	Ohio Farm Loan Revolving Fund	\$	43,793	\$	44,679
382 700-601	Cooperative Contracts	\$	4,300,000	\$	4,300,000
TOTAL FED	Federal Special Revenue Fund Group	\$	15,845,111	\$	15,845,997
<b>State Special Revenue Fund Group</b>					
4C9 700-605	Feed, Fertilizer, Seed, and Lime Inspection	\$	1,922,857	\$	1,891,395
4D2 700-609	Auction Education	\$	23,885	\$	24,601
4E4 700-606	Utility Radiological Safety	\$	73,059	\$	73,059
4P7 700-610	Food Safety Inspection	\$	816,096	\$	858,096
4R0 700-636	Ohio Proud Marketing	\$	38,300	\$	38,300
4R2 700-637	Dairy Industry Inspection	\$	1,541,466	\$	1,621,460
4T6 700-611	Poultry and Meat Inspection	\$	47,294	\$	47,294
4T7 700-613	International Trade and Market Development	\$	52,000	\$	54,000
494 700-612	Agricultural Commodity Marketing Program	\$	170,220	\$	170,220
496 700-626	Ohio Grape Industries	\$	1,071,099	\$	1,071,054
497 700-627	Commodity Handlers Regulatory Program	\$	515,820	\$	529,978
5B8 700-629	Auctioneers	\$	365,390	\$	365,390
5H2 700-608	Metrology Lab and Scale Certification	\$	351,526	\$	362,526
5L8 700-604	Livestock Management Program	\$	30,000	\$	30,000
578 700-620	Ride Inspection Fees	\$	1,105,436	\$	1,115,436

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652	700-634	Animal Health and Food Safety	\$	1,876,624	\$	1,831,232
669	700-635	Pesticide Program	\$	2,993,232	\$	3,354,448
TOTAL SSR State Special Revenue Fund Group			\$	12,994,304	\$	13,438,489
<b>Clean Ohio Fund Group</b>						
057	700-632	Clean Ohio Agricultural Easement	\$	149,000	\$	149,000
TOTAL CLR Clean Ohio Fund Group			\$	149,000	\$	149,000
TOTAL ALL BUDGET FUND GROUPS			\$	47,952,026	\$	48,155,881

**OHIO - ISRAEL AGRICULTURAL INITIATIVE**

Of the foregoing General Revenue Fund appropriation item 700-411, International Trade and Market Development, \$100,000 shall be used in fiscal year 2006 for the Ohio - Israel Agricultural Initiative.

**FAMILY FARM LOAN PROGRAM**

Notwithstanding Chapter 166. of the Revised Code, up to \$1,000,000 in each fiscal year shall be transferred from moneys in the Facilities Establishment Fund (Fund 037) to the Family Farm Loan Fund (Fund 5H1) in the Department of Development. These moneys shall be used for loan guarantees. The transfer is subject to Controlling Board approval.

Financial assistance from the Family Farm Loan Fund (Fund 5H1) shall be repaid to Fund 5H1. This fund is established in accordance with sections 166.031, 901.80, 901.81, 901.82, and 901.83 of the Revised Code.

When the Family Farm Loan Fund (Fund 5H1) ceases to exist, all outstanding balances, all loan repayments, and any other outstanding obligations shall revert to the Facilities Establishment Fund (Fund 037).

**SECTION 203.24.03. FERTILIZER-RELATED LICENSURE AND REGISTRATION**

To facilitate implementation of the new schedule for fertilizer-related licensure, registration, and reporting established under sections 905.32, 905.33, 905.331, and 905.36 of the Revised Code, as amended by this act, all of the following apply:

(A) With regard to licenses for which applications for the license period beginning July 1, 2005, have been submitted under sections 905.32 and 905.331 of the Revised Code as those sections existed prior to their amendment by this act, a license shall be issued for a period beginning on July 1, 2005, and ending on November 30, 2005, and shall expire on November 30, 2005.

(B) With regard to registrations of a specialty fertilizer for which applications for the registration period beginning July 1, 2005, have been submitted under section 905.33 of the Revised Code as that section existed

prior to its amendment by this act, a registration shall be issued for the period beginning on July 1, 2005, and ending on November 30, 2005, and shall expire on November 30, 2005.

(C) A person who is required to submit a tonnage report within thirty days of June 30, 2005, under section 905.36 of the Revised Code as that section existed prior to its amendments by this act shall submit the report by that date. However, the person also shall submit a tonnage report by November 30, 2005, for the period beginning on July 1, 2005, and ending on October 31, 2005 as required by section 905.36 of the Revised Code as amended by this act.

#### COMMERCIAL FEED, FERTILIZER, SEED, AND LIME INSPECTION AND LABORATORY FUND

The Commercial Feed, Fertilizer, Seed, and Lime Inspection and Laboratory Fund created in section 905.38 of the Revised Code, as amended by this act, is a continuation of the Commercial Feed, Fertilizer, and Lime Inspection and Laboratory Fund that was created in that section prior to its amendment by this act. Notwithstanding any other provision of law to the contrary, the Seed Fund (5Z4) created in section 907.16 of the Revised Code shall cease to exist, effective July 1, 2005. All assets, liabilities, revenues, and obligations associated with the Seed Fund (5Z4) are hereby transferred to the Commercial Feed, Fertilizer, Seed, and Lime Inspection and Laboratory Fund (Fund 4C9) on July 1, 2005.

Effective July 1, 2005, or as soon thereafter as possible, the Director of Agriculture shall certify to the Director of Budget and Management the cash balance in the Seed Fund (5Z4), which was merged in section 907.16 of the Revised Code, as amended by this act. The Director of Budget and Management shall transfer the certified amount to the Commercial Feed, Fertilizer, Seed, and Lime Inspection and Laboratory Fund (Fund 4C9), which is created in section 907.16 of the Revised Code, formerly named the Seed Fund. The Director shall cancel any existing encumbrances against appropriation item 700-642, Seed Program, and re-establish them against appropriation item 700-605, Feed, Fertilizer, Seed, and Lime Inspection. The amounts of the re-established encumbrances are hereby appropriated.

#### METROLOGY LAB AND SCALE CERTIFICATION FUND

The Metrology and Scale Certification Fund created in section 1327.511 of the Revised Code, as amended by this act, is a continuation of the Scale Certification Fund that was created in that section prior to its amendment by this act. Notwithstanding any other provision of law to the contrary, the Scale Certification Fund (Fund 579) created in section 1327.511 of the Revised Code shall cease to exist, effective July 1, 2005. All assets,

liabilities, revenues, and obligations associated with the Scale Certification Fund (Fund 579) are hereby transferred to the Metrology Lab and Scale Certification Fund (Fund 5H2) on July 1, 2005.

Effective July 1, 2005, or as soon thereafter as possible, the Director of Agriculture shall certify to the Director of Budget and Management the cash balance in the Scale Certification Fund (Fund 579), which was merged in section 1327.511 of the Revised Code, as amended by this act. The Director of Budget and Management shall transfer the certified amount to the Metrology Laboratory and Scale Certification Fund (Fund 5H2) which is created in section 1327.511 of the Revised Code, formerly named the Scale Certification Laboratory Fund. The Director shall cancel any existing encumbrances against appropriation item 700-630, Scale Certification, and re-establish them against appropriation item 700-608, Metrology Lab. The amounts of the re-established encumbrances are hereby appropriated.

#### ANIMAL HEALTH AND FOOD SAFETY

Notwithstanding any other provision of law to the contrary, the Animal Industry Laboratory Fees Fund (Fund 4V5) created in division (E)(1) of section 901.43 of the Revised Code shall cease to exist, effective July 1, 2005. All assets, liabilities, revenues, and obligations associated with the Animal Industry Laboratory Fund (Fund 4V5) are hereby transferred to the Animal Health and Food Safety Fund (Fund 652) on July 1, 2005.

Effective July 1, 2005, or as soon thereafter as possible, the Director of Agriculture shall certify to the Director of Budget and Management the cash balance in the Animal Industry Laboratory Fund (Fund 4V5), which was merged in division (E)(1) of section 901.43 of the Revised Code, as amended by this act. The Director of Budget and Management shall transfer the certified amount to the Animal Health and Food Safety Fund (Fund 652) which is created in division (E)(2) of section 901.43 of the Revised Code, formerly named the Animal Industry Laboratory Fund. The Director of Budget and Management shall cancel any existing encumbrances against appropriation item 700-615, Animal Industry Lab Fees, and re-establish them against appropriation item 700-634, Laboratory Services. The amounts of the re-established encumbrances are hereby appropriated.

#### PESTICIDE REGISTRATION AND INSPECTION FEE

The registration and inspection fee established in rules adopted under section 921.16 of Revised Code for the purposes of section 921.02 of the Revised Code, as that section existed prior to its amendment by this act, that are in effect on January 1, 2005, shall remain in effect until the new fees established in section 921.02 of the Revised Code as amended by this act take effect on January 1, 2007.

**CLEAN OHIO AGRICULTURAL EASEMENT**

The foregoing appropriation item 700-632, Clean Ohio Agricultural Easement, shall be used by the Department of Agriculture in administering sections 901.21, 901.22, and 5301.67 to 5301.70 of the Revised Code.

**TRANSFER BETWEEN FUNDS**

For fiscal years 2006 and 2007, if the cash credited to the Commercial Feed, Fertilizer, Seed, and Lime Inspection and Laboratory Fund (Fund 4C9) or the Pesticide Program Fund (Fund 669) exceeds the amount necessary to administer the programs for which they were intended, the Director of Agriculture may certify the amount to the Director of Budget and Management. The Director of Budget and Management may transfer the cash to any other fund administered by the Director of Agriculture.

**UNCLAIMED FUNDS TRANSFER**

Notwithstanding division (A) of section 169.05 of the Revised Code, upon the request of the Director of Budget and Management, the Director of Commerce, prior to June 30, 2006, shall transfer to the Food Safety Fund (Fund 4P7) up to \$21,790 of the unclaimed funds that have been reported by the holders of unclaimed funds under section 169.05 of the Revised Code, regardless of the allocation of the unclaimed funds described in that section.

Notwithstanding division (A) of section 169.05 of the Revised Code, upon the request of the Director of Budget and Management, the Director of Commerce, prior to June 30, 2007, shall transfer to the Food Safety Fund (Fund 4P7) up to \$21,790 of the unclaimed funds that have been reported by the holders of unclaimed funds under section 169.05 of the Revised Code, regardless of the allocation of the unclaimed funds described in that section.

**SECTION 203.27. AIR AIR QUALITY DEVELOPMENT AUTHORITY****General Revenue Fund**

GRF 898-402	Coal Development Office	\$	568,814	\$	573,814
GRF 898-901	Coal R&D General Obligation	\$	7,071,100	\$	8,980,800
	Debt Service				
TOTAL GRF General Revenue Fund		\$	7,639,914	\$	9,554,614

**Agency Fund Group**

4Z9 898-602	Small Business Ombudsman	\$	263,165	\$	264,196
5A0 898-603	Small Business Assistance	\$	71,087	\$	71,087
570 898-601	Operating Expenses	\$	256,875	\$	263,693
TOTAL AGY Agency Fund Group		\$	591,127	\$	598,976

**Coal Research/Development Fund**

046 898-604	Coal Research and Development Fund	\$	10,000,000	\$	10,000,000
TOTAL 046 Coal Research/Development Fund		\$	10,000,000	\$	10,000,000
TOTAL ALL BUDGET FUND GROUPS		\$	18,231,041	\$	20,153,590

**COAL DEVELOPMENT OFFICE**

The foregoing appropriation item GRF 898-402, Coal Development Office, shall be used for the administrative costs of the Coal Development Office.

#### COAL RESEARCH AND DEVELOPMENT GENERAL OBLIGATION DEBT SERVICE

The foregoing appropriation item GRF 898-901, Coal R & D General Obligation Debt Service, shall be used to pay all debt service and related financing costs at the times they are required to be made under sections 151.01 and 151.07 of the Revised Code during the period from July 1, 2005, to June 30, 2007. The Office of the Sinking Fund or the Director of Budget and Management shall effectuate the required payments by intrastate transfer voucher.

#### SCIENCE AND TECHNOLOGY COLLABORATION

The Air Quality Development Authority shall work in close collaboration with the Department of Development, the Board of Regents, and the Third Frontier Commission in relation to appropriation items and programs referred to as Alignment Programs in the following paragraph, and other technology-related appropriations and programs in the Department of Development, Air Quality Development Authority, and the Board of Regents as those agencies may designate, to ensure implementation of a coherent state strategy with respect to science and technology.

To the extent permitted by law, the Air Quality Development Authority shall assure that coal research and development programs, proposals, and projects consider or incorporate appropriate collaborations with Third Frontier Project programs and grantees and with Alignment Programs and grantees.

"Alignment Programs" means: appropriation items 195-401, Thomas Edison Program; 898-402, Coal Development Office; 195-422, Third Frontier Action Fund; 898-604, Coal Research and Development Fund; 235-433, Economic Growth Challenge; 235-508, Air Force Institute of Technology; 235-510, Ohio Supercomputer Center; 235-451, Eminent Scholars; 235-527, Ohio Aerospace Institute; 235-535, Ohio Agricultural Research and Development Center; 235-553, Dayton Area Graduate Studies Institute; 235-554, Priorities in Collaborative Graduate Education; 235-556, Ohio Academic Resources Network; and 195-435, Biomedical Research and Technology Transfer Trust.

Consistent with the recommendations of the Governor's Commission on Higher Education and the Economy, Alignment Programs shall be managed and administered (1) to build on existing competitive research strengths, (2) to encourage new and emerging discoveries and commercialization of ideas



and products that will benefit the Ohio economy, and (3) to assure improved collaboration among Alignment Programs, with programs administered by the Third Frontier Commission, and with other state programs that are intended to improve economic growth and job creation.

As directed by the Third Frontier Commission, Alignment Program managers shall report to the Commission or to the Third Frontier Advisory Board on the contributions of their programs to achieving the objectives stated in the preceding paragraph.

Each alignment program shall be reviewed annually by the Third Frontier Commission with respect to its development of complementary relationships within a combined state science and technology investment portfolio and its overall contribution to the state's science and technology strategy, including the adoption of appropriately consistent criteria for: (1) the scientific merit of activities supported by the program; (2) the relevance of the program's activities to commercial opportunities in the private sector; (3) the private sector's involvement in a process that continually evaluates commercial opportunities to use the work supported by the program; and (4) the ability of the program and recipients of grant funding from the program to engage in activities that are collaborative, complementary, and efficient with respect to the expenditure of state funds. Each alignment program shall provide annual reports to the Third Frontier Commission discussing existing, planned, or possible collaborations between programs and recipients of grant funding related to technology, development, commercialization, and supporting Ohio's economic development. The annual review by the Third Frontier Commission shall be a comprehensive review of the entire state science and technology program portfolio rather than a review of individual programs.

Applicants for Third Frontier and Alignment Program funding shall identify their requirements for high-performance computing facilities and services, including both hardware and software, in all proposals. If an applicant's requirements exceed approximately \$100,000 for a proposal, the Ohio Supercomputer Center shall convene a panel of experts. The panel shall review the proposal to determine whether the proposal's requirements can be met through Ohio Supercomputer Center facilities or through other means and report its conclusion to the Third Frontier Commission.

To ensure that the state receives the maximum benefit from its investment in the Third Frontier Project and the Third Frontier Network, organizations receiving Third Frontier awards and Alignment Program awards shall, as appropriate, be expected to have a connection to the Third Frontier Network that enables them and their collaborators to achieve award

objectives through the Third Frontier Network.

#### SECTION 203.30. ADA DEPARTMENT OF ALCOHOL AND DRUG ADDICTION SERVICES

##### General Revenue Fund

GRF 038-321	Operating Expenses	\$	1,128,275	\$	1,128,275
GRF 038-401	Treatment Services	\$	37,760,215	\$	39,494,113
GRF 038-404	Prevention Services	\$	1,021,483	\$	1,052,127
TOTAL GRF General Revenue Fund		\$	39,909,973	\$	41,674,515

##### General Services Fund

5T9 038-616	Problem Gambling Services	\$	285,000	\$	285,000
TOTAL GSF General Services Fund Group		\$	285,000	\$	285,000

##### Federal Special Revenue Fund Group

3G3 038-603	Drug Free Schools	\$	3,500,000	\$	3,500,000
3G4 038-614	Substance Abuse Block Grant	\$	73,000,000	\$	73,000,000
3H8 038-609	Demonstration Grants	\$	7,093,075	\$	7,093,075
3J8 038-610	Medicaid	\$	42,000,000	\$	46,000,000
3N8 038-611	Administrative Reimbursement	\$	500,000	\$	500,000

TOTAL FED Federal Special Revenue Fund Group		\$	126,093,075	\$	130,093,075
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##### State Special Revenue Fund Group

475 038-621	Statewide Treatment and Prevention	\$	17,500,000	\$	18,000,000
5BR 038-406	Tobacco Use Prevention and Control Program	\$	265,000	\$	205,000
689 038-604	Education and Conferences	\$	350,000	\$	350,000

TOTAL SSR State Special Revenue Fund Group		\$	18,115,000	\$	18,555,000
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TOTAL ALL BUDGET FUND GROUPS		\$	184,403,048	\$	190,607,590
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#### TREATMENT SERVICES

Of the foregoing appropriation item 038-401, Treatment Services, not more than \$8,190,000 shall be used by the Department of Alcohol and Drug Addiction Services for program grants for priority populations in each year of the biennium.

#### SERVICES TO POOR MEDICATION DEPENDENT ADULTS

Of the foregoing appropriation item 038-401, Treatment Services, \$2,166,950 in fiscal year 2006 and \$2,833,050 in fiscal year 2007 shall be used to provide services to persons who meet criteria that are consistent with the criteria for the Disability Medical Assistance Program.

#### SUBSTANCE ABUSE SERVICES FOR FAMILIES OF AT RISK CHILDREN

Of the foregoing appropriation item 038-401, Treatment Services, \$4 million in each fiscal year shall be used to provide substance abuse services to families involved in the child welfare system under the requirements of

Am. Sub. H.B. 484 of the 122nd General Assembly.

#### SERVICES FOR TANF-ELIGIBLE INDIVIDUALS

Of the foregoing appropriation item 038-401, Treatment Services, \$5 million each year shall be used to fund TANF-eligible expenditures for substance abuse prevention and treatment services to children, or their families, whose income is at or below 200 per cent of the official income poverty guideline. The Director of Alcohol and Drug Addiction Services and the Director of Job and Family Services shall develop operating and reporting guidelines for these programs.

#### THERAPEUTIC COMMUNITIES

Of the foregoing appropriation item 038-401, Treatment Services, \$750,000 shall be used in each fiscal year for expansion of the Therapeutic Communities Program in the Department of Rehabilitation and Correction.

#### PARENT AWARENESS TASK FORCE

The Parent Awareness Task Force shall study ways to engage more parents in activities, coalitions, and educational programs in Ohio relating to alcohol and other drug abuse prevention. Of the foregoing appropriation item 038-404, Prevention Services, \$30,000 in each fiscal year may be used to support the functions of the Parent Awareness Task Force.

### SECTION 203.36. ARC STATE BOARD OF EXAMINERS OF ARCHITECTS

#### General Services Fund Group

4K9 891-609 Operating Expenses	\$	489,197	\$	489,197
TOTAL GSF General Services Fund Group	\$	489,197	\$	489,197
TOTAL ALL BUDGET FUND GROUPS	\$	489,197	\$	489,197

### SECTION 203.39. ART OHIO ARTS COUNCIL

#### General Revenue Fund

GRF 370-100 Personal Services	\$	1,798,235	\$	1,798,235
GRF 370-200 Maintenance	\$	459,746	\$	459,746
GRF 370-300 Equipment	\$	4,700	\$	4,700
GRF 370-502 Program Subsidies	\$	8,975,480	\$	8,975,480
TOTAL GRF General Revenue Fund	\$	11,238,161	\$	11,238,161

#### General Services Fund Group

4B7 370-603 Per Cent for Art Acquisitions	\$	86,366	\$	86,366
460 370-602 Gifts and Donations	\$	400,000	\$	400,000
TOTAL GSF General Services Fund Group	\$	486,366	\$	486,366

#### Federal Special Revenue Fund Group

314 370-601 Federal Programs	\$	1,537,200	\$	1,537,200
TOTAL FED Federal Special Revenue Fund Group	\$	1,537,200	\$	1,537,200

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TOTAL ALL BUDGET FUND GROUPS	\$	13,261,727	\$	13,261,727
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**PROGRAM SUBSIDIES**

A museum is not eligible to receive funds from appropriation item 370-502, Program Subsidies, if \$8,000,000 or more in capital appropriations were appropriated by the state for the museum between January 1, 1986, and December 31, 2002.

**SECTION 203.45. ATH ATHLETIC COMMISSION****General Services Fund Group**

4K9 175-609	Operating Expenses	\$	248,150	\$	0
TOTAL GSF General Services Fund Group		\$	248,150	\$	0
TOTAL ALL BUDGET FUND GROUPS		\$	248,150	\$	0

**SECTION 203.48. AGO ATTORNEY GENERAL****General Revenue Fund**

GRF 055-321	Operating Expenses	\$	42,118,150	\$	52,610,156
GRF 055-411	County Sheriffs' Pay Supplement	\$	760,495	\$	779,509
GRF 055-415	County Prosecutors' Pay Supplement	\$	740,704	\$	759,222
TOTAL GRF General Revenue Fund		\$	43,619,349	\$	54,148,887

**General Services Fund Group**

106 055-612	General Reimbursement	\$	21,370,196	\$	21,370,196
107 055-624	Employment Services	\$	850,000	\$	850,000
195 055-660	Workers' Compensation Section	\$	7,769,628	\$	7,769,628
4Y7 055-608	Title Defect Rescission	\$	250,000	\$	250,000
4Z2 055-609	BCI Asset Forfeiture and Cost Reimbursement	\$	1,332,109	\$	1,332,109
418 055-615	Charitable Foundations	\$	4,899,066	\$	4,899,066
420 055-603	Attorney General Antitrust	\$	446,449	\$	446,449
421 055-617	Police Officers' Training Academy Fee	\$	1,693,213	\$	1,693,213
5A9 055-618	Telemarketing Fraud Enforcement	\$	7,500	\$	7,500
590 055-633	Peace Officer Private Security Fund	\$	98,370	\$	98,370
629 055-636	Corrupt Activity Investigation and Prosecution	\$	15,000	\$	15,000
631 055-637	Consumer Protection Enforcement	\$	1,373,832	\$	1,373,832
TOTAL GSF General Services Fund Group		\$	40,105,363	\$	40,105,363

**Federal Special Revenue Fund Group**

3E5 055-638	Attorney General Pass-Through Funds	\$	1,981,102	\$	1,981,102
3R6 055-613	Attorney General Federal Funds	\$	3,842,097	\$	3,842,097

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306	055-620	Medicaid Fraud Control	\$	2,799,000	\$	2,799,000
381	055-611	Civil Rights Legal Service	\$	390,815	\$	390,815
383	055-634	Crime Victims Assistance	\$	18,439,313	\$	18,439,313
TOTAL FED Federal Special Revenue						
Fund Group			\$	27,452,327	\$	27,452,327
<b>State Special Revenue Fund Group</b>						
4L6	055-606	DARE	\$	3,927,962	\$	3,927,962
402	055-616	Victims of Crime	\$	30,000,000	\$	30,000,000
419	055-623	Claims Section	\$	23,671,954	\$	15,149,954
659	055-641	Solid and Hazardous Waste	\$	621,159	\$	621,159
Background Investigations						
TOTAL SSR State Special Revenue						
Fund Group			\$	58,221,075	\$	49,699,075
<b>Holding Account Redistribution Fund Group</b>						
R04	055-631	General Holding Account	\$	275,000	\$	275,000
R05	055-632	Antitrust Settlements	\$	1,000	\$	1,000
R18	055-630	Consumer Frauds	\$	300,000	\$	300,000
R42	055-601	Organized Crime Commission	\$	25,025	\$	25,025
Account						
TOTAL 090 Holding Account						
Redistribution Fund Group			\$	601,025	\$	601,025
TOTAL ALL BUDGET FUND GROUPS			\$	169,999,139	\$	172,006,677

**COUNTY SHERIFFS' PAY SUPPLEMENT**

The foregoing appropriation item 055-411, County Sheriffs' Pay Supplement, shall be used for the purpose of supplementing the annual compensation of county sheriffs as required by section 325.06 of the Revised Code.

**COUNTY PROSECUTORS' PAY SUPPLEMENT**

The foregoing appropriation item 055-415, County Prosecutors' Pay Supplement, shall be used for the purpose of supplementing the annual compensation of certain county prosecutors as required by section 325.111 of the Revised Code.

**WORKERS' COMPENSATION SECTION**

The Workers' Compensation Section Fund (Fund 195) is entitled to receive payments from the Bureau of Workers' Compensation and the Ohio Industrial Commission at the beginning of each quarter of each fiscal year to fund legal services to be provided to the Bureau of Workers' Compensation and the Ohio Industrial Commission during the ensuing quarter. The advance payment shall be subject to adjustment.

In addition, the Bureau of Workers' Compensation shall transfer payments at the beginning of each quarter for the support of the Workers' Compensation Fraud Unit.

All amounts shall be mutually agreed upon by the Attorney General, the Bureau of Workers' Compensation, and the Ohio Industrial Commission.

**CORRUPT ACTIVITY INVESTIGATION AND PROSECUTION**

The foregoing appropriation item 055-636, Corrupt Activity Investigation and Prosecution, shall be used as provided by division (D)(2) of section 2923.35 of the Revised Code to dispose of the proceeds, fines, and penalties credited to the Corrupt Activity Investigation and Prosecution Fund, which is created in division (D)(1)(b) of section 2923.35 of the Revised Code. If it is determined that additional amounts are necessary for this purpose, the amounts are hereby appropriated.

#### ATTORNEY GENERAL PASS-THROUGH FUNDS

The foregoing appropriation item 055-638, Attorney General Pass-Through Funds, shall be used to receive federal grant funds provided to the Attorney General by other state agencies, including, but not limited to, the Department of Youth Services and the Department of Public Safety.

#### ANTITRUST SETTLEMENTS

The foregoing appropriation item 055-632, Antitrust Settlements, shall be used to distribute court-ordered antitrust settlements in which the Office of Attorney General represents the state or a political subdivision under section 109.81 of the Revised Code. If it is determined that additional amounts are necessary for this purpose, the amounts are hereby appropriated.

#### CONSUMER FRAUDS

The foregoing appropriation item 055-630, Consumer Frauds, shall be used for distribution of moneys from court-ordered judgments against sellers in actions brought by the Office of Attorney General under sections 1334.08 and 4549.48 and division (B) of section 1345.07 of the Revised Code. These moneys shall be used to provide restitution to consumers victimized by the fraud that generated the court-ordered judgments. If it is determined that additional amounts are necessary for this purpose, the amounts are hereby appropriated.

#### ORGANIZED CRIME COMMISSION ACCOUNT

The foregoing appropriation item 055-601, Organized Crime Commission Account, shall be used by the Organized Crime Investigations Commission, as provided by section 177.011 of the Revised Code, to reimburse political subdivisions for the expenses the political subdivisions incur when their law enforcement officers participate in an organized crime task force. If it is determined that additional amounts are necessary for this purpose, the amounts are hereby appropriated.

#### SECTION 203.51. AUD AUDITOR OF STATE

##### General Revenue Fund

GRF 070-321	Operating Expenses	\$	29,014,425	\$	28,964,425
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GRF 070-403	Fiscal Watch/Emergency Technical Assistance	\$	500,000	\$	500,000
GRF 070-405	Electronic Data Processing - Auditing and Administration	\$	823,193	\$	823,193
GRF 070-406	Uniform Accounting Network/Technology Improvements Fund	\$	1,588,538	\$	1,588,538
TOTAL GRF General Revenue Fund		\$	31,926,156	\$	31,876,156
<b>Auditor of State Fund Group</b>					
R06 070-604	Continuous Receipts	\$	35,000	\$	35,000
109 070-601	Public Audit Expense - Intra-State	\$	9,300,000	\$	9,300,000
422 070-601	Public Audit Expense - Local Government	\$	31,104,840	\$	31,104,840
584 070-603	Training Program	\$	131,250	\$	131,250
675 070-605	Uniform Accounting Network	\$	3,317,336	\$	3,317,336
TOTAL AUS Auditor of State Fund Group		\$	43,888,426	\$	43,888,426
TOTAL ALL BUDGET FUND GROUPS		\$	75,814,582	\$	75,764,582

**BILLING PRACTICES PILOT REVIEW**

Of the foregoing appropriation item 070-321, Operating Expenses, \$50,000 shall be used by the Auditor of State to conduct a pilot review of the billing practices of facilities licensed by the Department of Mental Health and the Department of Job and Family Services that serve children in a residential setting for whom mental health treatment services are provided. In conducting this review, the Auditor of State shall have access to any information, records, or other data that would otherwise be available to any federal, state, or local public agency that provides funding to the facility.

The Auditor of State shall prepare a report on the conclusions of the pilot review, and shall furnish copies of the report to the Governor, the Speaker of the House of Representatives, and the President of the Senate, as well as to the majority and minority leaders of the House of Representatives and the Senate, by June 30, 2006.

**FISCAL WATCH/EMERGENCY TECHNICAL ASSISTANCE**

The foregoing appropriation item 070-403, Fiscal Watch/Emergency Technical Assistance, shall be used for all expenses incurred by the Office of the Auditor of State in its role relating to fiscal watch or fiscal emergency activities under Chapters 118. and 3316. of the Revised Code. Expenses include, but are not limited to, the following: duties related to the determination or termination of fiscal watch or fiscal emergency of municipal corporations, counties, or townships as outlined in Chapter 118. of the Revised Code and of school districts as outlined in Chapter 3316. of the Revised Code; development of preliminary accounting reports; performance of annual forecasts; provision of performance audits; and supervisory, accounting, or auditing services for the mentioned public

entities and school districts. The unencumbered balance of appropriation item 070-403, Fiscal Watch/Emergency Technical Assistance, at the end of fiscal year 2006 is transferred to fiscal year 2007 for use under the same appropriation item.

#### ELECTRONIC DATA PROCESSING

The unencumbered balance of appropriation item 070-405, Electronic Data Processing - Auditing and Administration, at the end of fiscal year 2006 is transferred to fiscal year 2007 for use under the same appropriation item.

#### UNIFORM ACCOUNTING NETWORK/TECHNOLOGY IMPROVEMENTS FUND

The foregoing appropriation item 070-406, Uniform Accounting Network/Technology Improvements Fund, shall be used to pay the costs of developing and implementing the Uniform Accounting Network and technology improvements for the Office of the Auditor of State. The unencumbered balance of the appropriation at the end of fiscal year 2006 is transferred to fiscal year 2007 to pay the costs of developing and implementing the Uniform Accounting Network and technology improvements for the Office of the Auditor of State.

#### SECTION 203.54. BRB BOARD OF BARBER EXAMINERS

##### General Services Fund Group

4K9 877-609 Operating Expenses	\$	568,126	\$	0
TOTAL GSF General Services Fund Group	\$	568,126	\$	0
TOTAL ALL BUDGET FUND GROUPS	\$	568,126	\$	0

#### SECTION 203.57. OBM OFFICE OF BUDGET AND MANAGEMENT

##### General Revenue Fund

GRF 042-321 Budget Development and Implementation	\$	2,143,886	\$	2,143,886
GRF 042-410 National Association Dues	\$	27,089	\$	28,173
GRF 042-412 Audit of Auditor of State	\$	55,900	\$	58,700
GRF 042-435 Gubernatorial Transition	\$	0	\$	250,000
TOTAL GRF General Revenue Fund	\$	2,226,875	\$	2,480,759

##### General Services Fund Group

105 042-603 Accounting and Budgeting	\$	9,781,085	\$	9,976,689
TOTAL GSF General Services Fund Group	\$	9,781,085	\$	9,976,689

##### State Special Revenue Fund Group

5N4 042-602 OAKS Project Implementation	\$	2,262,441	\$	2,272,595
TOTAL SSR State Special Revenue Fund Group	\$	2,262,441	\$	2,272,595



TOTAL ALL BUDGET FUND GROUPS	\$	14,270,401	\$	14,730,043
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**AUDIT COSTS**

Of the foregoing appropriation item 042-603, Accounting and Budgeting, not more than \$420,000 in fiscal year 2006 and \$425,000 in fiscal year 2007 shall be used to pay for centralized audit costs associated with either Single Audit Schedules or financial statements prepared in conformance with generally accepted accounting principles for the state.

**OAKS PROJECT IMPLEMENTATION**

Notwithstanding section 126.25 of the Revised Code, in fiscal years 2006 and 2007, rebates or revenue shares received from any state payment card program established under division (B) of section 126.21 of the Revised Code may be deposited into the OAKS Project Implementation Fund (Fund 5N4).

**SECTION 203.60. CSR CAPITOL SQUARE REVIEW AND ADVISORY BOARD****General Revenue Fund**

GRF 874-100	Personal Services	\$	1,900,000	\$	1,900,000
GRF 874-320	Maintenance and Equipment	\$	992,269	\$	952,269
TOTAL GRF General Revenue Fund		\$	2,892,269	\$	2,852,269

**General Services Fund Group**

4G5 874-603	Capitol Square Maintenance Expenses	\$	15,000	\$	15,000
4S7 874-602	Statehouse Gift Shop/Events	\$	770,484	\$	770,484
TOTAL GSF General Services Fund Group		\$	785,484	\$	785,484

**Underground Parking Garage**

208 874-601	Underground Parking Garage Operating	\$	2,959,721	\$	2,959,721
TOTAL UPG Underground Parking Garage		\$	2,959,721	\$	2,959,721
TOTAL ALL BUDGET FUND GROUPS		\$	6,637,474	\$	6,597,474

**EXPANSION OF COMMITTEE HEARING ROOMS**

Of the foregoing appropriation item 874-320, Maintenance and Equipment, \$40,000 in fiscal year 2006 shall be used to expand the House of Representatives committee hearing rooms, numbers 119 and 121.

**SECTION 203.63. SCR STATE BOARD OF CAREER COLLEGES AND SCHOOLS****General Services Fund Group**

4K9 233-601	Operating Expenses	\$	486,700	\$	508,600
TOTAL GSF General Services Fund Group		\$	486,700	\$	508,600
TOTAL ALL BUDGET FUND GROUPS		\$	486,700	\$	508,600

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SECTION	203.66.	CDP	CHEMICAL	DEPENDENCY
<b>PROFESSIONALS BOARD</b>				
<b>General Services Fund Group</b>				
4K9 930-609	Operating Expenses	\$	452,976	\$ 0
TOTAL GSF General Services Fund Group		\$	452,976	\$ 0
TOTAL ALL BUDGET FUND GROUPS		\$	452,976	\$ 0

<b>SECTION 203.69. CHR STATE CHIROPRACTIC BOARD</b>				
<b>General Services Fund Group</b>				
4K9 878-609	Operating Expenses	\$	605,278	\$ 0
TOTAL GSF General Services Fund Group		\$	605,278	\$ 0
TOTAL ALL BUDGET FUND GROUPS		\$	605,278	\$ 0

<b>SECTION 203.72. CIV OHIO CIVIL RIGHTS COMMISSION</b>				
<b>General Revenue Fund</b>				
GRF 876-321	Operating Expenses	\$	7,253,075	\$ 7,470,667
TOTAL GRF General Revenue Fund		\$	7,253,075	\$ 7,470,667
<b>Federal Special Revenue Fund Group</b>				
334 876-601	Investigations	\$	3,760,000	\$ 3,560,000
TOTAL FED Federal Special Revenue Fund Group		\$	3,760,000	\$ 3,560,000
<b>State Special Revenue Fund Group</b>				
217 876-604	Operations Support	\$	50,951	\$ 50,951
TOTAL SSR State Special Revenue Fund Group		\$	50,951	\$ 50,951
TOTAL ALL BUDGET FUND GROUPS		\$	11,064,026	\$ 11,081,618

<b>SECTION 203.75. COM DEPARTMENT OF COMMERCE</b>				
<b>General Revenue Fund</b>				
GRF 800-410	Labor and Worker Safety	\$	2,086,477	\$ 2,032,397
Total GRF General Revenue Fund		\$	2,086,477	\$ 2,032,397
<b>General Services Fund Group</b>				
163 800-620	Division of Administration	\$	4,262,314	\$ 4,368,037
163 800-637	Information Technology	\$	2,733,853	\$ 2,785,045
5F1 800-635	Small Government Fire Departments	\$	250,000	\$ 250,000
543 800-602	Unclaimed Funds-Operating	\$	7,351,051	\$ 7,351,051
543 800-625	Unclaimed Funds-Claims	\$	52,000,000	\$ 55,000,000
TOTAL GSF General Services Fund Group		\$	66,597,218	\$ 69,754,133
<b>Federal Special Revenue Fund Group</b>				
348 800-622	Underground Storage Tanks	\$	195,008	\$ 195,008
348 800-624	Leaking Underground Storage	\$	1,850,000	\$ 1,850,000

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Tanks			
TOTAL FED Federal Special Revenue			
Fund Group	\$	2,045,008	\$ 2,045,008
<b>State Special Revenue Fund Group</b>			
4B2 800-631 Real Estate Appraisal Recovery	\$	35,000	\$ 35,000
4H9 800-608 Cemeteries	\$	273,465	\$ 273,465
4X2 800-619 Financial Institutions	\$	2,400,843	\$ 2,400,843
5K7 800-621 Penalty Enforcement	\$	50,000	\$ 50,000
544 800-612 Banks	\$	6,757,197	\$ 6,759,197
545 800-613 Savings Institutions	\$	2,678,248	\$ 2,669,774
546 800-610 Fire Marshal	\$	12,187,994	\$ 12,292,994
546 800-639 Fire Department Grants	\$	1,647,140	\$ 1,647,140
547 800-603 Real Estate Education/Research	\$	250,000	\$ 250,000
548 800-611 Real Estate Recovery	\$	50,000	\$ 50,000
549 800-614 Real Estate	\$	3,605,892	\$ 3,605,892
550 800-617 Securities	\$	4,300,000	\$ 4,400,000
552 800-604 Credit Union	\$	2,936,852	\$ 2,941,852
553 800-607 Consumer Finance	\$	4,300,445	\$ 4,300,445
556 800-615 Industrial Compliance	\$	25,037,257	\$ 25,037,257
6A4 800-630 Real Estate	\$	664,006	\$ 664,006
Appraiser-Operating			
653 800-629 UST Registration/Permit Fee	\$	1,249,632	\$ 1,249,632
TOTAL SSR State Special Revenue			
Fund Group	\$	68,423,971	\$ 68,627,497
<b>Liquor Control Fund Group</b>			
043 800-601 Merchandising	\$	382,595,409	\$ 397,839,347
043 800-627 Liquor Control Operating	\$	16,873,183	\$ 15,981,346
043 800-633 Development Assistance Debt	\$	32,158,300	\$ 39,230,000
Service			
043 800-636 Revitalization Debt Service	\$	9,740,500	\$ 13,485,800
TOTAL LCF Liquor Control			
Fund Group	\$	441,367,392	\$ 466,536,493
TOTAL ALL BUDGET FUND GROUPS	\$	580,520,066	\$ 608,995,528

**SMALL GOVERNMENT FIRE DEPARTMENTS**

Notwithstanding section 3737.17 of the Revised Code, the foregoing appropriation item 800-635, Small Government Fire Departments, may be used to provide loans to private fire departments.

**PENALTY ENFORCEMENT**

The foregoing appropriation item 800-621, Penalty Enforcement, shall be used to enforce sections 4115.03 to 4115.16 of the Revised Code.

**UNCLAIMED FUNDS PAYMENTS**

The foregoing appropriation item 800-625, Unclaimed Funds-Claims, shall be used to pay claims under section 169.08 of the Revised Code. If it is determined that additional amounts are necessary, the amounts are hereby appropriated.

**UNCLAIMED FUNDS TRANSFERS**

Notwithstanding division (A) of section 169.05 of the Revised Code, prior to June 30, 2006, and upon the request of the Director of Budget and

Management, the Director of Commerce shall transfer to the General Revenue Fund up to \$50,000,000 of unclaimed funds that have been reported by holders of unclaimed funds under section 169.05 of the Revised Code, irrespective of the allocation of the unclaimed funds under that section.

Notwithstanding division (A) of section 169.05 of the Revised Code, prior to June 30, 2007, and upon the request of the Director of Budget and Management, the Director of Commerce shall transfer to the General Revenue Fund up to \$50,000,000 of unclaimed funds that have been reported by holders of unclaimed funds under section 169.05 of the Revised Code, irrespective of the allocation of the unclaimed funds under that section.

#### CASH TRANSFER TO STATE FIRE MARSHAL FUND (FUND 546)

Effective July 1, 2005, or as soon thereafter as possible, the Director of Budget and Management shall transfer the cash balance in the Fire Marshal's Fireworks Training and Education Fund (Fund 4L5), which is abolished in division (B) of section 3743.57 of the Revised Code as amended by this act, to the State Fire Marshal's Fund (Fund 546), which is created in section 3737.71 of the Revised Code. The director shall cancel any existing encumbrances against appropriation item 800-609, Fireworks Training and Education, in Fund 4L5, and re-establish them against appropriation item 800-610, Fire Marshal, in Fund 546. The amounts of the re-established encumbrances are hereby appropriated.

#### CASH TRANSFER TO BUDGET STABILIZATION FUND

Notwithstanding any other law to the contrary, the Director of Budget and Management shall transfer up to \$1,700,000 in cash in fiscal year 2006 and up to \$1,600,000 in cash in fiscal year 2007 from the State Fire Marshal Fund (Fund 546) to the Budget Stabilization Fund.

#### FIRE DEPARTMENT GRANTS

Of the foregoing appropriation item 800-639, Fire Department Grants, up to \$760,000 in each fiscal year shall be used to make annual grants to volunteer fire departments of up to \$10,000, or up to \$25,000 if the volunteer fire department provides service for an area affected by a natural disaster. The grant program shall be administered by the Fire Marshal under the Department of Commerce. The Fire Marshal shall adopt rules as are necessary for the administration and operation of the grant program.

Of the foregoing appropriation item 800-639, Fire Department Grants, up to \$687,140 in each fiscal year shall be used as full or partial reimbursement to local units of government and fire departments for the cost of firefighter training and equipment or gear. Under rules that the

department shall adopt, a local unit of government or fire department may apply to the department for a grant to cover all documented costs that are incurred to provide firefighter training and equipment or gear. The department shall make grants within the limits of the funding provided, with priority given to fire departments that serve small villages and townships.

Of the foregoing appropriation item 800-639, Fire Department Grants, up to \$200,000 in each fiscal year shall be used to make grants to fire departments to assist in the conversion of existing data systems to the NFIRS 5 electronic fire reporting system. Under rules that the department shall adopt, awards shall have a maximum of \$50,000 per fire department and shall be based on a point system that includes factors such as consideration of the fire department's information technology and operating budgets, population and area served, number of incidents, data conversion and implementation methods, and readiness.

#### CASH TRANSFER TO REAL ESTATE OPERATING FUND

At the request of the Director of Commerce, the Director of Budget and Management may transfer up to \$100,000 in cash from the Real Estate Recovery Fund (Fund 548) and up to \$350,000 in cash from the Real Estate Appraiser Recovery Fund (Fund 4B2) to the Real Estate Operating Fund (Fund 549) during the 2005-2007 biennium.

#### INCREASED APPROPRIATION AUTHORITY - MERCHANDISING

The foregoing appropriation item 800-601, Merchandising, shall be used under section 4301.12 of the Revised Code. If it is determined that additional amounts are necessary, the amounts are hereby appropriated.

#### DEVELOPMENT ASSISTANCE DEBT SERVICE

The foregoing appropriation item 800-633, Development Assistance Debt Service, shall be used to meet all payments at the times they are required to be made during the period from July 1, 2005, to June 30, 2007, for bond service charges on obligations issued under Chapter 166. of the Revised Code. If it is determined that additional appropriations are necessary for this purpose, such amounts are hereby appropriated, subject to the limitations set forth in section 166.11 of the Revised Code. The General Assembly acknowledges that an appropriation for this purpose is not required, but is made in this form and in this act for record purposes only.

#### REVITALIZATION DEBT SERVICE

The foregoing appropriation item 800-636, Revitalization Debt Service, shall be used to pay debt service and related financing costs under sections 151.01 and 151.40 of the Revised Code during the period from July 1, 2005, to June 30, 2007. If it is determined that additional appropriations are necessary for this purpose, such amounts are hereby appropriated. The

General Assembly acknowledges the priority of the pledge of a portion of receipts from that source to obligations issued and to be issued under Chapter 166. of the Revised Code.

#### ADMINISTRATIVE ASSESSMENTS

Notwithstanding any other provision of law to the contrary, Fund 163, Division of Administration, is entitled to receive assessments from all operating funds of the department in accordance with procedures prescribed by the Director of Commerce and approved by the Director of Budget and Management.

#### SECTION 203.78. OCC OFFICE OF CONSUMERS' COUNSEL

##### General Services Fund Group

5F5 053-601	Operating Expenses	\$	7,770,000	\$	7,770,000
TOTAL GSF General Services Fund Group		\$	7,770,000	\$	7,770,000
TOTAL ALL BUDGET FUND GROUPS		\$	7,770,000	\$	7,770,000

#### SECTION 203.81. CEB CONTROLLING BOARD

##### General Revenue Fund

GRF 911-401	Emergency	\$	5,000,000	\$	5,000,000
	Purposes/Contingencies				
GRF 911-404	Mandate Assistance	\$	650,000	\$	650,000
GRF 911-441	Ballot Advertising Costs	\$	300,000	\$	300,000
TOTAL GRF General Revenue Fund		\$	5,950,000	\$	5,950,000
TOTAL ALL BUDGET FUND GROUPS		\$	5,950,000	\$	5,950,000

#### FEDERAL SHARE

In transferring appropriations to or from appropriation items that have federal shares identified in this act, the Controlling Board shall add or subtract corresponding amounts of federal matching funds at the percentages indicated by the state and federal division of the appropriations in this act. Such changes are hereby appropriated.

#### DISASTER ASSISTANCE

Pursuant to requests submitted by the Department of Public Safety, the Controlling Board may approve transfers from appropriation item 911-401, Emergency Purposes/Contingencies, to Department of Public Safety appropriation items to provide funding for assistance to political subdivisions and individuals made necessary by natural disasters or emergencies. Such transfers may be requested and approved prior to or following the occurrence of any specific natural disasters or emergencies in order to facilitate the provision of timely assistance.

#### DISASTER SERVICES

Pursuant to requests submitted by the Department of Public Safety, the

Controlling Board may approve transfers from the Disaster Services Fund (5E2) to a Department of Public Safety General Revenue Fund appropriation item to provide for assistance to political subdivisions made necessary by natural disasters or emergencies. These transfers may be requested and approved prior to the occurrence of any specific natural disasters or emergencies in order to facilitate the provision of timely assistance. The Emergency Management Agency of the Department of Public Safety shall use the funding for disaster aid requests that meet the Emergency Management Agency's criteria for assistance.

The Disaster Services Fund (5E2) shall be used by the Controlling Board, pursuant to requests submitted by state agencies, to transfer cash and appropriation authority to any fund and appropriation item for the payment of state agency program expenses as follows:

(A) The Southern Ohio flooding, referred to as FEMA-DR-1164-OH;

(B) The flood and storm disaster referred to as FEMA-DR-1227-OH;

(C) The Southern Ohio flooding, referred to as FEMA-DR-1321-OH;

(D) The flooding referred to as FEMA-DR-1339-OH;

(E) The tornado and storms referred to as FEMA-DR-1343-OH;

(F) Other disasters declared by the Governor, if the Director of Budget and Management determines that sufficient funds exist beyond the expected program costs of these other disasters.

The unencumbered balance of the Disaster Services Fund (5E2) at the end of fiscal year 2006 is transferred to fiscal year 2007 for use for the same purposes as in fiscal year 2006.

#### SOUTHERN OHIO CORRECTIONAL FACILITY COST

The Division of Criminal Justice Services in the Department of Public Safety and the Public Defender Commission may each request, upon approval of the Director of Budget and Management, additional funds from appropriation item 911-401, Emergency Purposes/Contingencies, for costs related to the disturbance that occurred on April 11, 1993, at the Southern Ohio Correctional Facility in Lucasville, Ohio.

#### MANDATE ASSISTANCE

(A) The foregoing appropriation item 911-404, Mandate Assistance, shall be used to provide financial assistance to local units of government and school districts for the cost of the following two unfunded state mandates:

(1) The cost to county prosecutors for prosecuting certain felonies that occur on the grounds of state institutions operated by the Department of Rehabilitation and Correction and the Department of Youth Services;

(2) The cost to school districts of in-service training for child abuse detection.

(B) The Division of Criminal Justice Services in the Department of Public Safety and the Department of Education may prepare and submit to the Controlling Board one or more requests to transfer appropriations from appropriation item 911-404, Mandate Assistance. The state agencies charged with this administrative responsibility are listed below, as well as the estimated annual amounts that may be used for each program of state financial assistance.

PROGRAM	ADMINISTERING AGENCY	ESTIMATED ANNUAL AMOUNT
Prosecution Costs	Division of Criminal Justice Services	\$150,000
Child Abuse Detection Training Costs	Department of Education	\$500,000

(C) Subject to the total amount appropriated in each fiscal year for appropriation item 911-404, Mandate Assistance, the Division of Criminal Justice Services in the Department of Public Safety and the Department of Education may request from the Controlling Board that amounts smaller or larger than these estimated annual amounts be transferred to each program.

(D) In addition to making the initial transfers requested by the Division of Criminal Justice Services in the Department of Public Safety and the Department of Education, the Controlling Board may transfer appropriations received by a state agency under this section back to appropriation item 911-404, Mandate Assistance, or to the other program of state financial assistance identified under this section.

(E) It is expected that not all costs incurred by local units of government and school districts under each of the two programs of state financial assistance identified in this section will be fully reimbursed by the state. Reimbursement levels may vary by program and shall be based on: the relationship between the appropriation transfers requested by the Division of Criminal Justice Services in the Department of Public Safety and the Department of Education and provided by the Controlling Board for each of the programs; the rules and procedures established for each program by the administering state agency; and the actual costs incurred by local units of government and school districts.

(F) Each of these programs of state financial assistance shall be carried out as follows:

(1) PROSECUTION COSTS

(a) Appropriations may be transferred to the Division of Criminal Justice Services in the Department of Public Safety to cover local



prosecution costs for aggravated murder, murder, felonies of the first degree, and felonies of the second degree that occur on the grounds of institutions operated by the Department of Rehabilitation and Correction and the Department of Youth Services.

(b) Upon a delinquency filing in juvenile court or the return of an indictment for aggravated murder, murder, or any felony of the first or second degree that was committed at a Department of Youth Services or a Department of Rehabilitation and Correction institution, the affected county may, in accordance with rules that the Division of Criminal Justice Services in the Department of Public Safety shall adopt, apply to the Division of Criminal Justice Services for a grant to cover all documented costs that are incurred by the county prosecutor's office.

(c) Twice each year, the Division of Criminal Justice Services in the Department of Public Safety shall designate counties to receive grants from those counties that have submitted one or more applications in compliance with the rules that have been adopted by the Division of Criminal Justice Services for the receipt of such grants. In each year's first round of grant awards, if sufficient appropriations have been made, up to a total of \$100,000 may be awarded. In each year's second round of grant awards, the remaining appropriations available for this purpose may be awarded.

(d) If for a given round of grants there are insufficient appropriations to make grant awards to all the eligible counties, the first priority shall be given to counties with cases involving aggravated murder and murder; second priority shall be given to counties with cases involving a felony of the first degree; and third priority shall be given to counties with cases involving a felony of the second degree. Within these priorities, the grant awards shall be based on the order in which the applications were received, except that applications for cases involving a felony of the first or second degree shall not be considered in more than two consecutive rounds of grant awards.

## **(2) CHILD ABUSE DETECTION TRAINING COSTS**

Appropriations may be transferred to the Department of Education for disbursement to local school districts as full or partial reimbursement for the cost of providing in-service training for child abuse detection. In accordance with rules that the department shall adopt, a local school district may apply to the department for a grant to cover all documented costs that are incurred to provide in-service training for child abuse detection. The department shall make grants within the limits of the funding provided.

(G) Any moneys allocated within appropriation item 911-404, Mandate Assistance, not fully utilized may, upon application of the Ohio Public

Defender Commission, and with the approval of the Controlling Board, be disbursed to boards of county commissioners to provide additional reimbursement for the costs incurred by counties in providing defense to indigent defendants pursuant to Chapter 120. of the Revised Code. Application for the unutilized funds shall be made by the Ohio Public Defender Commission at the first June meeting of the Controlling Board.

The amount to be disbursed to each county shall be allocated proportionately on the basis of the total amount of reimbursement paid to each county as a percentage of the amount of reimbursement paid to all of the counties during the most recent state fiscal year for which data is available and as calculated by the Ohio Public Defender Commission.

#### **BALLOT ADVERTISING COSTS**

Pursuant to requests submitted by the Ohio Ballot Board, the Controlling Board shall approve transfers from the foregoing appropriation item 911-441, Ballot Advertising Costs, to an Ohio Ballot Board appropriation item in order to reimburse county boards of elections for the cost of public notices associated with statewide ballot initiatives.

#### **SECTION 203.84. COS STATE BOARD OF COSMETOLOGY**

##### **General Services Fund Group**

4K9 879-609 Operating Expenses	\$	2,929,630	\$	0
TOTAL GSF General Services Fund Group	\$	2,929,630	\$	0
TOTAL ALL BUDGET FUND GROUPS	\$	2,929,630	\$	0

#### **SECTION 203.87. CSW COUNSELOR, SOCIAL WORKER, AND MARRIAGE AND FAMILY THERAPIST BOARD**

##### **General Services Fund Group**

4K9 899-609 Operating Expenses	\$	1,058,445	\$	0
TOTAL GSF General Services Fund Group	\$	1,058,445	\$	0
TOTAL ALL BUDGET FUND GROUPS	\$	1,058,445	\$	0

#### **SECTION 203.90. CLA COURT OF CLAIMS**

##### **General Revenue Fund**

GRF 015-321 Operating Expenses	\$	2,598,040	\$	2,678,331
TOTAL GRF General Revenue Fund	\$	2,598,040	\$	2,678,331

##### **State Special Revenue Fund Group**

5K2 015-603 CLA Victims of Crime	\$	1,582,684	\$	1,582,684
TOTAL SSR State Special Revenue Fund Group	\$	1,582,684	\$	1,582,684
TOTAL ALL BUDGET FUND GROUPS	\$	4,180,724	\$	4,261,015

SECTION	203.91.	AFC	OHIO	CULTURAL	FACILITIES
<b>COMMISSION</b>					
<b>General Revenue Fund</b>					
GRF 371-321	Operating Expenses		\$ 198,406	\$	195,707
GRF 371-401	Lease Rental Payments		\$ 38,126,600	\$	38,246,500
TOTAL GRF General Revenue Fund			\$ 38,325,006	\$	38,442,207
<b>State Special Revenue Fund Group</b>					
4T8 371-601	Riffe Theatre Equipment Maintenance		\$ 81,000	\$	81,000
4T8 371-603	Project Administration		\$ 920,448	\$	983,295
TOTAL SSR State Special Revenue Group			\$ 1,001,448	\$	1,064,295
TOTAL ALL BUDGET FUND GROUPS			\$ 39,326,454	\$	39,506,502

**LEASE RENTAL PAYMENTS**

The foregoing appropriation item 371-401, Lease Rental Payments, shall be used for payments to the Ohio Building Authority and the Treasurer of State for the period from July 1, 2005, to June 30, 2007, under the primary leases and agreements for those arts and sports facilities made under Chapters 152. and 154. of the Revised Code, but limited to the aggregate amount of \$76,373,100. This appropriation is the source of funds pledged for bond service charges on related obligations issued pursuant to Chapter 152. of the Revised Code.

**OPERATING EXPENSES**

The foregoing appropriation item 371-321, Operating Expenses, shall be used by the Ohio Cultural Facilities Commission to carry out its responsibilities under this section and Chapter 3383. of the Revised Code.

By July 10, 2005, or as soon as possible thereafter, the Director of Budget and Management shall determine the amount of cash from interest earnings to be transferred from the Ohio Cultural Facilities Building Fund (Fund 030) to the AFC Administration Fund (Fund 4T8).

By July 10, 2006, or as soon as possible thereafter, the Director of Budget and Management shall determine the amount of cash from interest earnings to be transferred from the Ohio Cultural Facilities Building Fund (Fund 030) to the AFC Administration Fund (Fund 4T8).

As soon as possible after each bond issuance made on behalf of the Cultural Facilities Commission, the Director of Budget and Management shall determine the amount of cash from any premium paid on each issuance that is available to be transferred after all issuance costs have been paid from the Ohio Cultural and Sports Facilities Building Fund (Fund 030) to the AFC Administration Fund (Fund 4T8).

## SECTION 203.93. DEN STATE DENTAL BOARD

## General Services Fund Group

4K9 880-609 Operating Expenses	\$	1,424,791	\$	1,424,791
TOTAL GSF General Services Fund				
Group	\$	1,424,791	\$	1,424,791
TOTAL ALL BUDGET FUND GROUPS	\$	1,424,791	\$	1,424,791

## SECTION 203.96. BDP BOARD OF DEPOSIT

## General Services Fund Group

4M2 974-601 Board of Deposit	\$	1,676,000	\$	1,676,000
TOTAL GSF General Services Fund				
Group	\$	1,676,000	\$	1,676,000
TOTAL ALL BUDGET FUND GROUPS	\$	1,676,000	\$	1,676,000

## BOARD OF DEPOSIT EXPENSE FUND

Upon receiving certification of expenses from the Treasurer of State, the Director of Budget and Management shall transfer cash from the Investment Earnings Redistribution Fund (Fund 608) to the Board of Deposit Expense Fund (Fund 4M2). The latter fund shall be used to pay for banking charges and fees required for the operation of the State of Ohio Regular Account.

## SECTION 203.99. DEV DEPARTMENT OF DEVELOPMENT

## General Revenue Fund

GRF 195-321 Operating Expenses	\$	2,738,908	\$	2,723,908
GRF 195-401 Thomas Edison Program	\$	17,554,838	\$	17,454,838
GRF 195-404 Small Business Development	\$	1,740,722	\$	1,740,722
GRF 195-405 Minority Business	\$	1,580,291	\$	1,580,291
Development Division				
GRF 195-407 Travel and Tourism	\$	6,812,845	\$	6,712,845
GRF 195-410 Defense Conversion	\$	300,000	\$	200,000
Assistance				
GRF 195-412 Business Development Grants	\$	11,750,000	\$	11,750,000
GRF 195-415 Economic Development	\$	5,794,975	\$	5,894,975
Division and Regional Offices				
GRF 195-416 Governor's Office of	\$	4,122,372	\$	4,122,372
Appalachia				
GRF 195-422 Third Frontier Action Fund	\$	16,790,000	\$	16,790,000
GRF 195-426 Clean Ohio Implementation	\$	300,000	\$	300,000
GRF 195-432 International Trade	\$	4,223,787	\$	4,223,787
GRF 195-434 Investment in Training Grants	\$	12,227,500	\$	12,227,500
GRF 195-436 Labor/Management	\$	811,869	\$	811,869
Cooperation				
GRF 195-497 CDBG Operating Match	\$	1,040,956	\$	1,040,956
GRF 195-498 State Match Energy	\$	94,000	\$	94,000
GRF 195-501 Appalachian Local	\$	380,080	\$	380,080
Development Districts				

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GRF 195-502	Appalachian Regional Commission Dues	\$	246,803	\$	246,803
GRF 195-507	Travel and Tourism Grants	\$	1,287,500	\$	1,162,500
GRF 195-515	Economic Development Contingency	\$	10,000,000	\$	0
GRF 195-905	Third Frontier Research & Commercialization General Obligation Debt Service	\$	0	\$	13,910,000
TOTAL GRF General Revenue Fund		\$	99,797,446	\$	103,367,446
<b>General Services Fund Group</b>					
135 195-605	Supportive Services	\$	7,450,000	\$	7,539,686
5AD 195-667	Investment in Training Expansion	\$	5,000,000	\$	5,000,000
5AD 195-668	Worker Guarantee Program	\$	3,000,000	\$	3,000,000
5AD 195-677	Economic Development Contingency	\$	0	\$	10,000,000
685 195-636	General Reimbursements	\$	1,000,000	\$	1,000,000
TOTAL GSF General Services Fund Group		\$	16,450,000	\$	26,539,686
<b>Federal Special Revenue Fund Group</b>					
3AE 195-643	Workforce Development Initiatives	\$	5,800,000	\$	5,800,000
3K8 195-613	Community Development Block Grant	\$	65,000,000	\$	65,000,000
3K9 195-611	Home Energy Assistance Block Grant	\$	90,500,000	\$	90,500,000
3K9 195-614	HEAP Weatherization	\$	16,219,478	\$	16,219,478
3L0 195-612	Community Services Block Grant	\$	25,235,000	\$	25,235,000
3V1 195-601	HOME Program	\$	40,000,000	\$	40,000,000
308 195-602	Appalachian Regional Commission	\$	600,660	\$	600,660
308 195-603	Housing and Urban Development	\$	5,000,000	\$	5,000,000
308 195-605	Federal Projects	\$	15,300,249	\$	15,300,249
308 195-609	Small Business Administration	\$	4,296,381	\$	4,296,381
308 195-618	Energy Federal Grants	\$	3,397,659	\$	3,397,659
335 195-610	Oil Overcharge	\$	3,000,000	\$	3,000,000
TOTAL FED Federal Special Revenue Fund Group		\$	274,349,427	\$	274,349,427
<b>State Special Revenue Fund Group</b>					
4F2 195-639	State Special Projects	\$	290,183	\$	290,183
4F2 195-676	Promote Ohio	\$	5,228,210	\$	5,228,210
4S0 195-630	Enterprise Zone Operating	\$	275,000	\$	275,000
4S1 195-634	Job Creation Tax Credit Operating	\$	375,800	\$	375,800
4W1 195-646	Minority Business Enterprise Loan	\$	2,580,597	\$	2,580,597
444 195-607	Water and Sewer Commission Loans	\$	523,775	\$	523,775
450 195-624	Minority Business Bonding Program Administration	\$	53,967	\$	53,967

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451	195-625	Economic Development	\$	2,358,311	\$	2,358,311
		Financing Operating				
5CA	195-678	Shovel Ready Sites	\$	5,000,000	\$	5,000,000
5CG	195-679	Alternative Fuel	\$	150,000	\$	150,000
		Transportation				
5CV	195-680	Defense Conversion	\$	1,000,000	\$	0
		Assistance				
5CY	195-682	Lung Cancer and Lung	\$	10,000,000	\$	0
		Disease Research				
5M4	195-659	Universal Service	\$	210,000,000	\$	210,000,000
5M5	195-660	Energy Efficiency Loan and	\$	12,000,000	\$	12,000,000
		Grant				
5X1	195-651	Exempt Facility Inspection	\$	25,000	\$	25,000
611	195-631	Water and Sewer	\$	15,713	\$	15,713
		Administration				
617	195-654	Volume Cap Administration	\$	200,000	\$	200,000
646	195-638	Low- and Moderate- Income	\$	53,000,000	\$	53,000,000
		Housing Trust Fund				
TOTAL SSR State Special Revenue						
Fund Group			\$	303,076,556	\$	292,076,556
<b>Facilities Establishment Fund Group</b>						
009	195-664	Innovation Ohio	\$	50,000,000	\$	50,000,000
010	195-665	Research and Development	\$	50,000,000	\$	50,000,000
037	195-615	Facilities Establishment	\$	63,931,149	\$	63,931,149
4Z6	195-647	Rural Industrial Park Loan	\$	3,000,000	\$	3,000,000
5D2	195-650	Urban Redevelopment Loans	\$	5,475,000	\$	5,475,000
5H1	195-652	Family Farm Loan Guarantee	\$	1,000,000	\$	1,000,000
5S8	195-627	Rural Development Initiative	\$	3,000,000	\$	3,000,000
5S9	195-628	Capital Access Loan Program	\$	3,000,000	\$	3,000,000
TOTAL 037 Facilities						
Establishment Fund Group			\$	179,406,149	\$	179,406,149
<b>Clean Ohio Revitalization Fund</b>						
003	195-663	Clean Ohio Operating	\$	350,000	\$	350,000
TOTAL 003 Clean Ohio Revitalization Fund			\$	350,000	\$	350,000
TOTAL ALL BUDGET FUND GROUPS			\$	873,429,578	\$	876,089,264

**SECTION 203.99.01. OPERATING EXPENSES**

Of the foregoing appropriation item 195-321, Operating Expenses, \$50,000 in fiscal year 2006 and \$35,000 in fiscal year 2007 shall be used for Crawford County to hire an employee to act as a local economic development coordinator for Crawford, Hancock, Richland, and Marion Counties.

**SECTION 203.99.03. THOMAS EDISON PROGRAM**

The foregoing appropriation item 195-401, Thomas Edison Program, shall be used for the purposes of sections 122.28 to 122.38 of the Revised Code in order to provide funds for cooperative public and private efforts in

technological innovation to promote the development and transfer of technology by and to Ohio businesses that will lead to the creation of jobs, and to provide for the administration of the program by the Technology Division.

Of the foregoing appropriation item 195-401, Thomas Edison Program, not more than \$2,000,000 in fiscal year 2006 and \$2,300,000 in fiscal year 2007 shall be used for operating expenditures in administering the programs of the Technology Division.

The Department of Development, in consultation with the Third Frontier Commission, shall develop a plan providing for appropriate, value-added participation of Edison Centers and Incubators in Third Frontier Project proposals and grants.

The Department of Development shall work with Edison Centers and Incubators and the Third Frontier Network, when appropriate, to provide for Third Frontier Network connections to Edison Centers and Incubators and their tenants and, as appropriate, clients.

Of the foregoing appropriation item 195-401, Thomas Edison Program, \$100,000 in fiscal year 2006 shall be used for technology recruitment, development, and construction.

#### SECTION 203.99.06. SMALL BUSINESS DEVELOPMENT

The foregoing appropriation item 195-404, Small Business Development, shall be used to ensure that the unique needs and concerns of small businesses are addressed.

The foregoing appropriation item 195-404, Small Business Development, may be used to provide grants to local organizations to support the operation of Small Business Development Centers and other local economic development activity promoting small business, and for the cost of administering the small business development center program. The centers shall provide technical, financial, and management consultation for small business and shall facilitate access to state and federal programs. These funds shall be used as matching funds for grants from the United States Small Business Administration and other federal agencies, pursuant to Public Law No. 96-302 (1980) as amended by Public Law No. 98-395 (1984), and regulations and policy guidelines for the programs under this law.

In addition, the Office of Small Business may operate the 1st-Stop Business Connection and implement and coordinate the duties imposed on the Department of Development by Am. Sub. S.B. 239 of the 115th General Assembly.

**MINORITY BUSINESS DEVELOPMENT DIVISION**

Of the foregoing appropriation item 195-405, Minority Business Development Division, up to \$1,060,000 but not less than \$954,000 in each fiscal year shall be used to fund minority contractors and business assistance organizations. The Minority Business Development Division shall determine which cities need minority contractors and business assistance organizations by utilizing United States Census Bureau data and zip codes to locate the highest concentrations of minority businesses. The Minority Business Development Division also shall determine the numbers of minority contractors and business assistance organizations necessary and the amount of funding to be provided each. In addition, the Minority Business Development Division shall continue to plan and implement business conferences.

**SECTION 203.99.09. BUSINESS DEVELOPMENT**

The foregoing appropriation item 195-412, Business Development Grants, shall be used as an incentive for attracting and retaining business opportunities for the state. Any such business opportunity, whether new, expanding, or relocating in Ohio, is eligible for funding. The project must create or retain a significant number of jobs for Ohioans. Grant awards may be considered only when (1) the project's viability hinges on an award of funds from appropriation item 195-412, Business Development Grants; (2) all other public or private sources of financing have been considered; or (3) the funds act as a catalyst for the infusion into the project of other financing sources.

The department's primary goal shall be to award funds to political subdivisions of the state for off-site infrastructure improvements. In order to meet the particular needs of economic development in a region, the department may elect to award funds directly to a business for on-site infrastructure improvements. "Infrastructure improvements" mean improvements to water system facilities, sewer and sewage treatment facilities, electric or gas service facilities, fiber optic facilities, rail facilities, site preparation, and parking facilities. The Director of Development may recommend the funds be used in an alternative manner when considered appropriate to meet an extraordinary economic development opportunity or need.

The foregoing appropriation item 195-412, Business Development Grants, may be expended only after the submission of a request to the Controlling Board by the Department of Development outlining the planned use of the funds, and the subsequent approval of the request by the



Controlling Board.

The foregoing appropriation item 195-412, Business Development Grants, may be used for, but is not limited to, construction, rehabilitation, and acquisition projects for rail freight assistance as requested by the Department of Transportation. The Director of Transportation shall submit the proposed projects to the Director of Development for an evaluation of potential economic benefit.

#### SECTION 203.99.12. ECONOMIC DEVELOPMENT DIVISION AND REGIONAL OFFICES

The foregoing appropriation item 195-415, Economic Development Division and Regional Offices, shall be used for the operating expenses of the Economic Development Division and the regional economic development offices and for grants for cooperative economic development ventures.

#### SECTION 203.99.15. GOVERNOR'S OFFICE OF APPALACHIA

The foregoing appropriation item 195-416, Governor's Office of Appalachia, shall be used for the administrative costs of planning and liaison activities for the Governor's Office of Appalachia. Funds not expended for planning and liaison activities may be expended for special project grants within the Appalachian Region.

Of the foregoing appropriation item 195-416, Governor's Office of Appalachia, up to \$250,000 each fiscal year shall be used to match federal funds from the Appalachian Regional Commission to provide job training to impact the Appalachian Region.

Of the foregoing appropriation item 195-416, Governor's Office of Appalachia, up to \$4,122,372 in each fiscal year shall be used in conjunction with other federal and state funds to provide financial assistance to projects in Ohio's Appalachian counties in order to further the goals of the Appalachian Regional Commission. The projects and project sponsors shall meet Appalachian Regional Commission eligibility requirements. Grants shall be administered by the Department of Development.

#### SECTION 203.99.18. THIRD FRONTIER ACTION FUND

The foregoing appropriation item 195-422, Third Frontier Action Fund, shall be used to make grants under sections 184.01 and 184.02 of the Revised Code. Prior to the release of funds from appropriation item

195-422, Third Frontier Action Fund, each grant award shall be recommended for funding by the Third Frontier Commission and obtain approval from the Controlling Board.

Of the foregoing appropriation item 195-422, Third Frontier Action Fund, not more than six per cent in each fiscal year shall be used for operating expenditures in administering the program.

In addition to the six per cent for operating expenditures, an additional administrative amount, not to exceed \$1,500,000 within the biennium, shall be available for proposal evaluation, research and analyses, and marketing efforts considered necessary to receive and disseminate information about science and technology-related opportunities in the state.

#### SCIENCE AND TECHNOLOGY COLLABORATION

The Department of Development shall work in close collaboration with the Board of Regents, the Air Quality Development Authority, and the Third Frontier Commission in relation to appropriation items and programs referred to as Alignment Programs in the following paragraph, and other technology-related appropriations and programs in the Department of Development, Air Quality Development Authority, and the Board of Regents as these agencies may designate, to ensure implementation of a coherent state strategy with respect to science and technology.

"Alignment Programs" means appropriation items 195-401, Thomas Edison Program; 898-402, Coal Development Office; 195-422, Third Frontier Action Fund; 898-604, Coal Research and Development Fund; 235-433, Economic Growth Challenge; 235-508, Air Force Institute of Technology; 235-510, Ohio Supercomputer Center; 235-451, Eminent Scholars; 235-527, Ohio Aerospace Institute; 235-535, Ohio Agricultural Research and Development Center; 235-553, Dayton Area Graduate Studies Institute; 235-554, Priorities in Collaborative Graduate Education; 235-556, Ohio Academic Resources Network; and 195-435, Biomedical Research and Technology Transfer Trust.

Consistent with the recommendations of the Governor's Commission on Higher Education and the Economy, Alignment Programs shall be managed and administered in accordance with the following objectives: (1) to build on existing competitive research strengths; (2) to encourage new and emerging discoveries and commercialization of products and ideas that will benefit the Ohio economy; (3) and to assure improved collaboration among Alignment Programs with programs administered by the Third Frontier Commission and with other state programs that are intended to improve economic growth and job creation. As directed by the Third Frontier Commission, Alignment Program managers shall report to the Commission

or the Third Frontier Advisory Board regarding the contributions of their programs to achieving these objectives.

Each Alignment Program shall be reviewed annually by the Third Frontier Commission with respect to its development of complementary relationships within a combined state science and technology investment portfolio, and with respect to its overall contribution to the state's science and technology strategy, including the adoption of appropriately consistent criteria for: (1) the scientific merit of activities supported by the program; (2) the relevance of the program's activities to commercial opportunities in the private sector; (3) the private sector's involvement in a process that continually evaluates commercial opportunities to use the work supported by the program; and (4) the ability of the program and recipients of grant funding from the program to engage in activities that are collaborative, complementary, and efficient with respect to the expenditures of state funds. Each Alignment Program shall provide an annual report to the Third Frontier Commission that discusses existing, planned, or possible collaborations between programs and between recipients of grant funding related to technology, development, commercialization, and the support of Ohio's economic development. The annual review conducted by the Third Frontier Commission shall be a comprehensive review of the entire state science and technology program portfolio rather than a review of individual programs.

Applicants for Third Frontier and Alignment Programs funding shall identify their requirements for high-performance computing facilities and services, including both hardware and software, in all proposals. If an applicant's requirements exceed approximately \$100,000 for a proposal, the Ohio Supercomputer Center shall convene a panel of experts. The panel shall review the proposal to determine whether the proposal's requirements can be met through Ohio Supercomputer Center facilities or through other means and report such information to the Third Frontier Commission.

To ensure that the state receives the maximum benefit from its investment in the Third Frontier Project and the Third Frontier Network, organizations receiving Third Frontier awards and Alignment Programs awards shall, as appropriate, be expected to have a connection to the Third Frontier Network that enables them and their collaborators to achieve award objectives through the Third Frontier Network.

#### SECTION 203.99.21. INTERNATIONAL TRADE

The foregoing appropriation item 195-432, International Trade, shall be used to operate and to maintain Ohio's out-of-state trade offices.

The Director of Development may enter into contracts with foreign nationals to staff foreign offices. The contracts may be paid in local currency or United States currency and shall be exempt from section 127.16 of the Revised Code. The director also may establish foreign currency accounts under section 122.05 of the Revised Code for the payment of expenses related to the operation and maintenance of the foreign trade offices.

The foregoing appropriation item 195-432, International Trade, shall be used to fund the International Trade Division and to assist Ohio manufacturers and agricultural producers in exporting to foreign countries in conjunction with the Department of Agriculture.

Of the foregoing appropriation item 195-432, International Trade, up to \$35,000 may be used to purchase gifts for representatives of foreign governments or dignitaries of foreign countries.

#### SECTION 203.99.24. OHIO INVESTMENT IN TRAINING PROGRAM

The foregoing appropriation items 195-434, Investment in Training Grants, and 195-667, Investment in Training Expansion, shall be used to promote training through grants for the reimbursement of eligible training expenses.

#### SECTION 203.99.27. CDBG OPERATING MATCH

The foregoing appropriation item 195-497, CDBG Operating Match, shall be used to provide matching funds as requested by the United States Department of Housing and Urban Development to administer the federally funded Community Development Block Grant (CDBG) program.

#### STATE OPERATING MATCH

The foregoing appropriation item 195-498, State Match Energy, shall be used to provide matching funds as required by the United States Department of Energy to administer the federally funded State Energy Plan.

#### SECTION 203.99.30. TRAVEL AND TOURISM GRANTS

The foregoing appropriation item 195-507, Travel and Tourism Grants, shall be used to provide grants to local organizations to support various local travel and tourism events in Ohio.

Of the foregoing appropriation item 195-507, Travel and Tourism Grants, \$25,000 in each fiscal year shall be used for the Lorain County Visitors Bureau.

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Of the foregoing appropriation item 195-507, Travel and Tourism Grants, \$25,000 in each fiscal year shall be used for the Sandusky/Erie County Visitors and Convention Bureau.

Of the foregoing appropriation item 195-507, Travel and Tourism Grants, \$25,000 in each fiscal year shall be used for the Ottawa County Convention and Visitors Bureau.

Of the foregoing appropriation item 195-507, Travel and Tourism Grants, \$50,000 in each fiscal year shall be used for the Greene County Convention and Visitors Bureau.

Of the foregoing appropriation item 195-507, Travel and Tourism Grants, \$45,000 in each fiscal year shall be used for the Warren County Convention and Visitors Bureau.

Of the foregoing appropriation item 195-507, Travel and Tourism Grants, \$25,000 in each fiscal year shall be used for grants to the Wood County Economic Development Commission.

Of the foregoing appropriation item 195-507, Travel and Tourism Grants, \$50,000 in each fiscal year shall be used for the Wright Dunbar Historical Site.

Of the foregoing appropriation item 195-507, Travel and Tourism Grants, up to \$120,000 in each fiscal year may be used to support the outdoor dramas "Trumpet in the Land," "Blue Jacket," and "Tecumseh!".

Of the foregoing appropriation item 195-507, Travel and Tourism Grants, \$40,000 in each fiscal year shall be used for the Cincinnati Film Commission and \$40,000 in each fiscal year shall be used for the Cleveland Film Commission.

Of the foregoing appropriation item 195-507, Travel and Tourism Grants, \$100,000 in each fiscal year shall be used for the Cleveland Institute of Art.

Of the foregoing appropriation item 195-507, Travel and Tourism Grants, up to \$500,000 in each fiscal year shall be used for grants to The International Center for the Preservation of Wild Animals.

Of the foregoing appropriation item 195-507, Travel and Tourism Grants, \$50,000 in each fiscal year shall be used for the Lake Shore Railway Association, Inc.

Of the foregoing appropriation item 195-507, Travel and Tourism Grants, \$50,000 in each fiscal year shall be used for the Ohio River Trails program.

Of the foregoing appropriation item 195-507, Travel and Tourism Grants, \$12,500 in each fiscal year shall be used for the Morgan County Community Improvement Corporation.

Of the foregoing appropriation item 195-507, Travel and Tourism Grants, \$25,000 in fiscal year 2006 shall be used for the Ohio Buckeye Junior Hereford Association.

Of the foregoing appropriation item 195-507, Travel and Tourism Grants, \$100,000 in fiscal year 2006 shall be used for grants to the NCR U.S. Senior Open.

Of the foregoing appropriation item 195-507, Travel and Tourism Grants, \$5,000 in each fiscal year shall be used for the Canton Football Hall of Fame.

#### SECTION 203.99.33. THIRD FRONTIER RESEARCH & COMMERCIALIZATION GENERAL OBLIGATION DEBT SERVICE

The foregoing appropriation item 195-905, Third Frontier Research & Commercialization General Obligation Debt Service, shall be used to pay all debt service and related financing costs during the period from July 1, 2005, to June 30, 2007, on obligations to be issued for research and development purposes, as authorized by the Ohio Constitution and implementing statutes. The Office of the Sinking Fund or the Director of Budget and Management shall effectuate the required payments by intrastate transfer voucher.

#### SECTION 203.99.36. SUPPORTIVE SERVICES

The Director of Development may assess divisions of the department for the cost of central service operations. An assessment shall be based on a plan submitted to and approved by the Office of Budget and Management by August 1, 2005, and shall contain the characteristics of administrative ease and uniform application.

A division's payments shall be credited to the Supportive Services Fund (Fund 135) using an intrastate transfer voucher.

#### GENERAL REIMBURSEMENT

The foregoing appropriation item 195-636, General Reimbursements, shall be used for conference and subscription fees and other reimbursable costs. Revenues to the General Reimbursement Fund (Fund 685) shall consist of fees and other moneys charged for conferences, subscriptions, and other administrative costs that are not central service costs.

#### WORKER GUARANTEE PROGRAM

The foregoing appropriation item 195-668, Worker Guarantee Program, shall be used for the Worker Guarantee Program.

Benefited employers must create at least 100 high-paying, full-time jobs over a three-year period and must demonstrate prior to the commitment of

state funds that the availability of those skilled workers is a major factor in the employer's decision to locate or expand in Ohio. Activities eligible for funding through the Worker Guarantee Program include job assessment services, screening and testing of potential employees, customized training activities, and any other training or related service determined by the Director.

A local workforce development service provider may include, but is not limited to, a community college, technical or vocational school, one-stop center, or any other entity designated by the Director of Development to provide services under the program.

State matching funds totaling one-third of a project's cost shall be provided for each approved project when an employer and any local workforce development service provider, in conjunction with the local community, contracts with the Department of Development to provide services under the program. The employer and the local community each shall provide matching funds totaling one-third of a project's cost, and each portion of the matching funds shall be equal to state funding, which also shall be one-third of a project's cost.

The state shall count in-kind contributions when determining a contribution from entities associated with the local community.

The Director of Development, under Chapter 119. of the Revised Code, shall adopt, and may amend or rescind, rules the Director finds necessary for the implementation and successful operation of the Worker Guarantee Program.

#### SECTION 203.99.37. TRAINING SERVICES

Of the foregoing appropriation item 195-605, Federal Projects, \$400,000 in each fiscal year shall be used for grants to the Ohio Weatherization Training Center, administered by the Corporation for Ohio Appalachian Development, for training and technical assistance services.

#### SECTION 203.99.39. HEAP WEATHERIZATION

Fifteen per cent of the federal funds received by the state for the Home Energy Assistance Block Grant shall be deposited in appropriation item 195-614, HEAP Weatherization (Fund 3K9), and shall be used to provide home weatherization services in the state.

Of the foregoing appropriation item 195-614, HEAP Weatherization, \$200,000 in each fiscal year shall be used for grants to the Ohio Weatherization Training Center, administered by the Corporation for Ohio

Appalachian Development, for training and technical assistance services.

#### STATE SPECIAL PROJECTS

The foregoing fund, Fund 4F2, State Special Projects, shall be used for the deposit of private-sector funds from utility companies and for the deposit of other miscellaneous state funds. Private-sector moneys shall be used to (1) pay the expenses of verifying the income-eligibility of HEAP applicants, (2) market economic development opportunities in the state, and (3) leverage additional federal funds. State funds shall be used to match federal housing grants for the homeless and to market economic development opportunities in the state.

#### SECTION 203.99.42. MINORITY BUSINESS ENTERPRISE LOAN

All repayments from the Minority Development Financing Advisory Board Loan Program and the Ohio Mini-Loan Guarantee Program shall be deposited in the State Treasury to the credit of the Minority Business Enterprise Loan Fund (Fund 4W1).

All operating costs of administering the Minority Business Enterprise Loan Fund shall be paid from the Minority Business Enterprise Loan Fund (Fund 4W1).

#### MINORITY BUSINESS BONDING FUND

Notwithstanding Chapters 122., 169., and 175. of the Revised Code and other provisions of Am. Sub. H.B. 283 of the 123rd General Assembly, the Director of Development may, upon the recommendation of the Minority Development Financing Advisory Board, pledge up to \$10,000,000 in the FY 2006-2007 biennium of unclaimed funds administered by the Director of Commerce and allocated to the Minority Business Bonding Program under section 169.05 of the Revised Code. The transfer of any cash by the Director of Budget and Management from the Department of Commerce's Unclaimed Funds Fund (Fund 543) to the Department of Development's Minority Business Bonding Fund (Fund 449) shall occur, if requested by the Director of Development, only if such funds are needed for payment of losses arising from the Minority Business Bonding Program, and only after proceeds of the initial transfer of \$2,700,000 by the Controlling Board to the Minority Business Bonding Program has been used for that purpose. Moneys transferred by the Director of Budget and Management from the Department of Commerce for this purpose may be moneys in custodial funds held by the Treasurer of State. If expenditures are required for payment of losses arising from the Minority Business Bonding Program, such expenditures shall be made from appropriation item 195-623, Minority Business Bonding Contingency in the Minority Business Bonding Fund, and such amounts are



appropriated.

**SECTION 203.99.45. ECONOMIC DEVELOPMENT FINANCING OPERATING**

The foregoing appropriation item 195-625, Economic Development Financing Operating, shall be used for the operating expenses of financial assistance programs authorized under Chapter 166. of the Revised Code and under sections 122.43 and 122.45 of the Revised Code.

**VOLUME CAP ADMINISTRATION**

The foregoing appropriation item 195-654, Volume Cap Administration, shall be used for expenses related to the administration of the Volume Cap Program. Revenues received by the Volume Cap Administration Fund (Fund 617) shall consist of application fees, forfeited deposits, and interest earned from the custodial account held by the Treasurer of State.

**UNIVERSAL SERVICE FUND**

The foregoing appropriation item 195-659, Universal Service, shall be used to provide payments to regulated electric utility companies for low-income customers enrolled in Percentage of Income Payment Plan (PIPP) electric accounts, to fund targeted energy efficiency and customer education services to PIPP customers, and to cover the department's administrative costs related to Universal Service Fund Programs.

**SHOVEL READY SITES**

The foregoing appropriation item 195-678, Shovel Ready Sites, shall be used to administer the Shovel Ready Sites Program under section 122.083 of the Revised Code.

**ALTERNATIVE FUEL TRANSPORTATION**

The foregoing appropriation item 195-679, Alternative Fuel Transportation, shall be used by the Director of Development to make grants under the Alternative Fuel Transportation Grant Fund Program in accordance with section 122.075 of the Revised Code, and for administrative costs associated with the program.

**TRANSFER OF UNCLAIMED FUNDS TO THE DEFENSE CONVERSION ASSISTANCE FUND FOR BASE REALIGNMENT AND CLOSURE GRANTS**

(A) There is hereby created in the State Treasury the Defense Conversion Assistance Fund (Fund 5CV). The fund shall consist of all cash deposited to it pursuant to division (C) of this section.

(B) The foregoing appropriation item 195-680, Defense Conversion Assistance, shall be used by the Director of Development to provide grants to local communities for costs associated with the preparation and

redevelopment of military installations in Ohio that are slated for realignment or closure under the United States Department of Defense Base Realignment and Closure Program.

(C) Notwithstanding division (A) of section 169.05 of the Revised Code, upon the request of the Director of Budget and Management, the Director of Commerce, prior to June 30, 2006, shall transfer to the Defense Conversion Assistance Fund (Fund 5CV) \$1,000,000 of the unclaimed funds that have been reported by the holders of unclaimed funds under section 169.05 of the Revised Code regardless of the allocation of the unclaimed funds described in that section.

(D) On or before June 30, 2006, the unencumbered balance of the foregoing appropriation item 195-680, Defense Conversion Assistance, for fiscal year 2006 is hereby appropriated for the same purpose for fiscal year 2007.

#### LUNG CANCER AND LUNG DISEASE RESEARCH

The foregoing appropriation item 195-682, Lung Cancer and Lung Disease Research, shall be used by the Director of Development to promote lung cancer and lung disease research.

#### ENERGY EFFICIENCY REVOLVING LOAN FUND

The foregoing appropriation item 195-660, Energy Efficiency Loan and Grant, shall be used to provide financial assistance to customers for eligible energy efficiency projects for residential, commercial and industrial business, local government, educational institution, nonprofit, and agriculture customers, and to pay for the program's administrative costs as provided in the Revised Code and rules adopted by the Director of Development.

#### TRANSFER FROM THE ENERGY EFFICIENCY REVOLVING LOAN FUND TO THE INDUSTRIAL SITE IMPROVEMENTS FUND

Notwithstanding Chapters 122. and 4928. of the Revised Code and any other law to the contrary, the Director of Budget and Management shall transfer \$2,500,000 in cash in fiscal year 2006 and \$2,500,000 in cash in fiscal year 2007 from the Energy Efficiency Revolving Loan Fund (Fund 5M5) to the Industrial Site Improvements Fund (Fund 5AR).

Moneys in Fund 5AR, Industrial Site Improvements, shall be used by the Director of Development to make grants to eligible counties for the improvement of commercial or industrial areas within those counties under section 122.951 of the Revised Code.

#### TRANSFER FROM THE ENERGY EFFICIENCY REVOLVING LOAN FUND TO THE RAIL TRANSLOAD FACILITIES FUND

Notwithstanding Chapters 122. and 4928. of the Revised Code and any

other law to the contrary, the Director of Budget and Management shall transfer \$500,000 in cash in fiscal year 2006 from the Energy Efficiency Revolving Loan Fund (Fund 5M5) in the Department of Development to the Rail Transload Facilities Fund (Fund 5CF) in the Department of Transportation.

**TRANSFER FROM THE ENERGY EFFICIENCY REVOLVING LOAN FUND TO THE ALTERNATIVE FUEL TRANSPORTATION GRANT FUND**

Notwithstanding Chapter 4928. of the Revised Code and any other law to the contrary, the Director of Budget and Management shall transfer \$150,000 in cash in fiscal year 2006 and \$150,000 in cash in fiscal year 2007 from the Energy Efficiency Revolving Loan Fund (Fund 5M5) to the Alternative Fuel Transportation Grant Fund (Fund 5CG).

**GLOBAL ANALYST SETTLEMENT AGREEMENTS PAYMENTS**

All payments received by the state pursuant to a series of settlements with ten brokerage firms reached with the United States Securities and Exchange Commission, the National Association of Securities Dealers, the New York Stock Exchange, the New York Attorney General, and other state regulators (henceforth referred to as the "Global Analysts Settlement Agreements"), shall be deposited into the state treasury to the credit of the Economic Development Contingency Fund (Fund 5Y6), which is hereby created in the state treasury. The fund shall be used by the Director of Development to support economic development projects for which appropriations would not otherwise be available, and shall be subject to the submission of a request to the Controlling Board by the Director outlining the planned use of the funds, and the subsequent approval of the request by the Controlling Board.

**SECTION 203.99.46. TRANSFER FROM THE LOW- AND MODERATE-INCOME HOUSING TRUST FUND TO THE RESIDENTIAL STATE SUPPLEMENT FUND**

Notwithstanding Chapter 175. of the Revised Code and any other law to the contrary, the Director of Budget and Management shall transfer \$1,500,000 in cash in fiscal year 2006 and \$1,500,000 in cash in fiscal year 2007 from the Low- and Moderate-Income Housing Trust Fund (Fund 646) in the Department of Development to the Residential State Supplement Fund (Fund 5CH) in the Department of Mental Health.

**SECTION 203.99.48. FACILITIES ESTABLISHMENT FUND**

The foregoing appropriation item 195-615, Facilities Establishment (Fund 037), shall be used for the purposes of the Facilities Establishment Fund under Chapter 166. of the Revised Code.

Notwithstanding Chapter 166. of the Revised Code, up to \$1,800,000 in cash each fiscal year may be transferred from the Facilities Establishment Fund (Fund 037) to the Economic Development Financing Operating Fund (Fund 451). The transfer is subject to Controlling Board approval under division (B) of section 166.03 of the Revised Code.

Notwithstanding Chapter 166. of the Revised Code, up to \$5,000,000 in cash each fiscal year may be transferred from the Facilities Establishment Fund (Fund 037) to the Shovel Ready Sites Fund (Fund 5CA). The transfer is subject to Controlling Board approval under division (B) of section 166.03 of the Revised Code.

Notwithstanding Chapter 166. of the Revised Code, up to \$10,950,000 in cash may be transferred during the biennium from the Facilities Establishment Fund (Fund 037) to the Urban Redevelopment Loans Fund (Fund 5D2) for the purpose of removing barriers to urban core redevelopment. The Director of Development shall develop program guidelines for the transfer and release of funds, including, but not limited to, the completion of all appropriate environmental assessments before state assistance is committed to a project.

Notwithstanding Chapter 166. of the Revised Code, up to \$3,000,000 each fiscal year in cash may be transferred from the Facilities Establishment Fund (Fund 037) to the Rural Industrial Park Loan Fund (Fund 4Z6). The transfer is subject to Controlling Board approval under section 166.03 of the Revised Code.

#### FAMILY FARM LOAN PROGRAM

Notwithstanding Chapter 166. of the Revised Code, up to \$1,000,000 in each fiscal year shall be transferred from moneys in the Facilities Establishment Fund (Fund 037) to the Family Farm Loan Guarantee Fund (Fund 5H1) in the Department of Development. The moneys shall be used for loan guarantees. The transfer is subject to Controlling Board approval.

Financial assistance from the Family Farm Loan Guarantee Fund (Fund 5H1) shall be repaid to Fund 5H1. This fund is established under sections 166.031, 901.80, 901.81, 901.82, and 901.83 of the Revised Code.

When the Family Farm Loan Guarantee Fund (Fund 5H1) ceases to exist, all outstanding balances, all loan repayments, and any other outstanding obligations shall revert to the Facilities Establishment Fund (Fund 037).

#### RURAL DEVELOPMENT INITIATIVE FUND

(A)(1) The Rural Development Initiative Fund (Fund 5S8) is entitled to receive moneys from the Facilities Establishment Fund (Fund 037). The Director of Development may make grants from the Rural Development Initiative Fund as specified in division (A)(2) of this section to eligible applicants in Appalachian counties and in rural counties in the state that are designated as distressed under section 122.25 of the Revised Code. Preference shall be given to eligible applicants located in Appalachian counties designated as distressed by the federal Appalachian Regional Commission. The Rural Development Initiative Fund (Fund 5S8) shall cease to exist after June 30, 2007. All moneys remaining in the Fund after that date shall revert to the Facilities Establishment Fund (Fund 037).

(2) The Director of Development shall make grants from the Rural Development Initiative Fund (Fund 5S8) only to eligible applicants who also qualify for and receive funding under the Rural Industrial Park Loan Program as specified in sections 122.23 to 122.27 of the Revised Code. Eligible applicants shall use the grants for the purposes specified in section 122.24 of the Revised Code. All projects supported by grants from the fund are subject to Chapter 4115. of the Revised Code as specified in division (E) of section 166.02 of the Revised Code. The Director shall develop program guidelines for the transfer and release of funds. The release of grant moneys to an eligible applicant is subject to Controlling Board approval.

(B) Notwithstanding Chapter 166. of the Revised Code, the Director of Budget and Management may transfer up to \$3,000,000 each fiscal year in cash on an as needed basis at the request of the Director of Development from the Facilities Establishment Fund (Fund 037) to the Rural Development Initiative Fund (Fund 5S8). The transfer is subject to Controlling Board approval under section 166.03 of the Revised Code.

#### CAPITAL ACCESS LOAN PROGRAM

The foregoing appropriation item 195-628, Capital Access Loan Program, shall be used for operating, program, and administrative expenses of the program. Funds of the Capital Access Loan Program shall be used to assist participating financial institutions in making program loans to eligible businesses that face barriers in accessing working capital and obtaining fixed asset financing.

Notwithstanding Chapter 166. of the Revised Code, the Director of Budget and Management may transfer up to \$3,000,000 each fiscal year in cash on an as needed basis at the request of the Director of Development from the Facilities Establishment Fund (Fund 037) to the Capital Access Loan Program Fund (Fund 5S9). The transfer is subject to Controlling Board approval under section 166.03 of the Revised Code.

**INNOVATION OHIO LOAN FUND**

The foregoing appropriation item 195-664, Innovation Ohio, shall be used to provide for innovation Ohio purposes, including loan guarantees and loans under Chapter 166. and particularly sections 166.12 to 166.16 of the Revised Code.

**RESEARCH AND DEVELOPMENT**

The foregoing appropriation item 195-665, Research and Development, shall be used to provide for research and development purposes, including loans, under Chapter 166. and particularly sections 166.17 to 166.21 of the Revised Code.

**SECTION 203.99.51. CLEAN OHIO OPERATING EXPENSES**

The foregoing appropriation item 195-663, Clean Ohio Operating, shall be used by the Department of Development in administering sections 122.65 to 122.658 of the Revised Code.

**SECTION 203.99.54. UNCLAIMED FUNDS TRANSFER**

(A) Notwithstanding division (A) of section 169.05 of the Revised Code, upon the request of the Director of Budget and Management, the Director of Commerce, prior to June 30, 2006, shall transfer to the Job Development Initiatives Fund (Fund 5AD) up to \$8,000,000 of the unclaimed funds that have been reported by the holders of unclaimed funds under section 169.05 of the Revised Code, regardless of the allocation of the unclaimed funds described under that section.

Notwithstanding division (A) of section 169.05 of the Revised Code, upon the request of the Director of Budget and Management, the Director of Commerce, prior to June 30, 2007, shall transfer to the Job Development Initiatives Fund (Fund 5AD) up to \$18,000,000 of the unclaimed funds that have been reported by the holders of unclaimed funds under section 169.05 of the Revised Code, regardless of the allocation of the unclaimed funds described under that section.

(B) Notwithstanding division (A) of section 169.05 of the Revised Code, upon the request of the Director of Budget and Management, the Director of Commerce, prior to June 30, 2006, shall transfer to the State Special Projects Fund (Fund 4F2) up to \$5,228,210 of the unclaimed funds that have been reported by the holders of unclaimed funds under section 169.05 of the Revised Code, regardless of the allocation of the unclaimed funds described under that section.

Notwithstanding division (A) of section 169.05 of the Revised Code,

upon the request of the Director of Budget and Management, the Director of Commerce, prior to June 30, 2007, shall transfer to the State Special Projects Fund (Fund 4F2) up to \$5,228,210 of the unclaimed funds that have been reported by the holders of unclaimed funds under section 169.05 of the Revised Code, regardless of the allocation of the unclaimed funds described under that section.

#### SECTION 206.03. OBD OHIO BOARD OF DIETETICS

##### General Services Fund Group

4K9 860-609 Operating Expenses	\$	332,495	\$	0
TOTAL GSF General Services Fund Group	\$	332,495	\$	0
TOTAL ALL BUDGET FUND GROUPS	\$	332,495	\$	0

#### SECTION 206.06. CDR COMMISSION ON DISPUTE RESOLUTION AND CONFLICT MANAGEMENT

##### General Revenue Fund

GRF 145-401 Commission on Dispute Resolution/Management	\$	470,000	\$	470,000
TOTAL GRF General Revenue Fund	\$	470,000	\$	470,000

##### General Services Fund Group

4B6 145-601 Gifts and Grants	\$	140,000	\$	140,000
TOTAL GSF General Services Fund Group	\$	140,000	\$	140,000

##### Federal Special Revenue Fund Group

3S6 145-602 Dispute Resolution: Federal	\$	140,000	\$	140,000
TOTAL FED Federal Special Revenue Fund Group	\$	140,000	\$	140,000
TOTAL ALL BUDGET FUND GROUPS	\$	750,000	\$	750,000

#### SECTION 206.09. EDU DEPARTMENT OF EDUCATION

##### General Revenue Fund

GRF 200-100 Personal Services	\$	9,880,406	\$	10,880,655
GRF 200-320 Maintenance and Equipment	\$	4,344,235	\$	4,344,235
GRF 200-408 Early Childhood Education	\$	19,002,195	\$	19,002,195
GRF 200-410 Educator Training	\$	19,302,057	\$	19,802,057
GRF 200-416 Career-Technical Education Match	\$	2,233,195	\$	2,233,195
GRF 200-420 Computer/Application/Network Development	\$	5,361,525	\$	5,361,525
GRF 200-421 Alternative Education Programs	\$	13,907,665	\$	13,732,665
GRF 200-422 School Management Assistance	\$	2,683,208	\$	2,710,572
GRF 200-424 Policy Analysis	\$	556,687	\$	556,687
GRF 200-425 Tech Prep Consortia Support	\$	2,069,217	\$	2,069,217

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GRF 200-426	Ohio Educational Computer Network	\$	30,446,197	\$	30,446,197
GRF 200-427	Academic Standards	\$	11,607,753	\$	11,679,181
GRF 200-431	School Improvement Initiatives	\$	21,813,649	\$	23,842,828
GRF 200-433	Reading/Writing Improvement-Professional Development	\$	16,165,000	\$	16,165,000
GRF 200-437	Student Assessment	\$	54,445,234	\$	60,011,935
GRF 200-439	Accountability/Report Cards	\$	3,878,850	\$	7,457,290
GRF 200-442	Child Care Licensing	\$	1,302,495	\$	1,302,495
GRF 200-445	OhioReads Volunteer Support	\$	3,905,000	\$	3,905,000
GRF 200-446	Education Management Information System	\$	15,674,805	\$	15,674,805
GRF 200-447	GED Testing	\$	1,544,360	\$	1,544,360
GRF 200-448	Educator Preparation	\$	1,651,000	\$	1,651,000
GRF 200-455	Community Schools	\$	2,942,094	\$	2,942,094
GRF 200-502	Pupil Transportation	\$	412,330,728	\$	420,577,343
GRF 200-503	Bus Purchase Allowance	\$	8,600,000	\$	14,000,000
GRF 200-505	School Lunch Match	\$	8,998,025	\$	8,998,025
GRF 200-509	Adult Literacy Education	\$	8,669,738	\$	8,669,738
GRF 200-511	Auxiliary Services	\$	127,903,356	\$	127,903,356
GRF 200-514	Postsecondary Adult Career-Technical Education	\$	19,481,875	\$	19,481,875
GRF 200-521	Gifted Pupil Program	\$	46,910,068	\$	47,157,293
GRF 200-532	Nonpublic Administrative Cost Reimbursement	\$	56,762,916	\$	58,068,463
GRF 200-540	Special Education Enhancements	\$	134,169,606	\$	135,430,125
GRF 200-545	Career-Technical Education Enhancements	\$	10,169,442	\$	9,225,569
GRF 200-550	Foundation Funding	\$	5,579,031,663	\$	5,709,057,366
GRF 200-558	Emergency Loan Interest Subsidy	\$	1,388,164	\$	651,404
GRF 200-566	Reading/Writing Improvement-Classroom Grants	\$	12,062,336	\$	12,062,336
GRF 200-578	Safe and Supportive Schools	\$	1,218,555	\$	1,218,555
GRF 200-901	Property Tax Allocation - Education	\$	764,626,987	\$	728,793,318
GRF 200-906	Tangible Tax Exemption - Education	\$	42,830,487	\$	32,122,865
TOTAL GRF General Revenue Fund		\$	7,479,870,773	\$	7,590,732,819
<b>General Services Fund Group</b>					
138 200-606	Computer Services-Operational Support	\$	7,600,091	\$	7,600,091
4D1 200-602	Ohio Prevention/Education Resource Center	\$	832,000	\$	832,000
4L2 200-681	Teacher Certification and Licensure	\$	5,497,158	\$	5,628,332
452 200-638	Miscellaneous Educational Services	\$	400,000	\$	400,000
5H3 200-687	School District Solvency Assistance	\$	18,000,000	\$	18,000,000



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596	200-656	Ohio Career Information System	\$	529,761	\$	529,761
TOTAL GSF General Services Fund Group						
			\$	32,859,010	\$	32,990,184
<b>Federal Special Revenue Fund Group</b>						
3AF	200-603	Schools Medicaid Administrative Claims	\$	1,000,000	\$	1,000,000
3C5	200-661	Early Childhood Education	\$	23,874,338	\$	23,874,338
3D1	200-664	Drug Free Schools	\$	13,347,966	\$	13,347,966
3D2	200-667	Honors Scholarship Program	\$	5,812,903	\$	5,833,965
3H9	200-605	Head Start Collaboration Project	\$	275,000	\$	275,000
3L6	200-617	Federal School Lunch	\$	220,256,132	\$	227,583,653
3L7	200-618	Federal School Breakfast	\$	56,382,851	\$	58,405,608
3L8	200-619	Child/Adult Food Programs	\$	66,590,622	\$	67,915,843
3L9	200-621	Career-Technical Education Basic Grant	\$	48,029,701	\$	48,029,701
3M0	200-623	ESEA Title 1A	\$	440,260,178	\$	461,026,070
3M1	200-678	Innovative Education	\$	11,800,000	\$	11,800,000
3M2	200-680	Individuals with Disabilities Education Act	\$	513,058,569	\$	605,581,547
3S2	200-641	Education Technology	\$	20,800,000	\$	20,800,000
3T4	200-613	Public Charter Schools	\$	22,000,000	\$	22,000,000
3U2	200-662	Teacher Quality Enhancement Grants	\$	795,280	\$	795,280
3X5	200-684	School Renovation/IDEA	\$	2,200,000	\$	0
3Y2	200-688	21st Century Community Learning Centers	\$	30,681,554	\$	30,681,554
3Y4	200-632	Reading First	\$	50,775,637	\$	31,215,798
3Y5	200-634	Community Service Grants	\$	1,000,000	\$	0
3Y6	200-635	Improving Teacher Quality	\$	107,000,000	\$	107,000,000
3Y7	200-689	English Language Acquisition	\$	8,500,000	\$	9,000,000
3Y8	200-639	Rural and Low Income	\$	1,700,000	\$	1,700,000
3Z2	200-690	State Assessments	\$	12,681,031	\$	12,883,799
3Z3	200-645	Consolidated USDE Administration	\$	9,200,000	\$	9,200,000
309	200-601	Educationally Disadvantaged	\$	19,658,846	\$	19,658,846
366	200-604	Adult Basic Education	\$	18,500,000	\$	18,500,000
367	200-607	School Food Services	\$	11,383,637	\$	11,666,732
368	200-614	Veterans' Training	\$	672,961	\$	691,130
369	200-616	Career-Technical Education Federal Enhancement	\$	6,500,000	\$	6,500,000
370	200-624	Education of Exceptional Children	\$	2,386,610	\$	2,386,610
371	200-631	Immigrant Education Opportunities	\$	400,000	\$	400,000
374	200-647	Troops to Teachers	\$	1,600,000	\$	0
378	200-660	Learn and Serve	\$	1,200,000	\$	1,200,000
TOTAL FED Federal Special Revenue Fund Group						
			\$	1,730,323,816	\$	1,830,953,440
<b>State Special Revenue Fund Group</b>						
4R7	200-695	Indirect Operational Support	\$	5,382,864	\$	5,449,748
4V7	200-633	Interagency Operational	\$	500,000	\$	500,000

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		Support			
454	200-610	Guidance and Testing	\$	400,000	\$ 400,000
455	200-608	Commodity Foods	\$	24,000,000	\$ 24,000,000
5BB	200-696	State Action for Education Leadership	\$	1,200,000	\$ 1,200,000
5BJ	200-626	Half-Mill Maintenance Equalization	\$	0	\$ 10,700,000
5U2	200-685	National Education Statistics	\$	300,000	\$ 300,000
5W2	200-663	Early Learning Initiative	\$	106,580,000	\$ 127,456,000
598	200-659	Auxiliary Services Reimbursement	\$	1,328,910	\$ 1,328,910
620	200-615	Educational Improvement Grants	\$	1,000,000	\$ 1,000,000
TOTAL SSR State Special Revenue Fund Group			\$	140,691,774	\$ 172,334,658
<b>Lottery Profits Education Fund Group</b>					
017	200-612	Foundation Funding	\$	606,208,300	\$ 606,296,800
017	200-682	Lease Rental Payment Reimbursement	\$	31,691,700	\$ 31,603,200
TOTAL LPE Lottery Profits Education Fund Group			\$	637,900,000	\$ 637,900,000
<b>Revenue Distribution Fund Group</b>					
047	200-909	School District Property Tax Replacement-Business	\$	49,350,000	\$ 369,054,000
053	200-900	School District Property Tax Replacement-Utility	\$	116,647,522	\$ 101,647,522
TOTAL RDF Revenue Distribution Fund Group			\$	165,997,522	\$ 470,701,522
TOTAL ALL BUDGET FUND GROUPS			\$	10,187,642,895	\$ 10,735,612,623

**SECTION 206.09.03. MAINTENANCE AND EQUIPMENT**

Of the foregoing appropriation item 200-320, Maintenance and Equipment, up to \$25,000 may be expended in each fiscal year for State Board of Education out-of-state travel.

**SECTION 206.09.06. EARLY CHILDHOOD EDUCATION**

The Department of Education shall distribute the foregoing appropriation item 200-408, Early Childhood Education, to pay the costs of early childhood education programs. As used in this section, "provider" means a city, local, exempted village, or joint vocational school district, or an educational service center.

(A) In each fiscal year, up to two per cent of the total appropriation may be used by the Department for program support and technical assistance. The Department shall distribute the remainder of the appropriation in each fiscal year to serve children from families earning not more than 200 per cent of the federal poverty guidelines.

(B) The Department shall provide an annual report to the Governor, the Speaker of the House of Representatives, and the President of the Senate and post the report to the Department's web site, regarding early childhood education programs operated under this section and the early learning program guidelines for school readiness.

(C) For purposes of this section, "eligible child" means a child who is at least three years of age, is not of the age to be eligible for kindergarten, and whose family earns not more than 200 per cent of the federal poverty guidelines.

(D) After setting aside the amounts to make payments due from the previous fiscal year, in fiscal year 2006, the Department shall distribute funds first to recipients of funds for public preschool programs under Section 41.02 of Am. Sub. H.B. 95 of the 125th General Assembly in the previous fiscal year and the balance to new providers of early childhood education programs under this section. After setting aside the amounts to make payments due from the previous fiscal year, in fiscal year 2007, the Department shall distribute funds first to providers of early childhood education programs under this section in the previous fiscal year and the balance to new providers. Awards under this section shall be distributed on a per-pupil basis, which the Department may adjust so that the per-pupil amount multiplied by the number of eligible children enrolled and receiving services, as defined by the Department, reported on the first day of December or the first business day following that date equals the amount allocated under division (A) of this section. The Department may increase the per-pupil amount by a reasonable percentage, to be determined by the Department.

The Department may reallocate unobligated or unspent money to participating providers for purposes of program expansion, improvement, or special projects to promote quality and innovation.

(E) Costs for developing and administering an early childhood education program may not exceed fifteen per cent of the total approved costs of the program.

All providers shall maintain such fiscal control and accounting procedures as may be necessary to ensure the disbursement of, and accounting for, these funds. The control of funds provided in this program, and title to property obtained therefrom, shall be under the authority of the approved provider for purposes provided in the program unless, as described in division (I) of this section, the program waives its right for funding or a program's funding is eliminated or reduced due to its inability to meet financial or early learning program guidelines for school readiness. The

approved provider shall administer and use such property and funds for the purposes specified.

(F) The Department may examine a provider's financial and program records. If the financial practices of the program are not in accordance with standard accounting principles or do not meet financial standards outlined under division (E) of this section, or if the program fails to substantially meet the early learning program guidelines for school readiness or exhibits below average performance as measured against the guidelines, the early childhood education program shall propose and implement a corrective action plan that has been approved by the Department. The approved corrective action plan shall be signed by the chief executive officer and the executive of the official governing body of the provider. The corrective action plan shall include a schedule for monitoring by the Department. Such monitoring may include monthly reports, inspections, a timeline for correction of deficiencies, and technical assistance to be provided by the Department or obtained by the early childhood education program. The Department may withhold funding pending corrective action. If an early childhood education program fails to satisfactorily complete a corrective action plan, the Department may deny expansion funding to the program or withdraw all or part of the funding to the program and establish a new provider through a competitive bidding process established by the Department.

(G) Each early childhood education program shall do all of the following:

(1) Meet teacher qualification requirements prescribed by section 3301.311 of the Revised Code;

(2) Align curriculum to the early learning content standards;

(3) Meet any assessment requirements prescribed by section 3301.0715 of the Revised Code that are applicable to the program;

(4) Require teachers, except teachers enrolled and working to obtain a degree pursuant to section 3301.311 of the Revised Code, to attend a minimum of twenty hours per year of professional development as prescribed by the Department regarding the implementation of content standards and assessments;

(5) Document and report child progress;

(6) Meet and report compliance with the early learning program guidelines for school readiness.

(H) Each provider shall develop a sliding fee scale based on family incomes and shall charge families who earn more than the federal poverty guidelines for the early childhood education program.

(I) If an early childhood education program voluntarily waives its right for funding, or has its funding eliminated for not meeting financial standards or the early learning program guidelines for school readiness, the provider shall transfer control of title to property, equipment, and remaining supplies obtained through the program to providers designated by the Department and return any unexpended funds to the Department along with any reports prescribed by the Department. The funding made available from a program that waives its right for funding or has its funding eliminated or reduced may be used by the Department for new grant awards or expansion grants. The Department may award new grants or expansion grants to eligible providers who apply. The eligible providers who apply must do so in accordance with the competitive bidding process established by the Department.

(J) As used in this section, "early learning program guidelines for school readiness" means the guidelines established by the Department pursuant to division (C)(3) of Section 206.09.54 of this act.

#### SECTION 206.09.09. EDUCATOR TRAINING

The foregoing appropriation item 200-410, Educator Training, shall be used to fund professional development programs in Ohio. The Department of Education shall, when possible, incorporate cultural competency as a component of professional development and actively promote the development of cultural competency in the operation of its professional development programs. As used in this section, "cultural competency" has the meaning specified by the Educator Standards Board under section 3319.61 of the Revised Code.

Of the foregoing appropriation item 200-410, Educator Training, up to \$7,850,000 in fiscal year 2006 and up to \$8,250,000 in fiscal year 2007 shall be used by the Department of Education to provide grants to pay \$2,000 of the application fee in order to assist teachers from public and chartered nonpublic schools applying for the first time to the National Board for Professional Teaching Standards for professional teaching certificates or licenses that the board offers. This set aside shall also be used to recognize and reward teachers who become certified by the National Board for Professional Teaching Standards under section 3319.55 of the Revised Code. Up to \$300,000 in each fiscal year of this set aside may be used by the Department to pay for costs associated with activities to support candidates through the application and certification process.

These moneys shall be used to pay up to the first 400 applications in each fiscal year received by the Department.

Of the foregoing appropriation item 200-410, Educator Training, up to \$9,515,817 in each fiscal year shall be allocated for entry year programs. These funds shall be used to support mentoring services and performance assessments of beginning teachers and principals in school districts and chartered nonpublic schools.

Of the foregoing appropriation item 200-410, Educator Training, up to \$200,000 in each fiscal year shall be used to provide technical assistance and grants for districts to develop local knowledge/skills-based compensation systems (Teacher Advancement Program). Each district receiving grants shall issue an annual report to the Department of Education detailing the use of the funds and the impact of the system developed by the district.

Of the foregoing appropriation item 200-410, Educator Training, up to \$350,000 in each fiscal year shall be used for training and professional development of school administrators, school treasurers, and school business officials.

Of the foregoing appropriation item 200-410, Educator Training, up to \$100,000 in fiscal year 2007 shall be used by the Department of Education to develop a supply and demand report that describes the availability of quality educators and critical educator shortage areas in Ohio.

Of the foregoing appropriation item 200-410, Educator Training, up to \$885,740 in each fiscal year shall be used for educator recruitment programs targeting shortage areas, including recruiting highly qualified minority candidates into teaching and recruiting prospective mathematics and science teachers. The funds also may be used to provide an alternative route to licensure for principals and other administrators.

Of the foregoing appropriation item 200-410, Educator Training, up to \$187,500 in each fiscal year shall be used by the Department of Education to identify hard-to-staff schools and to provide incentives for highly qualified teachers to teach in these schools. Stipends shall be provided to teachers with at least three years of experience who teach in the areas of special education or middle or high school mathematics or science.

Of the foregoing appropriation item 200-410, Educator Training, up to \$63,000 in each fiscal year shall be used to support the Ohio University Leadership Program.

Of the foregoing appropriation item 200-410, Educator Training, \$250,000 in each fiscal year shall be used to support the Ohio School Leadership Institute.

#### SECTION 206.09.10. CAREER-TECHNICAL EDUCATION MATCH

The foregoing appropriation item 200-416, Career-Technical Education Match, shall be used by the Department of Education to provide vocational administration matching funds under 20 U.S.C. 2311.

SECTION 206.09.12. COMPUTER/APPLICATION/NETWORK DEVELOPMENT

The foregoing appropriation item 200-420, Computer/Application/Network Development, shall be used to support the development and implementation of information technology solutions designed to improve the performance and services of the Department of Education. Funds may be used for personnel, maintenance, and equipment costs related to the development and implementation of these technical system projects. Implementation of these systems shall allow the Department to provide greater levels of assistance to school districts and to provide more timely information to the public, including school districts, administrators, and legislators.

ALTERNATIVE EDUCATION PROGRAMS

There is hereby created the Alternative Education Advisory Council, which shall consist of one representative from each of the following agencies: the Ohio Department of Education; the Department of Youth Services; the Ohio Department of Alcohol and Drug Addiction Services; the Department of Mental Health; the Office of the Governor or, at the Governor's discretion, the Office of the Lieutenant Governor; the Office of the Attorney General; and the Office of the Auditor of State.

Of the foregoing appropriation item 200-421, Alternative Education Programs, up to \$6,227,310 in each fiscal year shall be used for the renewal of successful implementation grants and for competitive matching grants to the 21 urban school districts as defined in division (O) of section 3317.02 of the Revised Code as it existed prior to July 1, 1998, and up to \$6,408,074 in each fiscal year shall be used for the renewal of successful implementation grants and for competitive matching grants to rural and suburban school districts for alternative educational programs for existing and new at-risk and delinquent youth. Programs shall be focused on youth in one or more of the following categories: those who have been expelled or suspended, those who have dropped out of school or who are at risk of dropping out of school, those who are habitually truant or disruptive, or those on probation or on parole from a Department of Youth Services facility. Grants shall be awarded according to the criteria established by the Alternative Education Advisory Council in 1999. Grants shall be awarded only to programs in which the grant will not serve as the program's primary source of funding.

These grants shall be administered by the Department of Education.

The Department of Education may waive compliance with any minimum education standard established under section 3301.07 of the Revised Code for any alternative school that receives a grant under this section on the grounds that the waiver will enable the program to more effectively educate students enrolled in the alternative school.

Of the foregoing appropriation item 200-421, Alternative Education Programs, up to \$422,281 in each fiscal year may be used for program administration, monitoring, technical assistance, support, research, and evaluation. Any unexpended balance may be used to provide additional matching grants to urban, suburban, or rural school districts as outlined above.

Of the foregoing appropriation item 200-421, Alternative Education Programs, up to \$675,000 in fiscal year 2006 and up to \$500,000 in fiscal year 2007 may be used by the Department of Education to administer the Educational Choice Scholarship Pilot Program established under section 3310.02 of the Revised Code.

Of the foregoing appropriation item 200-421, Alternative Education Programs, \$75,000 in each fiscal year shall be used to support the Toledo Tech Academy.

Of the foregoing appropriation item 200-421, Alternative Education Programs, \$100,000 in each fiscal year shall be used for the Youth Opportunities United, Inc.

#### SCHOOL MANAGEMENT ASSISTANCE

Of the foregoing appropriation item 200-422, School Management Assistance, up to \$1,315,000 in each fiscal year shall be used by the Auditor of State in consultation with the Department of Education for expenses incurred in the Auditor of State's role relating to fiscal caution, fiscal watch, and fiscal emergency activities as defined in Chapter 3316. of the Revised Code and may also be used to conduct performance audits consistent with the recommendations of the Governor's Blue Ribbon Task Force on Financing Student Success, with priority given to districts in fiscal distress. Expenses include duties related to the completion of performance audits for school districts that the Superintendent of Public Instruction determines are employing fiscal practices or experiencing budgetary conditions that could produce a state of fiscal watch or fiscal emergency.

The remainder of foregoing appropriation item 200-422, School Management Assistance, shall be used by the Department of Education to provide fiscal technical assistance and inservice education for school district management personnel and to administer, monitor, and implement the fiscal



watch and fiscal emergency provisions under Chapter 3316. of the Revised Code.

#### POLICY ANALYSIS

The foregoing appropriation item 200-424, Policy Analysis, shall be used by the Department of Education to support a system of administrative, statistical, and legislative education information to be used for policy analysis. Staff supported by this appropriation shall administer the development of reports, analyses, and briefings to inform education policymakers of current trends in education practice, efficient and effective use of resources, and evaluation of programs to improve education results. The database shall be kept current at all times. These research efforts shall be used to supply information and analysis of data to the General Assembly and other state policymakers, including the Office of Budget and Management and the Legislative Service Commission.

The Department of Education may use funding from this appropriation item to purchase or contract for the development of software systems or contract for policy studies that will assist in the provision and analysis of policy-related information. Funding from this appropriation item also may be used to monitor and enhance quality assurance for research-based policy analysis and program evaluation to enhance the effective use of education information to inform education policymakers.

#### TECH PREP CONSORTIA SUPPORT

The foregoing appropriation item 200-425, Tech Prep Consortia Support, shall be used by the Department of Education to support state-level activities designed to support, promote, and expand tech prep programs. Use of these funds shall include, but not be limited to, administration of grants, program evaluation, professional development, curriculum development, assessment development, program promotion, communications, and statewide coordination of tech prep consortia.

#### OHIO EDUCATIONAL COMPUTER NETWORK

The foregoing appropriation item 200-426, Ohio Educational Computer Network, shall be used by the Department of Education to maintain a system of information technology throughout Ohio and to provide technical assistance for such a system in support of the State Education Technology Plan under section 3301.07 of the Revised Code.

Of the foregoing appropriation item 200-426, Ohio Educational Computer Network, up to \$18,136,691 in each fiscal year shall be used by the Department of Education to support connection of all public school buildings and participating chartered nonpublic schools to the state's education network, to each other, and to the Internet. In each fiscal year the

Department of Education shall use these funds to assist data acquisition sites or school districts with the operational costs associated with this connectivity. The Department of Education shall develop a formula and guidelines for the distribution of these funds to the data acquisition sites or individual school districts. As used in this section, "public school building" means a school building of any city, local, exempted village, or joint vocational school district, any community school established under Chapter 3314. of the Revised Code, any educational service center building used for instructional purposes, the Ohio School for the Deaf and the Ohio School for the Blind, or high schools chartered by the Ohio Department of Youth Services and high schools operated by Ohio Department of Rehabilitation and Corrections' Ohio Central School System.

Of the foregoing appropriation item 200-426, Ohio Educational Computer Network, up to \$1,700,000 in each fiscal year shall be used for the Union Catalog and InfOhio Network.

Of the foregoing appropriation item 200-426, Ohio Educational Computer Network, up to \$8,338,468 in each fiscal year shall be used, through a formula and guidelines devised by the department, to subsidize the activities of designated data acquisition sites, as defined by State Board of Education rules, to provide school districts and chartered nonpublic schools with computer-based student and teacher instructional and administrative information services, including approved computerized financial accounting, and to ensure the effective operation of local automated administrative and instructional systems.

Of the foregoing appropriation item 200-426, Ohio Educational Computer Network, up to \$769,223 in each fiscal year shall be used for the INFOhio Network to support the provision of electronic resources with priority given to resources that support the teaching of state academic content standards to all public schools. Consideration shall be given by the Department of Education to coordinating the allocation of these moneys with the efforts of Libraries Connect Ohio, whose members include OhioLINK, the Ohio Public Information Network, and the State Library of Ohio.

The remainder of appropriation item 200-426, Ohio Educational Computer Network, shall be used to support development, maintenance, and operation of a network of uniform and compatible computer-based information and instructional systems. This technical assistance shall include, but not be restricted to, development and maintenance of adequate computer software systems to support network activities. In order to improve the efficiency of network activities, the Department and data

acquisition sites may jointly purchase equipment, materials, and services from funds provided under this appropriation for use by the network and, when considered practical by the Department, may utilize the services of appropriate state purchasing agencies.

#### ACADEMIC STANDARDS

Of the foregoing appropriation item 200-427, Academic Standards, up to \$747,912 in each fiscal year shall be used to provide funds to school districts that have one or more teachers participating in the teachers-on-loan program.

Of the foregoing appropriation item 200-427, Academic Standards, \$150,000 in each fiscal year shall be used by the Department in combination with funding earmarked for this purpose in the Board of Regents' budget under appropriation item 235-321, Operating Expenses. Such funding shall be used to support Ohio's Partnership for Continued Learning at the direction of the Office of the Governor. Ohio's Partnership for Continued Learning replaces and broadens the former Joint Council of the Department of Education and the Board of Regents. The Partnership shall advise and make recommendations to promote collaboration among relevant state entities in an effort to help local communities develop coherent and successful "P-16" learning systems. The Governor, or the Governor's designee, shall serve as the chairperson.

Of the foregoing appropriation item 200-427, Academic Standards, \$1,000,000 in each fiscal year shall be used for Project Lead the Way leadership and management oversight and initial and continuing support of Project Lead the Way workforce development programs in participating school districts. Project Lead the Way is a program that supports students interested in pursuing engineering professions and stimulates growth of career pathways that meet business and industry workforce needs.

Of the foregoing appropriation item 200-427, Academic Standards, up to \$2,600,000 in each fiscal year shall be used for intensive teacher professional development institutes that focus on classroom implementation of the mathematics standards.

Of the foregoing appropriation item 200-427, Academic Standards, \$200,000 in each fiscal year may be used to support the Ohio Resource Center for Math and Science.

Of the foregoing appropriation item 200-427, Academic Standards, up to \$282,000 in each fiscal year shall be used for the JASON Expedition project that provides statewide access to JASON Expedition content. Funds shall be used to provide professional development training for teachers participating in the project, statewide management, and a seventy-five per

cent subsidy for statewide licensing of JASON Expedition content with priority given to content aligned with state academic content standards for approximately 90,000 middle school students statewide.

Of the foregoing appropriation item 200-427, Academic Standards, \$285,000 in each fiscal year shall be used for the Ohio Science Institute (OSCI).

The remainder of appropriation item 200-427, Academic Standards, shall be used by the Department of Education to develop and communicate to school districts academic content standards and curriculum models.

#### SECTION 206.09.15. SCHOOL IMPROVEMENT INITIATIVES

Of the foregoing appropriation item 200-431, School Improvement Initiatives, \$300,000 in fiscal year 2006 and \$450,000 in fiscal year 2007 shall be used for Ohio's Rural Appalachian Leadership Development Initiative.

Of the foregoing appropriation item 200-431, School Improvement Initiatives, up to \$601,165 in each fiscal year shall be used by the Department of Education to contract with educational media centers to provide Ohio public schools with instructional resources and services with priority given to resources and services aligned with state academic content standards.

Of the foregoing appropriation item 200-431, School Improvement Initiatives, up to \$13,972,949 in fiscal year 2006 and \$13,672,678 in fiscal year 2007 shall be used to provide technical assistance to school districts that are declared to be in a state of academic watch or academic emergency under section 3302.03 of the Revised Code, to provide support to districts in the development and implementation of their continuous improvement plans as required in section 3302.04 of the Revised Code, to support a statewide comprehensive system of field relations that support local educators' abilities to foster academic achievement in the students they serve, and to provide technical assistance and support in accordance with Title I of the "No Child Left Behind Act of 2001," 115 Stat. 1425, 20 U.S.C. 6317. The field relations system shall include training that assists educators, school leadership, and technical assistance providers in understanding and implementing standards-based education, data analysis, and development of assessment systems for quality instruction.

Of the foregoing appropriation item 200-431, School Improvement Initiatives, up to \$315,000 in each fiscal year shall be used to reduce the dropout rate by addressing the academic and social problems of inner-city students through Project GRAD.

Of the foregoing appropriation item 200-431, School Improvement Initiatives, \$1,574,535 in fiscal year 2006 and \$2,753,985 in fiscal year 2007 shall be used in conjunction with funding provided in the Board of Regents' budget under appropriation item 235-434, College Readiness and Access, to create early college high schools, which are small, autonomous schools that blend high school and college into a coherent educational program.

Of the foregoing appropriation item 200-431, School Improvement Initiatives, up to \$2,935,000 in fiscal year 2006 and up to \$4,935,000 in fiscal year 2007 shall be used in partnership with nonprofit groups with expertise in converting existing large urban high schools into small, personalized high schools. Districts eligible for such funding include the Urban 21 high schools, as defined in division (O) of section 3317.02 of the Revised Code as it existed prior to July 1, 1998.

Of the foregoing appropriation item 200-431, School Improvement Initiatives, up to \$65,000 in each fiscal year shall be provided to Southern State Community College for the Pilot Post-Secondary Enrollment Options Program with Miami Trace High School.

Of the foregoing appropriation item 200-431, School Improvement Initiatives, \$1,000,000 in each fiscal year shall be used to support Jobs for Ohio Graduates (JOG). The Department of Education shall require a two-to-one match of local funding to state funding before releasing these funds to JOG.

Of the foregoing appropriation item 200-431, School Improvement Initiatives, \$50,000 in each fiscal year shall be used for the Big City Schools Program in Cincinnati.

Of the foregoing appropriation item 200-431, School Improvement Initiatives, \$1,000,000 shall be used in fiscal year 2006 to support Improved Solutions for Urban Students (ISUS) in Dayton.

READING/WRITING                      IMPROVEMENT-PROFESSIONAL  
DEVELOPMENT

Of the foregoing appropriation item 200-433, Reading/Writing Improvement-Professional Development, up to \$9,790,000 in each fiscal year shall be used for educator training in literacy for classroom teachers, administrators, and literacy specialists.

Of the foregoing appropriation item 200-433, Reading/Writing Improvement-Professional Development, up to \$5,000,000 in each fiscal year shall be used to support literacy professional development partnerships between the Department of Education, higher education institutions, literacy networks, and school districts.

Of the foregoing appropriation item 200-433, Reading/Writing Improvement–Professional Development, up to \$900,000 in each fiscal year shall be used by the Department of Education to fund the Reading Recovery Training Network, to cover the cost of release time for the teacher trainers, and to provide grants to districts to implement other reading improvement programs on a pilot basis. Funds from this set-aside also may be used to conduct evaluations of the impact and effectiveness of Reading Recovery and other reading improvement programs.

Of the foregoing appropriation item 200-433, Reading/Writing Improvement–Professional Development, up to \$250,000 in each fiscal year shall be used for the Waterford Early Reading Program.

The remainder of appropriation item 200-433, Reading/Writing Improvement–Professional Development, shall be used by the Department of Education to provide administrative support of literacy professional development programs.

#### STUDENT ASSESSMENT

The foregoing appropriation item 200-437, Student Assessment, shall be used to develop, field test, print, distribute, score, report results, and support other associated costs for the tests required under sections 3301.0710 and 3301.0711 of the Revised Code and for similar purposes as required by section 3301.27 of the Revised Code.

#### ACCOUNTABILITY/REPORT CARDS

Of the foregoing appropriation item 200-439, Accountability/Report Cards, up to \$200,100 in fiscal year 2006 and up to \$3,778,540 in fiscal year 2007 shall be used by the Department of Education to incorporate a statewide pilot value-added progress dimension into performance ratings for school districts and to train regional specialists. This funding shall be used in consultation with a credible nonprofit organization with expertise in value-added progress dimensions.

The remainder of the appropriation item 200-439, Accountability/Report Cards, shall be used for the development of an accountability system that includes the preparation and distribution of school report cards under section 3302.03 of the Revised Code.

#### CHILD CARE LICENSING

The foregoing appropriation item 200-442, Child Care Licensing, shall be used by the Department of Education to license and to inspect preschool and school-age child care programs under sections 3301.52 to 3301.59 of the Revised Code.

#### OHIOREADS VOLUNTEER SUPPORT

The foregoing appropriation item 200-445, OhioReads Volunteer

Support, may be allocated by the Department of Education for volunteer coordinators in public school buildings, for background checks for volunteers, to evaluate programs, and to develop, implement, and support literacy improvement activities and interventions for students in grades kindergarten through twelve.

#### SECTION 206.09.18. EDUCATION MANAGEMENT INFORMATION SYSTEM

The foregoing appropriation item 200-446, Education Management Information System, shall be used by the Department of Education to improve the Education Management Information System (EMIS).

Of the foregoing appropriation item 200-446, Education Management Information System, up to \$1,295,857 in each fiscal year shall be distributed to designated data acquisition sites for costs relating to processing, storing, and transferring data for the effective operation of the EMIS. These costs may include, but are not limited to, personnel, hardware, software development, communications connectivity, professional development, and support services, and to provide services to participate in the State Education Technology Plan pursuant to section 3301.07 of the Revised Code.

Of the foregoing appropriation item 200-446, Education Management Information System, up to \$8,055,189 in each fiscal year shall be distributed on a per-pupil basis to school districts, community schools established under Chapter 3314. of the Revised Code, educational service centers, joint vocational school districts, and any other education entity that reports data through EMIS. From this funding, each school district or community school established under Chapter 3314. of the Revised Code with enrollment greater than 100 students and each vocational school district shall receive a minimum of \$5,000 in each fiscal year. Each school district or community school established under Chapter 3314. of the Revised Code with enrollment between one and one hundred and each educational service center and each county board of MR/DD that submits data through EMIS shall receive \$3,000 in each fiscal year. This subsidy shall be used for costs relating to reporting, processing, storing, transferring, and exchanging data necessary to meet requirements of the Department of Education's data system.

The remainder of appropriation item 200-446, Education Management Information System, shall be used to develop and support a common core of data definitions and standards as adopted by the Education Data Advisory Council, including the ongoing development and maintenance of the data dictionary and data warehouse. In addition, such funds shall be used to

support the development and implementation of data standards and the design, development, and implementation of a new data exchange system.

Any provider of software meeting the standards approved by the Education Data Advisory Council shall be designated as an approved vendor and may enter into contracts with local school districts, community schools, data acquisition centers, or other educational entities for the purpose of collecting and managing data required under Ohio's education management information system (EMIS) laws. On an annual basis, the Department of Education shall convene an advisory group of school districts, community schools, and other education-related entities to review the Education Management Information System data definitions and data format standards. The advisory group shall recommend changes and enhancements based upon surveys of its members, education agencies in other states, and current industry practices, to reflect best practices, align with federal initiatives, and meet the needs of school districts.

School districts and community schools not implementing a common and uniform set of data definitions and data format standards for Education Management Information System purposes shall have all EMIS funding withheld until they are in compliance.

#### GED TESTING

The foregoing appropriation item 200-447, GED Testing, shall be used to provide General Educational Development (GED) testing at no cost to applicants, under rules adopted by the State Board of Education. The Department of Education shall reimburse school districts and community schools, created under Chapter 3314. of the Revised Code, for a portion of the costs incurred in providing summer instructional or intervention services to students who have not graduated because of their inability to pass one or more parts of the state's Ohio Graduation Test or ninth grade proficiency test. School districts shall also provide such services to students who are residents of the district under section 3313.64 of the Revised Code, but who are enrolled in chartered, nonpublic schools. The services shall be provided in the public school, in nonpublic schools, in public centers, or in mobile units located on or off the nonpublic school premises. No school district shall provide summer instructional or intervention services to nonpublic school students as authorized by this section unless such services are available to students attending the public schools within the district. No school district shall provide services for use in religious courses, devotional exercises, religious training, or any other religious activity. Chartered, nonpublic schools shall pay for any unreimbursed costs incurred by school districts for providing summer instruction or intervention services to



students enrolled in chartered, nonpublic schools. School districts may provide these services to students directly or contract with postsecondary or nonprofit community-based institutions in providing instruction.

#### EDUCATOR PREPARATION

Of the foregoing appropriation item 200-448, Educator Preparation, \$100,000 in each fiscal year shall be provided in conjunction with funding in the Board of Regents' budget under appropriation item 235-435, Teacher Improvement Initiatives, to the Teacher Quality Partnership project. The Teacher Quality Partnership is a research consortium of Ohio's fifty colleges and universities providing teacher preparation programs. Funds shall be used to support a comprehensive longitudinal study of the preparation, in-school support, and effectiveness of Ohio teachers.

Of the foregoing appropriation item 200-448, Educator Preparation, up to \$1,551,000 in each fiscal year shall be used by the Department to support the Educator Standards Board under section 3319.61 of the Revised Code as it develops and recommends to the State Board of Education standards for educator training and standards for teacher and other school leadership positions.

#### COMMUNITY SCHOOLS

Of the foregoing appropriation item 200-455, Community Schools, up to \$1,308,661 in each fiscal year may be used by the Department of Education for additional services and responsibilities under section 3314.11 of the Revised Code.

Of the foregoing appropriation item 200-455, Community Schools, up to \$225,000 in each fiscal year may be used by the Department of Education for developing and conducting training sessions for sponsors and prospective sponsors of community schools as prescribed in division (A)(1) of section 3314.015 of the Revised Code. In developing the training sessions, the Department shall collect and disseminate examples of best practices used by sponsors of independent charter schools in Ohio and other states.

The remaining appropriation may be used by the Department of Education to make grants of up to \$50,000 to each proposing group with a preliminary agreement obtained under division (C)(2) of section 3314.02 of the Revised Code in order to defray planning and initial start-up costs. In the first year of operation of a community school, the Department of Education may make a grant of not more than \$100,000 to the governing authority of the school to partially defray additional start-up costs. The amount of the grant shall be based on a thorough examination of the needs of the community school. The Department of Education shall not utilize moneys

received under this section for any other purpose other than those specified under this section.

A community school awarded start-up grants from appropriation item 200-613, Public Charter Schools (Fund 3T4), shall not be eligible for grants under this section.

#### SECTION 206.09.21. PUPIL TRANSPORTATION

Of the foregoing appropriation item 200-502, Pupil Transportation, up to \$822,400 in each fiscal year may be used by the Department of Education for training prospective and experienced school bus drivers in accordance with training programs prescribed by the Department. Up to \$58,115,428 in fiscal year 2006 and up to \$59,277,737 in fiscal year 2007 may be used by the Department of Education for special education transportation reimbursements to school districts and county MR/DD boards for transportation operating costs as provided in division (M) of section 3317.024 of the Revised Code. The remainder of appropriation item 200-502, Pupil Transportation, shall be used for the state reimbursement of public school districts' costs in transporting pupils to and from the school they attend in accordance with the district's policy, State Board of Education standards, and the Revised Code.

Notwithstanding the distribution formula outlined in division (D) of section 3317.022 of the Revised Code, each school district shall receive an additional two per cent in state funding for transportation in fiscal year 2006 over what was received in fiscal year 2005, and the local share of transportation costs that is used in the calculation of the charge-off supplement and excess cost supplement for each school district in fiscal year 2006 shall be increased by two per cent from that used in calculations in fiscal year 2005.

Notwithstanding the distribution formula outlined in division (D) of section 3317.022 of the Revised Code, each school district shall receive an additional two per cent in state funding for transportation in fiscal year 2007 over what was received in fiscal year 2006, and the local share of transportation costs that is used in the calculation of the charge-off supplement and excess cost supplement for each school district in fiscal year 2007 shall be increased by two per cent from that used in calculations in fiscal year 2006.

The Department of Education shall recommend a new formula for allocating state funds for transportation costs. The Department shall submit the recommendation to the Director of Budget and Management, the Speaker of the House of Representatives, and the President of the Senate not

later than July 1, 2006.

School districts not receiving state funding for transportation in fiscal year 2005 under division (D) of section 3317.022 of the Revised Code shall not receive state funding for transportation in fiscal year 2006 or fiscal year 2007.

#### BUS PURCHASE ALLOWANCE

The foregoing appropriation item 200-503, Bus Purchase Allowance, shall be distributed to school districts, educational service centers, and county MR/DD boards pursuant to rules adopted under section 3317.07 of the Revised Code. Up to 28 per cent of the amount appropriated may be used to reimburse school districts and educational service centers for the purchase of buses to transport handicapped and nonpublic school students and to county MR/DD boards, the Ohio School for the Deaf, and the Ohio School for the Blind for the purchase of buses to transport handicapped students.

#### SCHOOL LUNCH MATCH

The foregoing appropriation item 200-505, School Lunch Match, shall be used to provide matching funds to obtain federal funds for the school lunch program.

#### SECTION 206.09.24. ADULT LITERACY EDUCATION

The foregoing appropriation item 200-509, Adult Literacy Education, shall be used to support adult basic and literacy education instructional programs and the State Literacy Resource Center Program.

Of the foregoing appropriation item 200-509, Adult Literacy Education, up to \$488,037 in each fiscal year shall be used for the support and operation of the State Literacy Resource Center.

Of the foregoing appropriation item 200-509, Adult Literacy Education, up to \$175,000 in each fiscal year shall be used for state reimbursement to school districts for adult high school continuing education programs under section 3313.531 of the Revised Code or for costs associated with awarding adult high school diplomas under section 3313.611 of the Revised Code.

Of the foregoing appropriation item 200-509, Adult Literacy Education, \$130,000 in each fiscal year shall be used to support initiatives for English as a Second Language programs. Funding shall be distributed as follows: \$60,000 in each fiscal year for Jewish Community Federation of Cleveland, \$25,000 in each fiscal year for Yassenoff Jewish Community Center of Columbus, \$30,000 in each fiscal year for Jewish Family Services of Cincinnati, and \$15,000 in each fiscal year for Jewish Family Services of Dayton.

The remainder of the appropriation shall be used to continue to satisfy the state match and maintenance of effort requirements for the support and operation of the Department of Education-administered instructional grant program for adult basic and literacy education in accordance with the Department's state plan for adult basic and literacy education as approved by the State Board of Education and the Secretary of the United States Department of Education.

#### AUXILIARY SERVICES

The foregoing appropriation item 200-511, Auxiliary Services, shall be used by the Department of Education for the purpose of implementing section 3317.06 of the Revised Code. Of the appropriation, up to \$2,000,000 in each fiscal year may be used for payment of the Post-Secondary Enrollment Options Program for nonpublic students under section 3365.10 of the Revised Code.

#### POSTSECONDARY ADULT CAREER-TECHNICAL EDUCATION

Of the foregoing appropriation item 200-514, Postsecondary Adult Career-Technical Education, \$40,000 in each fiscal year shall be used for statewide coordination of the activities of the Ohio Young Farmers.

The remainder of appropriation item 200-514, Postsecondary Adult Career-Technical Education, shall be used by the State Board of Education to provide postsecondary adult career-technical education under sections 3313.52 and 3313.53 of the Revised Code.

#### SECTION 206.09.27. GIFTED PUPIL PROGRAM

The foregoing appropriation item 200-521, Gifted Pupil Program, shall be used for gifted education units not to exceed 1,110 in each fiscal year under division (P) of section 3317.024 and division (F) of section 3317.05 of the Revised Code.

Of the foregoing appropriation item 200-521, Gifted Pupil Program, up to \$4,700,000 in each fiscal year may be used as an additional supplement for identifying gifted students under Chapter 3324. of the Revised Code.

Of the foregoing appropriation item 200-521, Gifted Pupil Program, the Department of Education may expend up to \$940,000 in each fiscal year for the Summer Honors Institute for gifted freshman and sophomore high school students. Up to \$65,800 in each fiscal year shall be used for the Ohio Summer School for the Gifted (Martin Essex Program).

#### NONPUBLIC ADMINISTRATIVE COST REIMBURSEMENT

The foregoing appropriation item 200-532, Nonpublic Administrative Cost Reimbursement, shall be used by the Department of Education for the purpose of implementing section 3317.063 of the Revised Code.

**SECTION 206.09.30. SPECIAL EDUCATION ENHANCEMENTS**

Of the foregoing appropriation item 200-540, Special Education Enhancements, up to \$2,906,875 in each fiscal year shall be used for home instruction for children with disabilities; up to \$1,462,500 in each fiscal year shall be used for parent mentoring programs; and up to \$2,783,396 in each fiscal year may be used for school psychology interns.

Of the foregoing appropriation item 200-540, Special Education Enhancements, \$750,000 in each fiscal year shall be used for the Out of School Initiative of Sinclair Community College.

Of the foregoing appropriation item 200-540, Special Education Enhancements, \$200,000 shall be used for a preschool special education pilot program in Bowling Green City School District.

Of the foregoing appropriation item 200-540, Special Education Enhancements, \$200,000 in each fiscal year shall be used to support the Bellefaire Jewish Children's Bureau.

Of the foregoing appropriation item 200-540, Special Education Enhancements, up to \$79,194,060 in fiscal year 2006 and up to \$79,986,001 in fiscal year 2007 shall be distributed by the Department of Education to county boards of mental retardation and developmental disabilities, educational service centers, and school districts for preschool special education units and preschool supervisory units under section 3317.052 of the Revised Code. The Department may reimburse county boards of mental retardation and developmental disabilities, educational service centers, and school districts for related services as defined in rule 3301-51-11 of the Administrative Code, for preschool occupational and physical therapy services provided by a physical therapy assistant and certified occupational therapy assistant, and for an instructional assistant. To the greatest extent possible, the Department of Education shall allocate these units to school districts and educational service centers.

No physical therapy assistant who provides services under this section shall fail to practice in accordance with the requirements of Chapter 4755. of the Revised Code and rules 4755-27-02 and 4755-27-03 of the Administrative Code. No occupational therapy assistant who provides services under this section shall fail to practice in accordance with the requirements of Chapter 4755. of the Revised Code and rules 4755-7-01 and 4755-7-03 of the Administrative Code.

The Department of Education shall require school districts, educational service centers, and county MR/DD boards serving preschool children with disabilities to document child progress using research-based indicators

prescribed by the Department and report results annually. The reporting dates and method shall be determined by the Department.

Of the foregoing appropriation item 200-540, Special Education Enhancements, up to \$315,000 in each fiscal year shall be used for the Collaborative Language and Literacy Instruction Project.

The remainder of appropriation item 200-540, Special Education Enhancements, shall be used to fund special education and related services at county boards of mental retardation and developmental disabilities for eligible students under section 3317.20 of the Revised Code and at institutions for eligible students under section 3317.201 of the Revised Code.

#### SECTION 206.09.33. CAREER-TECHNICAL EDUCATION ENHANCEMENTS

Of the foregoing appropriation item 200-545, Career-Technical Education Enhancements, up to \$2,436,070 in each fiscal year shall be used to fund career-technical education units at institutions.

Of the foregoing appropriation item 200-545, Career-Technical Education Enhancements, up to \$2,621,507 in each fiscal year shall be used by the Department of Education to fund competitive grants to tech prep consortia that expand the number of students enrolled in tech prep programs. These grant funds shall be used to directly support expanded tech prep programs, including equipment, provided to students enrolled in school districts, including joint vocational school districts, and affiliated higher education institutions.

Of the foregoing appropriation item 200-545, Career-Technical Education Enhancements, \$943,873 in fiscal year 2006 shall be used to provide an amount to each eligible school district for the replacement or updating of equipment essential for the instruction of students in job skills taught as part of a career-technical program or programs approved for such instruction by the State Board of Education. School districts replacing or updating career-technical education equipment may purchase or lease such equipment. The Department of Education shall review and approve all equipment requests and may allot appropriated funds to eligible school districts on the basis of the number of full-time equivalent workforce development teachers in all eligible districts making application for funds.

The State Board of Education may adopt standards of need for equipment allocation. Pursuant to the adoption of any such standards of need by the State Board of Education, appropriated funds may be allotted to eligible districts according to such standards. Equipment funds allotted

under either process shall be provided to a school district at 30, 40, or 50 per cent of cost on the basis of a rating developed by the Department of Education using the state share percentage as provided in division (B)(2) of section 3317.022 of the Revised Code.

Of the foregoing appropriation item 200-545, Career-Technical Education Enhancements, up to \$3,401,000 in each fiscal year shall be used by the Department of Education to support existing High Schools That Work (HSTW) sites, develop and support new sites, fund technical assistance, and support regional centers and middle school programs. The purpose of HSTW is to combine challenging academic courses and modern career-technical studies to raise the academic achievement of students. HSTW provides intensive technical assistance, focused staff development, targeted assessment services, and ongoing communications and networking opportunities.

Of the foregoing appropriation item 200-545, Career-Technical Education Enhancements, up to \$466,992 in each fiscal year shall be allocated for the Ohio Career Information System (OCIS) and used for the dissemination of career information data to public schools, libraries, rehabilitation centers, two- and four-year colleges and universities, and other governmental units.

Of the foregoing appropriation item 200-545, Career-Technical Educational Enhancements, up to \$300,000 in each fiscal year shall be used by the Department of Education to enable students in agricultural programs to enroll in a fifth quarter of instruction based on the agricultural education model of delivering work-based learning through supervised agricultural experience. The Department of Education shall determine eligibility criteria and the reporting process for the Agriculture 5th Quarter Project and shall fund as many programs as possible given the set aside.

#### SECTION 206.09.36. FOUNDATION FUNDING

The foregoing appropriation item 200-550, Foundation Funding, includes \$85,000,000 in each fiscal year for the state education aid offset due to the change in public utility valuation as a result of Am. Sub. S.B. 3 and Am. Sub. S.B. 287, both of the 123rd General Assembly. This amount represents the total state education aid offset due to the valuation change for school districts and joint vocational school districts from all relevant appropriation line item sources. Upon certification by the Department of Education, in consultation with the Department of Taxation, to the Director of Budget and Management of the actual state aid offset, the cash transfer from fund 053, appropriation item 200-900, School District Property Tax

Replacement - Utility, shall be decreased or increased by the Director of Budget and Management to match the certification in accordance with section 5727.84 of the Revised Code.

Of the foregoing appropriation item 200-550, Foundation Funding, up to \$425,000 shall be expended in each fiscal year for court payments under section 2151.357 of the Revised Code; an amount shall be available in each fiscal year for the cost of reappraisal guarantee under section 3317.04 of the Revised Code; an amount shall be available in each fiscal year to fund up to 225 full-time equivalent approved GRADS teacher grants under division (R) of section 3317.024 of the Revised Code; an amount shall be available in each fiscal year to make payments to school districts under division (A)(3) of section 3317.022 of the Revised Code; an amount shall be available in each fiscal year to make payments to school districts under division (F) of section 3317.022 of the Revised Code; an amount shall be available in each fiscal year to make payments to school districts under division (C) of section 3317.0212 of the Revised Code; and up to \$30,000,000 in each fiscal year shall be reserved for payments under sections 3317.026, 3317.027, and 3317.028 of the Revised Code except that the Controlling Board may increase the \$30,000,000 amount if presented with such a request from the Department of Education. Of the foregoing appropriation item 200-550, Foundation Funding, up to \$18,000,000 in fiscal year 2006 and up to \$19,000,000 in fiscal year 2007 shall be used to provide additional state aid to school districts for special education students under division (C)(3) of section 3317.022 of the Revised Code; up to \$2,000,000 in each fiscal year shall be reserved for Youth Services tuition payments under section 3317.024 of the Revised Code; and up to \$52,000,000 in each fiscal year shall be reserved to fund the state reimbursement of educational service centers under section 3317.11 of the Revised Code and the section of this act entitled "EDUCATIONAL SERVICE CENTERS FUNDING." An amount shall be available for special education weighted funding under division (C)(1) of section 3317.022 and division (D)(1) of section 3317.16 of the Revised Code.

Of the foregoing appropriation item 200-550, Foundation Funding, an amount shall be available in each fiscal year to be used by the Department of Education for transitional aid for school districts and joint vocational school districts. Funds shall be distributed under the sections of this act entitled "TRANSITIONAL AID FOR CITY, LOCAL, AND EXEMPTED VILLAGE SCHOOL DISTRICTS" AND "TRANSITIONAL AID FOR JOINT VOCATIONAL SCHOOL DISTRICTS."

Of the foregoing appropriation item 200-550, Foundation Funding, up to



\$1,000,000 in each fiscal year shall be used by the Department of Education for a program to pay for educational services for youth who have been assigned by a juvenile court or other authorized agency to any of the facilities described in division (A) of the section of this act entitled "PRIVATE TREATMENT FACILITY PROJECT."

Of the foregoing appropriation item 200-550, Foundation Funding, up to \$3,700,000 in each fiscal year shall be used for school breakfast programs. Of this amount, up to \$900,000 shall be used in each fiscal year by the Department of Education to contract with the Children's Hunger Alliance to expand access to child nutrition programs consistent with the organization's continued ability to meet specified performance measures as detailed in the contract. Of this amount, the Children's Hunger Alliance shall use at least \$150,000 in each fiscal year to subcontract with an appropriate organization or organizations to expand summer food participation in underserved areas of the state, consistent with those organizations' continued ability to meet specified performance measures as detailed in the subcontracts. The remainder of the appropriation shall be used to partially reimburse school buildings within school districts that are required to have a school breakfast program under section 3313.813 of the Revised Code, at a rate decided by the Department.

Of the foregoing appropriation item 200-550, Foundation Funding, up to \$8,800,000 in fiscal year 2006 and up to \$8,600,000 in fiscal year 2007 shall be used to operate the school choice program in the Cleveland Municipal School District under sections 3313.974 to 3313.979 of the Revised Code.

Of the portion of the funds distributed to the Cleveland Municipal School District under this section, up to \$10,401,887 in fiscal year 2006 and up to \$11,901,887 in fiscal year 2007 shall be used to operate the school choice program in the Cleveland Municipal School District under sections 3313.974 to 3313.979 of the Revised Code.

The remaining portion of appropriation item 200-550, Foundation Funding, shall be expended for the public schools of city, local, exempted village, and joint vocational school districts, including base cost funding, special education speech service enhancement funding, career-technical education weight funding, career-technical education associated service funding, guarantee funding, teacher training and experience funding, poverty-based assistance, parity aid, charge-off supplement, and excess cost supplement under sections 3317.022, 3317.023, 3317.029, 3317.0212, 3317.0216, 3317.0217, and 3317.16 of the Revised Code.

Appropriation items 200-502, Pupil Transportation, 200-521, Gifted Pupil Program, 200-540, Special Education Enhancements, and 200-550,

Foundation Funding, other than specific set-asides, are collectively used in each fiscal year to pay state formula aid obligations for school districts and joint vocational school districts under Chapter 3317. of the Revised Code. The first priority of these appropriation items, with the exception of specific set-asides, is to fund state formula aid obligations under Chapter 3317. of the Revised Code. It may be necessary to reallocate funds among these appropriation items or use excess funds from other general revenue fund appropriation items in the Department of Education's budget in each fiscal year, in order to meet state formula aid obligations. If it is determined that it is necessary to transfer funds among these appropriation items or to transfer funds from other General Revenue Fund appropriations in the Department of Education's budget to meet state formula aid obligations, the Department of Education shall seek approval from the Controlling Board to transfer funds as needed.

#### SECTION 206.09.37. DISTRICT SPENDING REQUIREMENTS

The Department of Education shall review district spending requirements as specified in section 3317.029 of the Revised Code and shall submit a report recommending modifications by March 31, 2007. Copies of the report shall be provided to the Director of Budget and Management, the Speaker of the House of Representatives, and the President of the Senate. The recommendations shall include decreasing degrees of flexibility of spending for districts not meeting adequate progress standards as defined by the Department of Education. Recommendations shall also specifically review the definition of class size reduction in division (J)(7) of section 3317.029 of the Revised Code. The reports submitted by school districts under the section of this act entitled "INTERVENTION FUNDING" shall be used to inform these recommendations.

#### SECTION 206.09.39. TRANSITIONAL AID FOR CITY, LOCAL, AND EXEMPTED VILLAGE SCHOOL DISTRICTS

(A) The Department of Education shall distribute funds within appropriation item 200-550, Foundation Funding, for transitional aid in each fiscal year to each qualifying city, local, and exempted village school district.

In fiscal years 2006 and 2007, the Department shall pay transitional aid to each city, local, or exempted village school district that experiences any decrease in its SF-3 funding plus charge-off supplement for the current fiscal year from its SF-3 funding plus charge-off supplement for the

previous fiscal year. The amount of the transitional aid payment shall equal the difference between the district's SF-3 funding plus charge-off supplement for the current fiscal year and its SF-3 funding plus charge-off supplement for the previous fiscal year.

(B)(1) Subject to divisions (B)(2) and (3) of this section, the "SF-3 funding plus charge-off supplement" for each city, local, and exempted village school district in fiscal years 2006 and 2007 equals the sum of the following:

(a) Base-cost funding under division (A) of section 3317.022 of the Revised Code;

(b) Special education and related services additional weighted funding under division (C)(1) of section 3317.022 of the Revised Code;

(c) Speech services funding under division (C)(4) of section 3317.022 of the Revised Code;

(d) Vocational education additional weighted funding under division (E) of section 3317.022 of the Revised Code;

(e) GRADS funding under division (R) of section 3317.024 of the Revised Code;

(f) Adjustments for classroom teachers and educational service personnel under divisions (B), (C), and (D) of section 3317.023 of the Revised Code;

(g) Poverty-Based Assistance under section 3317.029 of the Revised Code;

(h) Gifted education units under section 3317.05 of the Revised Code;

(i) Transportation under the section of this act entitled "PUPIL TRANSPORTATION";

(j) The excess cost supplement under division (F) of section 3317.022 of the Revised Code;

(k) Parity aid under section 3317.0217 of the Revised Code;

(l) The reappraisal guarantee under division (C) of section 3317.04 of the Revised Code;

(m) The charge-off supplement under section 3317.0216 of the Revised Code.

(2) For purposes of calculating transitional aid in fiscal year 2006, a district's fiscal year 2005 SF-3 funding plus charge-off supplement is the difference of (a) the sum of the amounts described in divisions (A) to (O) of Section 41.37 of Am. Sub. H.B. 95 of the 125th General Assembly, as amended, plus any transitional aid paid to the district under that section, that the district actually received in fiscal year 2005 minus (b) the amount of parity aid and the amount of disadvantaged pupil impact aid deducted that

year under division (C)(6) of section 3314.08 of the Revised Code, as that section existed that year, and Section 16 of Am. Sub. S.B. 2 of the 125th General Assembly on behalf of students entitled to attend school in the district who were enrolled in Internet- and computer-based community schools. For purposes of calculating transitional aid in fiscal year 2007, a district's fiscal year 2006 SF-3 funding plus charge-off supplement is the sum of the amounts described in divisions (B)(1)(a) to (n) of this section, plus any transitional aid paid to the district under this section, that the district actually received in fiscal year 2006.

(3) The SF-3 funding plus charge-off supplement in each fiscal year for each district is the sum of the amounts specified in divisions (B)(1)(a) to (n) and (B)(2) of this section less any general revenue fund spending reductions ordered by the Governor under section 126.05 of the Revised Code.

(C)(1) When calculating the reappraisal guarantee under division (C) or (D) of section 3317.04 of the Revised Code in fiscal year 2006, the Department shall:

(a) Include in a school district's fiscal year 2005 payments any transitional aid paid to the district in fiscal year 2005 under Section 41.37 of Am. Sub. H.B. 95 of the 125th General Assembly, as amended;

(b) Subtract from a school district's fiscal year 2005 payments the amount of parity aid and the amount of disadvantaged pupil impact aid deducted that year under division (C)(6) of section 3314.08 of the Revised Code, as that section existed that year, and Section 16 of Am. Sub. S.B. 2 of the 125th General Assembly on behalf of students entitled to attend school in the district who were enrolled in Internet- and computer-based community schools.

(2) When calculating the reappraisal guarantee under division (C) or (D) of section 3317.04 of the Revised Code in fiscal year 2007, the Department shall include in a school district's fiscal year 2006 payments any transitional aid paid to the district in fiscal year 2006 under this section.

(3) When calculating the reappraisal guarantee under division (C) or (D) of section 3317.04 of the Revised Code in fiscal year 2008, the Department shall include in a school district's fiscal year 2007 payments any transitional aid paid to the district in fiscal year 2007 under this section.

#### SECTION 206.09.42. TRANSITIONAL AID FOR JOINT VOCATIONAL SCHOOL DISTRICTS

(A) The Department of Education shall distribute funds within appropriation item 200-550, Foundation Funding, for transitional aid in each fiscal year to each joint vocational school district that experiences a decrease

in its joint vocational funding for the current fiscal year from the previous fiscal year. The Department shall distribute to each such district transitional aid in an amount equal to the decrease in the district's joint vocational funding from the previous fiscal year.

(B)(1) Subject to divisions (B)(2) and (3) of this section, a district's joint vocational funding equals the sum of the following:

(a) Base-cost funding under division (B) of section 3317.16 of the Revised Code;

(b) Special education and related services additional weighted funding under division (D)(1) of section 3317.16 of the Revised Code;

(c) Speech services funding under division (D)(2) of section 3317.16 of the Revised Code;

(d) Vocational education additional weighted funding under division (C) of section 3317.16 of the Revised Code;

(e) GRADS funding under division (R) of section 3317.024 of the Revised Code;

(f) The state aid guarantee under division (H) of section 3317.16 of the Revised Code.

(2) For purposes of calculating transitional aid in fiscal year 2007, a district's fiscal year 2006 joint vocational funding is the sum of the amounts described in divisions (B)(1)(a) to (f) of this section, plus any transitional aid paid to the district under this section, that the district actually received in fiscal year 2006.

(3) The joint vocational funding in each fiscal year for each district is the sum of the amounts specified in divisions (B)(1)(a) to (f) and (B)(2) of this section less any general revenue fund spending reductions ordered by the Governor under section 126.05 of the Revised Code.

#### EMERGENCY LOAN INTEREST SUBSIDY

The foregoing appropriation item 200-558, Emergency Loan Interest Subsidy, shall be used to provide a subsidy to school districts receiving emergency school loans pursuant to section 3313.484 of the Revised Code. The subsidy shall be used to pay these districts the difference between the amount of interest the district is paying on an emergency loan, and the interest that the district would have paid if the interest rate on the loan had been two per cent.

#### SECTION 206.09.45. READING/WRITING IMPROVEMENT-CLASSROOM GRANTS

The foregoing appropriation item 200-566, Reading/Writing Improvement-Classroom Grants, shall be disbursed by the Department of

Education to provide reading improvement grants to public schools in city, local, and exempted village school districts; community schools; and educational service centers serving kindergarten through twelfth grade students to help struggling students improve their reading skills, improve reading outcomes in low-performing schools, and help close achievement gaps.

#### SAFE AND SUPPORTIVE SCHOOLS

Of the foregoing appropriation item 200-578, Safe and Supportive Schools, up to \$224,250 in each fiscal year shall be used to fund a safe school center to provide resources for parents and for school and law enforcement personnel.

The remainder of the appropriation shall be distributed based on guidelines developed by the Department of Education to enhance school safety. The guidelines shall provide a list of research-based best practices and programs from which local grantees shall select based on local needs. These practices shall include, but not be limited to, school resource officers and safe and drug free school coordinators and social-emotional development programs.

#### SECTION 206.09.48. PROPERTY TAX ALLOCATION - EDUCATION

The Superintendent of Public Instruction shall not request, and the Controlling Board shall not approve, the transfer of funds from appropriation item 200-901, Property Tax Allocation - Education, to any other appropriation item.

The appropriation item 200-901, Property Tax Allocation - Education, is appropriated to pay for the state's costs incurred because of the homestead exemption and the property tax rollback. In cooperation with the Department of Taxation, the Department of Education shall distribute these funds directly to the appropriate school districts of the state, notwithstanding sections 321.24 and 323.156 of the Revised Code, which provide for payment of the homestead exemption and property tax rollback by the Tax Commissioner to the appropriate county treasurer and the subsequent redistribution of these funds to the appropriate local taxing districts by the county auditor.

Appropriation item 200-906, Tangible Tax Exemption - Education, is appropriated to pay for the state's costs incurred because of the tangible personal property tax exemption required by division (C)(3) of section 5709.01 of the Revised Code. In cooperation with the Department of Taxation, the Department of Education shall distribute to each county treasurer the total amount appearing in the notification from the county

treasurer under division (G) of section 321.24 of the Revised Code, for all school districts located in the county, notwithstanding section 321.24 of the Revised Code insofar as it provides for payment of the \$10,000 tangible personal property tax exemption by the Tax Commissioner to the appropriate county treasurer for all local taxing districts located in the county. Pursuant to division (G) of section 321.24 of the Revised Code, the county auditor shall distribute the amount paid by the Department of Education among the appropriate school districts.

Upon receipt of these amounts, each school district shall distribute the amount among the proper funds as if it had been paid as real or tangible personal property taxes. Payments for the costs of administration shall continue to be paid to the county treasurer and county auditor as provided for in sections 319.54, 321.26, and 323.156 of the Revised Code.

Any sums, in addition to the amounts specifically appropriated in appropriation items 200-901, Property Tax Allocation - Education, for the homestead exemption and the property tax rollback payments, and 200-906, Tangible Tax Exemption - Education, for the \$10,000 tangible personal property tax exemption payments, which are determined to be necessary for these purposes, are hereby appropriated.

#### SECTION 206.09.51. TEACHER CERTIFICATION AND LICENSURE

The foregoing appropriation item 200-681, Teacher Certification and Licensure, shall be used by the Department of Education in each year of the biennium to administer and support teacher certification and licensure activities.

#### SCHOOL DISTRICT SOLVENCY ASSISTANCE

Of the foregoing appropriation item 200-687, School District Solvency Assistance, \$9,000,000 in each fiscal year shall be allocated to the School District Shared Resource Account and \$9,000,000 in each fiscal year shall be allocated to the Catastrophic Expenditures Account. These funds shall be used to provide assistance and grants to school districts to enable them to remain solvent under section 3316.20 of the Revised Code. Assistance and grants shall be subject to approval by the Controlling Board. Any required reimbursements from school districts for solvency assistance shall be made to the appropriate account in the School District Solvency Assistance Fund (Fund 5H3).

Notwithstanding any provision of law to the contrary, upon the request of the Superintendent of Public Instruction, the Director of Budget and Management may make transfers to the School District Solvency Assistance Fund (Fund 5H3) from any Department of Education-administered fund or

the General Revenue Fund to maintain sufficient cash balances in the School District Solvency Assistance Fund (Fund 5H3) in fiscal years 2006 and 2007. Any funds transferred are hereby appropriated. The transferred funds may be used by the Department of Education to provide assistance and grants to school districts to enable them to remain solvent and to pay unforeseeable expenses of a temporary or emergency nature that the school district is unable to pay from existing resources. The Director of Budget and Management shall notify the members of the Controlling Board of any such transfers.

#### READING FIRST

The foregoing appropriation item 200-632, Reading First, shall be used by school districts to administer federal diagnostic tests as well as other functions permitted by federal statute. Notwithstanding section 3301.079 of the Revised Code, federal diagnostic tests may be recognized as meeting the state diagnostic testing requirements outlined in section 3301.079 of the Revised Code.

#### HALF-MILL MAINTENANCE EQUALIZATION

The foregoing appropriation item 200-626, Half-Mill Maintenance Equalization, shall be used in fiscal year 2007 to make payments pursuant to section 3318.18 of the Revised Code.

#### SECTION 206.09.54. EARLY LEARNING INITIATIVE

(A) As used in this section:

(1) "Title IV-A services" means benefits and services that are allowable under Title IV-A of the "Social Security Act," as specified in 42 U.S.C. 604(a), except that they shall not be benefits and services included in the term "assistance" as defined in 45 C.F.R. 260.31(a) and shall be benefits and services that are excluded from the definition of the term "assistance" under 45 C.F.R. 260.31(b).

(2) "Title IV-A funds" means funds provided under the temporary assistance for needy families block grant established by Title IV-A of the "Social Security Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as amended.

(3) "Child care" has the same meaning as in section 5104.01 of the Revised Code.

(4) "Eligible child" means a child who is at least three years of age but not of compulsory school age or enrolled in kindergarten, is eligible for Title IV-A services, and whose family income does not exceed one hundred eighty-five per cent of the federal poverty line at application. If the family income of a child receiving early learning services under this section exceeds one hundred ninety-five per cent of the federal poverty line, the



child ceases to be eligible for an early learning program.

(5) "Early learning program" means a program for eligible children that is funded with Title IV-A funds and provides Title IV-A services that are both of the following:

(a) Early learning services, as defined by the Department of Education pursuant to division (C)(1) of this section;

(b) Child care.

(6) "Early learning provider" means an entity that is receiving Title IV-A funds to operate an early learning program.

(7) "Early learning agency" means an early learning provider or an entity that has entered into an agreement with an early learning provider requiring the early learning provider to operate an early learning program on behalf of the entity.

(8) "Federal poverty line" has the same meaning as in section 5104.01 of the Revised Code.

(9) "Of compulsory school age" has the same meaning as in section 3321.01 of the Revised Code.

(B) The Early Learning Initiative is hereby established. The Initiative shall be administered by the Department of Education and the Department of Job and Family Services in accordance with sections 5101.80 and 5101.801 of the Revised Code. The Initiative shall provide early learning programs and child care to eligible children. Early learning programs may provide early learning services on a full-day basis, a part-day basis, or both a full-day and part-day basis.

(C) The Department of Education shall do all of the following:

(1) Define the early learning services that will be provided to eligible children through the Early Learning Initiative;

(2) In consultation with the Department of Job and Family Services, develop an application form and criteria for the selection of early learning agencies. The criteria shall require an early learning agency, or each early learning provider with which the agency has entered into an agreement for the operation of an early learning program on the agency's behalf, to be licensed or certified by the Department of Education under sections 3301.52 to 3301.59 of the Revised Code or by the Department of Job and Family Services under Chapter 5104. of the Revised Code.

(3) Establish early learning program guidelines for school readiness to assess the operation of early learning programs.

(D) Any entity that seeks to be an early learning agency shall apply to the Department of Education by a deadline established by the Department. The Department of Education shall select entities that meet the criteria

established under division (C)(2) of this section to be early learning agencies. Upon selection of an entity to be an early learning agency, the Department of Education shall designate the number of eligible children the agency will serve. The Department of Education shall notify the Office of Budget and Management and the Department of Job and Family Services of the number so designated.

(E) The Department of Education and the Department of Job and Family Services shall enter into a contract with each early learning agency selected under division (D) of this section. The contract shall outline the terms and conditions applicable to the provision of Title IV-A services for eligible children and shall include at least the following:

(1) The respective duties of the early learning agency, the Department of Education, and the Department of Job and Family Services;

(2) Requirements applicable to the allowable use of and accountability for Title IV-A funds;

(3) A requirement that the amount used by the early learning agency for development and administrative costs shall not exceed fifteen per cent of the total approved costs for the early learning program;

(4) Reporting requirements, including a requirement that the early learning provider inform the Department of Education when the provider learns that a kindergarten eligible child will not be enrolled in kindergarten;

(5) The reimbursement methodology, including a requirement that reimbursement shall be based upon the weekly attendance rate of each eligible child, which shall be consistent with the rules adopted pursuant to division (C)(3) of Section 206.67.12 of this act;

(6) Audit requirements;

(7) Provisions for suspending, modifying, or terminating the contract;

(8) A requirement that a child enrolled in a Head Start Plus program during fiscal year 2005 be given higher priority if the child is an eligible child and enrolls in an early learning program.

The requirements of section 127.16 of the Revised Code do not apply to contracts entered into under this section.

(F) If an early learning agency, or an early learning provider operating an early learning program on the agency's behalf, substantially fails to meet the early learning program guidelines for school readiness or exhibits below average performance, as determined by the Department of Education, the agency shall develop and implement a corrective action plan. The Department of Education shall approve the corrective action plan prior to implementation.

(G) If an early learning agency fails to implement a corrective action

plan under division (F) of this section, the Department of Education may direct the Department of Job and Family Services to withhold funding from the agency or either the Department of Education or the Department of Job and Family Services may suspend or terminate the contract with the agency.

(H) Each early learning program shall do all of the following:

(1) Meet teacher qualification requirements prescribed by section 3301.311 of the Revised Code;

(2) Align curriculum to the early learning content standards;

(3) Meet any assessment requirements prescribed by section 3301.0715 of the Revised Code that apply to the program;

(4) Require teachers, except teachers enrolled and working to obtain a degree pursuant to section 3301.311 of the Revised Code, to attend a minimum of twenty hours per year of professional development as prescribed by the Department of Education regarding the implementation of content standards and assessments;

(5) Document and report child progress;

(6) Meet and report compliance with the early learning program guidelines for school success.

(I) Of the foregoing appropriation item 200-663, Early Learning Initiative, up to \$2,200,000 in each fiscal year may be used by the Department of Education to perform administrative functions for the Early Learning Initiative. The Director of Budget and Management may transfer appropriation, as needed, from the Department of Education, appropriation item 200-663, Early Learning Initiative in Fund 5W2, to the Department of Job and Family Services, appropriation item 600-689, TANF Block Grant in Fund 3V6, for the successful operation of the Early Learning Initiative. This transfer shall take place not less than fifteen days after the Department of Education has provided the Office of Budget and Management and the Department of Job and Family Services its determination as to the number of children to be served by each early learning agency under division (D) of this section. The appropriation transferred is hereby authorized.

#### START-UP FUNDS

Funds appropriated for the purpose of providing start-up grants to Title IV-A Head Start and Title IV-A Head Start Plus agencies in fiscal year 2004 and fiscal year 2005 for the provision of services to children eligible for Title IV-A services under the Title IV-A Head Start or Title IV-A Head Start Plus programs shall be reimbursed to the General Revenue Fund as follows:

(A) If, for fiscal year 2006, an entity that was a Title IV-A Head Start or Title IV-A Head Start Plus agency will not be an early learning agency or

early learning provider, the entity shall repay the entire amount of the start-up grant it received in fiscal year 2004 and fiscal year 2005 not later than June 30, 2007, in accordance with a payment schedule agreed to by the Department of Education.

(B) If, for fiscal year 2006, an entity that was a Title IV-A Head Start or Title IV-A Head Start Plus agency will be an early learning agency or early learning provider and the number of eligible children served beginning in fiscal year 2006 is less than the number for which the start-up grant was based, the amount of reimbursement shall be adjusted based on the number of eligible children who will be served by the entity in fiscal year 2006 and the rate of reimbursement for the early learning program set by the Department of Job and Family Services. The entity shall repay the amount determined pursuant to this division by not later than June 30, 2007, in accordance with a payment schedule agreed to by the Department of Education.

(C) If, for fiscal year 2006, an entity that was a Title IV-A Head Start or Title IV-A Head Start Plus agency will be an early learning agency or early learning provider and the number of eligible children served beginning in fiscal year 2006 is greater than or equal to the number for which the start-up grants were based, the entity shall be allowed to retain the total amount of the start-up grant it received.

(D) Within ninety days after the effective date of this section, the Title IV-A Head Start agencies, Title IV-A Head Start Plus agencies, and the Department of Education shall determine the amounts of the start-up grants to be repaid and within thirty days thereafter determine the repayment schedule for such amounts. The Department of Education shall refer any amounts remaining due and payable to the state after June 30, 2007, to the Attorney General for collection under section 131.02 of the Revised Code.

(E) Any start-up grants that are retained by early learning agencies or early learning providers pursuant to this section shall be reimbursed to the General Revenue Fund when the early learning program ceases or is no longer funded from Title IV-A or if an early learning agency's or early learning provider's participation in the early learning program ceases.

#### SECTION 206.09.55. AUXILIARY SERVICES REIMBURSEMENT

Notwithstanding section 3317.064 of the Revised Code, if the unobligated cash balance is sufficient, the Treasurer of State shall transfer \$1,500,000 in fiscal year 2006 within thirty days after the effective date of this section, and \$1,500,000 in fiscal year 2007 by August 1, 2006, from the Auxiliary Services Personnel Unemployment Compensation Fund to the

Department of Education's Auxiliary Services Reimbursement Fund (Fund 598).

SECTION 206.09.57. LOTTERY PROFITS EDUCATION FUND

Appropriation item 200-612, Foundation Funding (Fund 017), shall be used in conjunction with appropriation item 200-550, Foundation Funding (GRF), to provide payments to school districts under Chapter 3317. of the Revised Code.

The Department of Education, with the approval of the Director of Budget and Management, shall determine the monthly distribution schedules of appropriation item 200-550, Foundation Funding (GRF), and appropriation item 200-612, Foundation Funding (Fund 017). If adjustments to the monthly distribution schedule are necessary, the Department of Education shall make such adjustments with the approval of the Director of Budget and Management.

The Director of Budget and Management shall transfer via intrastate transfer voucher the amount appropriated under the Lottery Profits Education Fund for appropriation item 200-682, Lease Rental Payment Reimbursement, to the General Revenue Fund on a schedule determined by the director. These funds shall support the appropriation item 230-428, Lease Rental Payments (GRF), of the School Facilities Commission.

SECTION 206.09.60. LOTTERY PROFITS EDUCATION RESERVE FUND

(A) There is hereby created the Lottery Profits Education Reserve Fund (Fund 018) in the State Treasury. Investment earnings of the Lottery Profits Education Reserve Fund shall be credited to the fund. The Superintendent of Public Instruction may certify cash balances exceeding \$75,000,000 in the Lottery Profits Education Reserve Fund (Fund 018) to the Director of Budget and Management in June of any given fiscal year. Prior to making the certification, the Superintendent of Public Instruction shall determine whether the funds above the \$75,000,000 threshold are needed to help pay for foundation program obligations for that fiscal year under Chapter 3317. of the Revised Code. If those funds are needed for the foundation program, the Superintendent of Public Instruction shall notify and consult with the Director of Budget and Management to determine the amount that may be transferred to the Public School Building Fund (Fund 021). Upon this determination, the Director of Budget and Management shall transfer the amount from the Lottery Profits Education Reserve Fund (Fund 018) to the

Public School Building Fund (Fund 021). The amount transferred is hereby appropriated to appropriation item CAP-622, Public School Buildings.

For fiscal years 2006 and 2007, notwithstanding any provisions of law to the contrary, amounts necessary to make loans authorized by sections 3317.0210, 3317.0211, and 3317.62 of the Revised Code are hereby appropriated to the Lottery Profits Education Reserve Fund (Fund 018). Loan repayments from loans made in previous years shall be deposited to the fund.

(B) On July 15, 2005, or as soon as possible thereafter, the Director of the Ohio Lottery Commission shall certify to the Director of Budget and Management the amount by which lottery profit transfers received by the Lottery Profits Education Fund (Fund 017) exceeded \$637,900,000 in fiscal year 2005. The Director of Budget and Management shall transfer the amount so certified, plus the cash balance in Fund 017, to the Lottery Profits Education Reserve Fund (Fund 018).

(C) On July 15, 2006, or as soon as possible thereafter, the Director of the Ohio Lottery Commission shall certify to the Director of Budget and Management the amount by which lottery profit transfers received by the Lottery Profits Education Fund (Fund 017) exceeded \$637,900,000 in fiscal year 2006. The Director of Budget and Management shall transfer the amount so certified, plus the cash balance in Fund 017, to the Lottery profits Education Reserve Fund (Fund 018).

(D) Any amounts transferred under division (B) or (C) of this section may be made available by the Controlling Board in fiscal years 2006 or 2007, at the request of the Superintendent of Public Instruction, to provide assistance and grants to school districts to enable them to remain solvent and to pay unforeseeable expenses of a temporary or emergency nature that they are unable to pay from existing resources under section 3316.20 of the Revised Code, and to provide payments to school districts under Chapter 3317. of the Revised Code.

**SECTION 206.09.61. GENERAL REVENUE FUND TRANSFERS TO SCHOOL DISTRICT PROPERTY TAX REPLACEMENT – BUSINESS (FUND 047)**

Notwithstanding any provision of law to the contrary, the Director of Budget and Management shall transfer \$10,010,000 in fiscal year 2006 and \$70,210,000 in fiscal year 2007 from the General Revenue Fund to appropriation item 200-909, School District Property Tax Replacement – Business (Fund 047) in the Department of Education. The funds shall be used to reimburse school districts and joint vocational districts under section

5751.21 of the Revised Code.

**SECTION 206.09.63. SCHOOL DISTRICT PROPERTY TAX REPLACEMENT - BUSINESS**

The foregoing appropriation item, 200-909, School District Property Tax Replacement – Business, in Fund 047, shall be used by the Department of Education, in consultation with the Department of Taxation, to make payments to school districts and joint vocational school districts under section 5751.21 of the Revised Code.

**SCHOOL DISTRICT PROPERTY TAX REPLACEMENT - UTILITY**

The foregoing appropriation item 200-900, School District Property Tax Replacement-Utility, in Fund 053, shall be used by the Department of Education, in consultation with the Department of Taxation, to make payments to school districts and joint vocational school districts under section 5727.85 of the Revised Code.

**\* SECTION 206.09.66. DISTRIBUTION FORMULAS**

The Department of Education shall report the following to the Director of Budget and Management, the Legislative Office of Education Oversight, and the Legislative Service Commission:

(A) Changes in formulas for distributing state appropriations, including administratively defined formula factors;

(B) Discretionary changes in formulas for distributing federal appropriations;

(C) Federally mandated changes in formulas for distributing federal appropriations.

Any such changes shall be reported two weeks prior to the effective date of the change.

**SECTION 206.09.69. EDUCATIONAL SERVICE CENTERS FUNDING**

(A) As used in this section:

(1) "Internet- or computer-based community school" has the same meaning as in section 3314.02 of the Revised Code.

(2) "Service center ADM" has the same meaning as in section 3317.11 of the Revised Code.

(B) Notwithstanding division (F) of section 3317.11 of the Revised Code, no funds shall be provided under that division to an educational service center in either fiscal year for any pupils of a city or exempted

village school district unless an agreement to provide services under section 3313.843 of the Revised Code was entered into by January 1, 1997, except that funds shall be provided to an educational service center for any pupils of a city school district if the agreement to provide services was entered into within one year of the date upon which such district changed from a local school district to a city school district.

(C) Notwithstanding any provision of the Revised Code to the contrary, an educational service center that sponsors a community school under Chapter 3314. of the Revised Code in either fiscal year may include the students of that community school in its service center ADM for purposes of state funding under division (F) of section 3317.11 of the Revised Code, unless the community school is an Internet- or computer-based community school. A service center shall include the community school students in its service center ADM only to the extent that the students are not already so included, and only in accordance with guidelines issued by the Department of Education. If the students of a community school sponsored by an educational service center are included in the service center ADM of another educational service center, those students shall be removed from the service center ADM of the other educational service center and added to the service center ADM of the community school's sponsoring service center. The General Assembly authorizes this procedure as an incentive for educational service centers to take over sponsorship of community schools from the State Board of Education as the State Board's sponsorship is phased out in accordance with Sub. H.B. 364 of the 124th General Assembly. No student of an Internet- or computer-based community school shall be counted in the service center ADM of any educational service center. The Department shall pay educational service centers under division (F) of section 3317.11 of the Revised Code for community school students included in their service center ADMs under this division only if sufficient funds earmarked within appropriation item 200-550, Foundation Funding, for payments under that division remain after first paying for students attributable to their local and client school districts, in accordance with divisions (B) and (D) of this section.

(D) If insufficient funds are earmarked within appropriation item 200-550, Foundation Funding, for payments under division (F) of section 3317.11 of the Revised Code and division (C) of this section in fiscal year 2006 or fiscal year 2007, the Department shall prioritize the distribution of the earmarked funds as follows:

(1) The Department shall first distribute to each educational service center the per-student amount specified in division (F) of section 3317.11 of



the Revised Code for each student in its service center ADM attributable to the local school districts within the service center's territory.

(2) The Department shall distribute the remaining funds in each fiscal year to each educational service center for the students in its service center ADM attributable to each city and exempted village school district that had entered into an agreement with an educational service center for that fiscal year under section 3313.843 of the Revised Code by January 1, 1997, up to the per-student amount specified in division (F) of section 3317.11 of the Revised Code. If insufficient funds remain to pay each service center the full amount specified in division (F) of that section for each such student, the Department shall distribute the remaining funds to each service center proportionally, on a per-student basis for each such student, unless that proportional per-student amount exceeds the amount specified in division (F)(1) of that section. In that case, the Department shall distribute the per-student amount specified in division (F)(1) of that section to each service center for each such student and shall distribute the remainder proportionally, on a per-student basis for each such student, to the multi-county service centers described in division (F)(2) of that section.

(3) If the Department has paid each service center under divisions (D)(1) and (2) of this section, the full amount specified in division (F) of section 3317.11 of the Revised Code for each student attributable to its local school districts and its client school districts described in division (D)(2) of this section the Department shall distribute any remaining funds proportionally, on a per-student basis, to each service center that sponsors a community school, other than an Internet- or computer-based community school, for the students included in the service center ADM under division (C) of this section. These payments shall not exceed per student the amount specified in division (F) of section 3317.11 of the Revised Code.

\* SECTION 206.09.72. For the school year commencing July 1, 2005, or the school year commencing July 1, 2006, or both, the Superintendent of Public Instruction may waive for the board of education of any school district the ratio of teachers to pupils in kindergarten through fourth grade required under paragraph (A)(3) of rule 3301-35-05 of the Administrative Code if the following conditions apply:

(A) The board of education requests the waiver.

(B) After the Department of Education conducts an on-site evaluation of the district related to meeting the required ratio, the board of education demonstrates to the satisfaction of the Superintendent of Public Instruction that providing the facilities necessary to meet the required ratio during the

district's regular school hours with pupils in attendance would impose an extreme hardship on the district.

(C) The board of education provides assurances that are satisfactory to the Superintendent of Public Instruction that the board will act in good faith to meet the required ratio as soon as possible.

#### SECTION 206.09.75. PRIVATE TREATMENT FACILITY PROJECT

(A) As used in this section:

(1) The following are "participating residential treatment centers":

(a) Private residential treatment facilities that have entered into a contract with the Department of Youth Services to provide services to children placed at the facility by the Department and which, in fiscal year 2006 or fiscal year 2007 or both, the Department pays through appropriation item 470-401, Care and Custody;

(b) Abraxas, in Shelby;

(c) Paint Creek, in Bainbridge;

(d) Act One, in Akron;

(e) Friars Club, in Cincinnati.

(2) "Education program" means an elementary or secondary education program or a special education program and related services.

(3) "Served child" means any child receiving an education program pursuant to division (B) of this section.

(4) "School district responsible for tuition" means a city, exempted village, or local school district that, if tuition payment for a child by a school district is required under law that existed in fiscal year 1998, is the school district required to pay that tuition.

(5) "Residential child" means a child who resides in a participating residential treatment center and who is receiving an educational program under division (B) of this section.

(B) A youth who is a resident of the state and has been assigned by a juvenile court or other authorized agency to a residential treatment facility specified in division (A) of this section shall be enrolled in an approved educational program located in or near the facility. Approval of the educational program shall be contingent upon compliance with the criteria established for such programs by the Department of Education. The educational program shall be provided by a school district or educational service center, or by the residential facility itself. Maximum flexibility shall be given to the residential treatment facility to determine the provider. In the event that a voluntary agreement cannot be reached and the residential facility does not choose to provide the educational program, the educational

service center in the county in which the facility is located shall provide the educational program at the treatment center to children under twenty-two years of age residing in the treatment center.

(C) Any school district responsible for tuition for a residential child shall, notwithstanding any conflicting provision of the Revised Code regarding tuition payment, pay tuition for the child for fiscal year 2006 and fiscal year 2007 to the education program provider and in the amount specified in this division. If there is no school district responsible for tuition for a residential child and if the participating residential treatment center to which the child is assigned is located in the city, exempted village, or local school district that, if the child were not a resident of that treatment center, would be the school district where the child is entitled to attend school under sections 3313.64 and 3313.65 of the Revised Code, that school district, notwithstanding any conflicting provision of the Revised Code, shall pay tuition for the child for fiscal year 2006 and fiscal year 2007 under this division unless that school district is providing the educational program to the child under division (B) of this section.

A tuition payment under this division shall be made to the school district, educational service center, or residential treatment facility providing the educational program to the child.

The amount of tuition paid shall be:

(1) The amount of tuition determined for the district under division (A) of section 3317.08 of the Revised Code;

(2) In addition, for any student receiving special education pursuant to an individualized education program as defined in section 3323.01 of the Revised Code, a payment for excess costs. This payment shall equal the actual cost to the school district, educational service center, or residential treatment facility of providing special education and related services to the student pursuant to the student's individualized education program, minus the tuition paid for the child under division (C)(1) of this section.

A school district paying tuition under this division shall not include the child for whom tuition is paid in the district's average daily membership certified under division (A) of section 3317.03 of the Revised Code.

(D) In each of fiscal years 2006 and 2007, the Department of Education shall reimburse, from appropriations made for the purpose, a school district, educational service center, or residential treatment facility, whichever is providing the service, that has demonstrated that it is in compliance with the funding criteria for each served child for whom a school district must pay tuition under division (C) of this section. The amount of the reimbursement shall be the formula amount specified in section 3317.022 of the Revised

Code, except that the department shall proportionately reduce this reimbursement if sufficient funds are not available to pay this amount to all qualified providers.

(E) Funds provided to a school district, educational service center, or residential treatment facility under this section shall be used to supplement, not supplant, funds from other public sources for which the school district, service center, or residential treatment facility is entitled or eligible.

(F) The Department of Education shall track the utilization of funds provided to school districts, educational service centers, and residential treatment facilities under this section and monitor the effect of the funding on the educational programs they provide in participating residential treatment facilities. The department shall monitor the programs for educational accountability.

#### SECTION 206.09.78. SCHOOL DISTRICT PARTICIPATION IN NATIONAL ASSESSMENT OF EDUCATION PROGRESS

The General Assembly intends for the Superintendent of Public Instruction to provide for school district participation in the administration of the National Assessment of Education Progress in accordance with section 3301.27 of the Revised Code. Each school and school district selected for participation by the Superintendent of Public Instruction shall participate.

#### SECTION 206.09.81. DEPARTMENT OF EDUCATION APPROPRIATION TRANSFERS FOR STUDENT ASSESSMENT

In fiscal year 2006 and fiscal year 2007, if the Superintendent of Public Instruction determines that additional funds are needed to fully fund the requirements of Am. Sub. H.B. 3 of the 125th General Assembly and this act for assessments of student performance, the Superintendent of Public Instruction may recommend the reallocation of unspent and unencumbered appropriations within the Department of Education to the General Revenue Fund appropriation item 200-437, Student Assessment, to the Director of Budget and Management. If the Director of Budget and Management determines that such a reallocation is required, the Director of Budget and Management may transfer unspent and unencumbered funds within the Department of Education as necessary to appropriation item 200-437, Student Assessment. If these unspent and unencumbered funds are not sufficient to fully fund the assessment requirements in fiscal year 2007, the Superintendent of Public Instruction may request that the Controlling Board

transfer up to \$5,000,000 cash from the Lottery Profits Education Reserve Fund (Fund 018) to the General Revenue Fund and appropriate these transferred funds to appropriation item 200-437, Student Assessment.

SECTION 206.09.82. (A) As used in this section:

(1) "IEP" has the same meaning as in section 3314.08 of the Revised Code.

(2) "SBH student" means a student receiving special education and related services for severe behavior handicap conditions pursuant to an IEP.

(B) This section applies only to a community school established under Chapter 3314. of the Revised Code that in each of fiscal years 2006 and 2007 enrolls a number of SBH students equal to at least fifty per cent of the total number of students enrolled in the school in the applicable fiscal year.

(C) In addition to any payments made under section 3314.08 of the Revised Code, in each of fiscal years 2006 and 2007, the Department of Education shall pay to a community school to which this section applies a subsidy equal to the difference between the aggregate amount calculated and paid in that fiscal year to the community school for special education and related services additional weighted costs for the SBH students enrolled in the school and the aggregate amount that would have been calculated for the school for special education and related services additional weighted costs for those same students in fiscal year 2001. If the difference is a negative number, the amount of the subsidy shall be zero.

(D) The amount of any subsidy paid to a community school under this section shall not be deducted from the school district in which any of the students enrolled in the community school are entitled to attend school under section 3313.64 or 3313.65 of the Revised Code. The amount of any subsidy paid to a community school under this section shall be paid from funds appropriated to the Department of Education in appropriation item 200-550, Foundation Funding.

SECTION 206.09.84. (A) As used in this section:

(1) "Entitled to attend school" means entitled to attend school in a school district under section 3313.64 and 3313.65 of the Revised Code.

(2) "Formula ADM" and "category six special education ADM" have the same meanings as in section 3317.02 of the Revised Code.

(3) "Individualized education program" has the same meaning as in section 3323.01 of the Revised Code.

(4) "Parent" has the same meaning as in section 3313.64 of the Revised

Code.

(5) "Qualified special education child" is a child for whom all of the following conditions apply:

(a) The school district in which the child is entitled to attend school has identified the child as autistic.

(b) The school district in which the child is entitled to attend school has developed an individualized education program under Chapter 3323. of the Revised Code for the child.

(c) The child either:

(i) Was enrolled in the school district in which the child is entitled to attend school in any grade from preschool through twelve in the school year prior to the year in which a scholarship under this section is first sought for the child; or

(ii) Is eligible to enter school in any grade preschool through twelve in the school district in which the child is entitled to attend school in the school year in which a scholarship under this section is first sought for the child.

(6) "Registered private provider" means a nonpublic school or other nonpublic entity that has been approved by the Department of Education to participate in the program established under this section.

(B) There is hereby established the Pilot Project Special Education Scholarship Program. Under the program, in fiscal years 2006 and 2007, the Department of Education shall pay a scholarship to the parent of each qualified special education child upon application of that parent pursuant to procedures and deadlines established by rule of the State Board of Education. Each scholarship shall be used only to pay tuition for the child on whose behalf the scholarship is awarded to attend a special education program that implements the child's individualized education program and that is operated by a school district other than the school district in which the child is entitled to attend school, by another public entity, or by a registered private provider. Each scholarship shall be in an amount not to exceed the lesser of the tuition charged for the child by the special education program or twenty thousand dollars. The purpose of the scholarship is to permit the parent of a qualified special education child the choice to send the child to a special education program, instead of the one operated by or for the school district in which the child is entitled to attend school, to receive the services prescribed in the child's individualized education program once the individualized education program is finalized. A scholarship under this section shall not be awarded to the parent of a child while the child's individualized education program is being developed by the school district in which the child is entitled to attend school, or while any administrative or

judicial mediation or proceedings with respect to the content of the child's individualized education program are pending. A scholarship under this section shall not be used for a child to attend a public special education program that operates under a contract, compact, or other bilateral agreement between the school district in which the child is entitled to attend school and another school district or other public provider, or for a child to attend a community school established under Chapter 3314. of the Revised Code. However, nothing in this section or in any rule adopted by the State Board of Education shall prohibit a parent whose child attends a public special education program under a contract, compact, or other bilateral agreement, or a parent whose child attends a community school, from applying for and accepting a scholarship under this section so that the parent may withdraw the child from that program or community school and use the scholarship for the child to attend a special education program for which the parent is required to pay for services for the child. A child attending a special education program with a scholarship under this section shall continue to be entitled to transportation to and from that program in the manner prescribed by law.

(C)(1) Notwithstanding anything to the contrary in the Revised Code, a child for whom a scholarship is awarded under this section shall be counted in the formula ADM and the category six special education ADM of the district in which the child is entitled to attend school and not in the formula ADM and the category six special education ADM of any other school district.

(2) In each fiscal year, the Department shall deduct from the amounts paid to each school district under Chapter 3317. of the Revised Code, and, if necessary, sections 321.24 and 323.156 of the Revised Code, the aggregate amount of scholarships awarded under this section for qualified special education children included in the formula ADM and category six special education ADM of that school district as provided in division (C)(1) of this section. The scholarships deducted shall be considered as an approved special education and related services expense for the purpose of the school district's compliance with division (C)(5) of section 3317.022 of the Revised Code.

(3) From time to time, the Department shall make a payment to the parent of each qualified special education child for whom a scholarship has been awarded under this section. The scholarship amount shall be proportionately reduced in the case of any such child who is not enrolled in the special education program for which a scholarship was awarded under this section for the entire school year. The Department shall make no

payments to the parent of a child while any administrative or judicial mediation or proceedings with respect to the content of the child's individualized education program are pending.

(D) A scholarship shall not be paid to a parent for payment of tuition owed to a nonpublic entity unless that entity is a registered private provider. The Department shall approve entities that meet the standards established by rule of the State Board for the program established under this section.

(E) The State Board shall adopt rules under Chapter 119. of the Revised Code prescribing procedures necessary to implement this section, including, but not limited to, procedures and deadlines for parents to apply for scholarships, standards for registered private providers, and procedures for approval of entities as registered private providers. The Board shall adopt the rules so that the program established under this section is operational by January 1, 2004.

#### SECTION 206.09.90. INTERVENTION FUNDING

No later than September 30, 2006, each school district shall report, in a manner defined by the Department of Education, how state intervention funding provided under division (B)(1) of section 3317.012 and division (C) of section 3317.029 of the Revised Code in fiscal year 2006 was deployed. To the degree that school districts do not meet adequate progress standards as defined by the Department of Education, the Department shall use the reported information to intervene at the district and building levels to make recommendations on how state funding for intervention should be deployed in a more effective manner. This information shall also be used by the Department to inform its recommendations required in the section of this act entitled "DISTRICT SPENDING REQUIREMENTS."

#### SECTION 206.09.93. EARMARK ACCOUNTABILITY

At the request of the Superintendent of Public Instruction, any entity that receives a budget earmark under the Department of Education shall submit annually to the chairpersons of the committees of the House of Representatives and the Senate primarily concerned with education and to the Department of Education a report that includes a description of the services supported by the funds, a description of the results achieved by those services, an analysis of the effectiveness of the program, and an opinion as to the program's applicability to other school districts. For an earmarked entity that received state funds from an earmark in the prior fiscal year, no funds shall be provided by the Department of Education to an



earmarked entity for a fiscal year until its report for the prior fiscal year has been submitted.

SECTION 206.09.99. The revisions by this act to the Post-Secondary Enrollment Options Program established under Chapter 3365. of the Revised Code shall apply as follows:

(A) The amendment to the definition of "tuition base" in section 3365.01 of the Revised Code, as amended by this act, shall apply to payments for courses taken beginning in the 2005-2006 school year.

(B) The requirement that a secondary grade student be a resident of this state in order to participate in the Post-Secondary Enrollment Options Program as specified in section 3365.02 of the Revised Code, as amended by this act, shall not apply to students participating in the program during fiscal year 2005. That requirement applies to students participating in the program after July 1, 2005, regardless of whether they participated in the program prior to that date.

(C) The statement in section 3365.02 of the Revised Code, as amended by this act, concerning the purpose of the program applies to courses taken beginning in the 2005-2006 school year.

(D) The requirement to seek reimbursement for college courses that a student failed, as specified in section 3365.02 of the Revised Code, as amended by this act, and section 3365.11 of the Revised Code, shall apply to courses taken beginning in the 2005-2006 school year.

(E) The opportunity to elect high school credit under Option A of the program, as specified in sections 3365.04, 3365.041, 3365.05, and 3365.08 of the Revised Code, as amended by this act, shall apply beginning in the 2005-2006 academic year.

SECTION 206.10.03. Not later than September 1, 2005, the Superintendent of Public Instruction shall begin preparations to implement the Educational Choice Scholarship Pilot Program established by sections 3310.01 to 3310.17 of the Revised Code. The Superintendent shall ensure that school districts, chartered nonpublic schools, students, and parents are informed of the Educational Choice Scholarship Pilot Program and how the Program may affect them. The Superintendent shall provide such information in sufficient time for affected parties to meet all deadlines imposed for participation in the Educational Choice Scholarship Pilot Program in the 2006-2007 school year. The State Board of Education shall adopt the rules required by section 3310.16 of the Revised Code so that

those rules are in effect and the Educational Choice Scholarship Pilot Program is operational in the school year that commences July 1, 2006.

The Superintendent shall select not more than 14,000 students in fiscal year 2007 to be awarded scholarships under the Educational Choice Scholarship Pilot Program.

SECTION 206.10.05. There is hereby established a committee to study the consolidation of school districts. The committee shall consist of three members of the House of Representatives, appointed by the Speaker of the House of Representatives, and three members of the Senate, appointed by the President of the Senate. From each house, two members shall be of the majority party and one member shall be of the minority party. The Speaker of the House of Representatives shall designate the chairman of the committee. Members shall not receive compensation for their services.

The committee shall study the feasibility of city, local, and exempted village school district consolidation and the economic impact, including possible cost savings, of consolidation for the state and school districts. If the committee determines school district consolidation is feasible, the committee shall recommend legislation to accomplish the consolidation.

The committee shall report its findings to the General Assembly not later than one year after the effective date of this section. Copies of the findings shall be provided to the Governor, the President and Minority Leader of the Senate, the Speaker and Minority Leader of the House of Representatives, and the chairpersons, vice-chairpersons, and ranking minority members of the education committees of the House of Representatives and the Senate. Following its report of findings, the committee shall cease to exist.

SECTION 206.10.09. Within thirty days after the effective date of this section, the Department of Education shall notify each entity approved to be a sponsor of community schools pursuant to division (B)(1) of section 3314.015 of the Revised Code prior to the effective date of this section and each entity that is not required to be so approved by section 3314.021 of the Revised Code or Section 6 of Sub. H.B. 364 of the 124th General Assembly of the number of schools the entity may sponsor under that division.

SECTION 206.10.10. (A) Within thirty days after the effective date of this

section, the Department of Education shall do both of the following:

(1) Conduct a random lottery to determine thirty community schools sponsored by entities described in division (C)(1)(b) to (f) of section 3314.02 of the Revised Code that will be permitted to open for operation in order to reach the limit on such schools prescribed by division (A)(4) of section 3314.013 of the Revised Code, as enacted by this act;

(2) Conduct a random lottery to determine thirty community schools sponsored by the school districts in which the schools are proposed to be located that will be permitted to open for operation in order to reach the limit on such schools prescribed by division (A)(5) of section 3314.013 of the Revised Code, as enacted by this act.

(B) Sponsors of community schools shall apply to the Department to include a community school in the lottery conducted under division (A)(1) or (2) of this section, as applicable. A sponsor may make application for any community school it sponsors for which the following conditions are met:

(1) The sponsor has entered into a contract with the governing authority of the school under section 3314.03 of the Revised Code.

(2) The school is prepared to open for its initial year of operation in the 2005-2006 school year.

However, no sponsor may apply to include a community school in a lottery if the selection of the school would cause the sponsor to exceed the sponsor's limit on the number of schools it may sponsor as prescribed by division (B)(1) of section 3314.015 of the Revised Code, as amended by this act.

(C) The Department shall establish the application method and deadline for sponsors to apply for the lotteries conducted under this section. The Department shall allow sufficient time between the date on which sponsors are notified of the number of schools they may sponsor, as required by Section 206.10.09 of this act, and the deadline for lottery applications to enable sponsors to complete the application process.

SECTION 206.10.11. No community school established under Chapter 3314. of the Revised Code that was not open for operation as of May 1, 2005, shall operate from a home, as defined in section 3313.64 of the Revised Code.

SECTION 206.10.12. (A) The School Physical Fitness and Wellness

Advisory Council is hereby established. The Council shall consist of the following members:

(1) A representative of the Ohio Association for Health, Physical Education, Recreation and Dance, appointed by the Association;

(2) A school food service director, appointed by the Ohio School Food Service Association;

(3) A representative of the Ohio School Boards Association, appointed by the Association;

(4) A registered dietician, appointed by the Ohio Dietetic Association;

(5) A representative of the Ohio State Medical Association, appointed by the Association;

(6) A representative of the food industry, appointed by the Ohio Chamber of Commerce;

(7) A representative of the Ohio Parent Teacher Association, appointed by the Association;

(8) A representative of the Ohio Soft Drink Association, appointed by the Association;

(9) A representative of the Department of Education, appointed by the Superintendent of Public Instruction;

(10) A representative of the Ohio Parks and Recreation Association, appointed by the Association;

(11) The Director of Health;

(12) A representative of the Ohio Children's Hunger Alliance, appointed by the Alliance.

(B) Appointments to the Council shall be made within thirty days after the effective date of this section. The representative of the Department of Education shall be the chairperson of the Council. The Council shall meet at least every two months. The Department of Education shall provide administrative support to the Council in the performance of its duties.

(C) The Council shall develop guidelines for best practices regarding nutrition education, physical activity for students, and school-based activities and school-business partnerships that promote student wellness. For this purpose, the Council shall examine research concerning these issues and review existing guidelines and best practices established by associations or governmental entities at the national, state, and local levels. The best practices guidelines developed by the Council shall provide information that school districts participating in a school lunch program under the "National School Lunch Act," 60 Stat. 230 (1946), 42 U.S.C. 1751, as amended, may use when adopting local wellness policies as required by the "Child

Nutrition Act of 1966," 80 Stat. 885, 42 U.S.C. 1771, as amended. The Council also shall develop strategies for districts to use in evaluating the implementation of their local wellness policies to determine if the goals and objectives described in those policies are being met.

(D) Not later than December 31, 2005, the Council shall compile a written report containing its best practices guidelines and evaluation strategies. Copies of the report shall be provided to each school district participating in a school lunch program as described in division (C) of this section, the Governor, the Speaker of the House of Representatives, and the President of the Senate. Upon submission of its report, the Council shall cease to exist.

SECTION 206.10.15. For fiscal years 2006 and 2007, the Department of Education shall provide funding to the Ohio Wyami Appalachian Teacher Cohorts Program under the Columbiana County Educational Service Center to provide teacher professional development in Ohio's Appalachian counties. The program shall provide professional development that is based on a review of scientifically based research and is expected to improve student academic achievement as required by Title II of the "No Child Left Behind Act of 2001," 115 Stat. 1425, 20 U.S.C. 6612 et seq., for approximately eighty public and charter nonpublic teachers from Ohio's Appalachian counties each year. The Department of Education shall provide \$1,500,000 each fiscal year in federal grant funds from the State Grants For Improving Teacher Quality Program to the Columbiana County Educational Service Center for this purpose. The Center shall not expend these funds outside of Ohio.

SECTION 206.10.21. (A) Notwithstanding section 3313.41 of the Revised Code, a school district board of education in support of economic development within the territory of the district may dispose of real property that it owns in its corporate capacity, and that exceeds in value ten thousand dollars, by direct sale in lieu of offering the property for sale at public auction as provided in division (A) of that section, in lieu of offering the property for sale to an entity listed in division (C) of that section, or in lieu of offering the property for sale to a community school as provided in division (G) of that section, if all of the following conditions are satisfied:

- (1) The real property is encumbered by easements, liens, or other use restrictions that benefit the person acquiring the property under this section;
- (2) The real property was part of or adjacent to real property previously

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disposed of by the board of education;

(3) The real property when sold will be used for commercial development.

(B) This section expires December 31, 2005.

SECTION 206.10.24. Regardless of the changes made by this act regarding the reporting of formula ADM by school districts, not later than July 1, 2006, the Superintendent of Public Instruction shall recommend to the General Assembly a plan whereby:

(A) School districts make a second annual certification of formula ADM in the second half of each fiscal year, prior to the first day of April;

(B) This second annual certification of formula ADM may be used to guarantee a minimum level of state funding to each school district for the next fiscal year, with sufficient notice so that the districts may prepare in advance of each school year.

The recommended plan shall include methods to accommodate enrollment growth trends in fast-growing districts.

#### SECTION 206.13. ELC OHIO ELECTIONS COMMISSION

##### General Revenue Fund

GRF 051-321	Operating Expenses	\$	411,623	\$	411,623
TOTAL GRF General Revenue Fund		\$	411,623	\$	411,623

##### General Services Fund Group

4P2 051-601	Ohio Elections				
	Commission Fund	\$	225,000	\$	225,000
TOTAL GSF General Services Fund Group		\$	225,000	\$	225,000
TOTAL ALL BUDGET FUND GROUPS		\$	636,623	\$	636,623

#### SECTION 206.16. FUN STATE BOARD OF EMBALMERS AND FUNERAL DIRECTORS

##### General Services Fund Group

4K9 881-609	Operating Expenses	\$	598,933	\$	0
TOTAL GSF General Services Fund Group		\$	598,933	\$	0
TOTAL ALL BUDGET FUND GROUPS		\$	598,933	\$	0

#### SECTION 206.19. ERB STATE EMPLOYMENT RELATIONS BOARD

##### General Revenue Fund

GRF 125-321	Operating Expenses	\$	3,265,397	\$	3,363,359
TOTAL GRF General Revenue Fund		\$	3,265,397	\$	3,363,359

##### General Services Fund Group

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572 125-603	Training and Publications	\$	75,541	\$	75,541
TOTAL GSF General Services					
Fund Group		\$	75,541	\$	75,541
TOTAL ALL BUDGET FUND GROUPS		\$	3,340,938	\$	3,438,900

#### SECTION 206.24. ENG STATE BOARD OF ENGINEERS AND SURVEYORS

##### General Services Fund Group

4K9 892-609	Operating Expenses	\$	1,058,881	\$	1,058,881
TOTAL GSF General Services					
Fund Group		\$	1,058,881	\$	1,058,881
TOTAL ALL BUDGET FUND GROUPS		\$	1,058,881	\$	1,058,881

#### SECTION 206.27. EPA ENVIRONMENTAL PROTECTION AGENCY

##### General Revenue Fund

GRF 715-403	Clean Ohio	\$	92,707	\$	0
GRF 715-501	Local Air Pollution Control	\$	128,297	\$	0
GRF 717-321	Surface Water	\$	1,112,342	\$	0
GRF 718-321	Groundwater	\$	136,719	\$	0
GRF 719-321	Air Pollution Control	\$	311,494	\$	0
GRF 721-321	Drinking Water	\$	318,783	\$	0
GRF 723-321	Hazardous Waste	\$	12,606	\$	0
GRF 724-321	Pollution Prevention	\$	87,538	\$	0
GRF 725-321	Laboratory	\$	152,043	\$	0
GRF 726-321	Corrective Actions	\$	147,473	\$	0
TOTAL GRF General Revenue Fund		\$	2,500,002	\$	0

##### General Services Fund Group

199 715-602	Laboratory Services	\$	1,078,348	\$	1,083,574
219 715-604	Central Support Indirect	\$	15,804,913	\$	16,345,805
4A1 715-640	Operating Expenses	\$	3,369,731	\$	3,369,731
TOTAL GSF General Services					
Fund Group		\$	20,252,992	\$	20,799,110

##### Federal Special Revenue Fund Group

3F2 715-630	Revolving Loan Fund - Operating	\$	152,021	\$	293,129
3F3 715-632	Fed Supported Cleanup and Response	\$	2,792,648	\$	2,777,648
3F4 715-633	Water Quality Management	\$	710,000	\$	710,000
3F5 715-641	Nonpoint Source Pollution Management	\$	7,815,000	\$	7,810,000
3J1 715-620	Urban Stormwater	\$	706,000	\$	710,000
3K2 715-628	Clean Water Act 106	\$	4,723,845	\$	5,023,846
3K4 715-634	DOD Monitoring and Oversight	\$	1,450,333	\$	1,450,333
3K6 715-639	Remedial Action Plan	\$	320,000	\$	319,000
3N4 715-657	DOE Monitoring and Oversight	\$	3,181,736	\$	3,231,963
3V7 715-606	Agencywide Grants	\$	458,115	\$	479,115
352 715-611	Wastewater Pollution	\$	525,000	\$	530,000

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353	715-612	Public Water Supply	\$	3,384,959	\$	3,388,619
354	715-614	Hazardous Waste Management - Federal	\$	4,203,891	\$	4,203,891
357	715-619	Air Pollution Control - Federal	\$	6,966,337	\$	7,243,950
362	715-605	Underground Injection Control - Federal	\$	111,874	\$	111,874
TOTAL FED Federal Special Revenue Fund Group			\$	37,501,759	\$	38,283,368
<b>State Special Revenue Fund Group</b>						
3T3	715-669	Drinking Water SRF	\$	2,411,614	\$	2,482,910
4J0	715-638	Underground Injection Control	\$	438,285	\$	458,418
4K2	715-648	Clean Air - Non Title V	\$	3,234,278	\$	3,178,062
4K3	715-649	Solid Waste	\$	13,800,377	\$	14,282,845
4K4	715-650	Surface Water Protection	\$	11,606,000	\$	12,420,000
4K5	715-651	Drinking Water Protection	\$	7,202,901	\$	7,492,035
4P5	715-654	Cozart Landfill	\$	149,728	\$	149,728
4R5	715-656	Scrap Tire Management	\$	6,000,000	\$	6,000,000
4R9	715-658	Voluntary Action Program	\$	1,008,765	\$	1,032,098
4T3	715-659	Clean Air - Title V Permit Program	\$	16,960,373	\$	17,180,980
4U7	715-660	Construction & Demolition Debris	\$	586,797	\$	582,305
5BC	715-617	Clean Ohio	\$	648,939	\$	741,646
5BC	715-622	Local Air Pollution Control	\$	898,072	\$	1,026,369
5BC	715-624	Surface Water	\$	7,685,071	\$	8,797,413
5BC	715-667	Groundwater	\$	957,022	\$	1,093,741
5BC	715-672	Air Pollution Control	\$	4,234,681	\$	5,199,290
5BC	715-673	Drinking Water	\$	2,231,467	\$	2,550,250
5BC	715-675	Hazardous Waste	\$	88,241	\$	100,847
5BC	715-676	Assistance and Prevention	\$	612,764	\$	700,302
5BC	715-677	Laboratory	\$	1,064,290	\$	1,216,333
5BC	715-678	Corrective Action	\$	1,032,302	\$	1,179,775
5CD	715-682	Clean Diesel School Buses	\$	650,000	\$	850,000
5H4	715-664	Groundwater Support	\$	2,325,922	\$	2,408,871
5N2	715-613	Dredge and Fill	\$	30,000	\$	30,000
500	715-608	Immediate Removal Special Account	\$	482,000	\$	482,000
503	715-621	Hazardous Waste Facility Management	\$	11,270,231	\$	11,711,473
505	715-623	Hazardous Waste Cleanup	\$	11,482,988	\$	11,482,988
505	715-674	Clean Ohio Environmental Review	\$	104,500	\$	109,725
541	715-670	Site Specific Cleanup	\$	33,000	\$	34,650
542	715-671	Risk Management Reporting	\$	146,188	\$	146,188
592	715-627	Anti Tampering Settlement	\$	17,203	\$	9,707
6A1	715-645	Environmental Education	\$	1,500,000	\$	1,500,000
602	715-626	Motor Vehicle Inspection and Maintenance	\$	1,190,944	\$	250,000
644	715-631	ER Radiological Safety	\$	286,114	\$	286,114
660	715-629	Infectious Waste Management	\$	160,000	\$	100,000
676	715-642	Water Pollution Control Loan Administration	\$	4,964,625	\$	4,964,625



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678	715-635	Air Toxic Release	\$	210,621	\$	210,622
679	715-636	Emergency Planning	\$	2,828,647	\$	2,828,647
696	715-643	Air Pollution Control Administration	\$	750,000	\$	750,000
699	715-644	Water Pollution Control Administration	\$	750,000	\$	750,000
TOTAL SSR State Special Revenue Fund Group			\$	122,034,950	\$	126,770,957
<b>Clean Ohio Revitalization Fund Group</b>						
5S1	715-607	Clean Ohio - Operating	\$	208,174	\$	208,174
TOTAL CLF Clean Ohio Revitalization Fund Group			\$	208,174	\$	208,174
TOTAL ALL BUDGET FUND GROUPS			\$	182,497,877	\$	186,061,609

#### **AUTOMOBILE EMISSIONS TESTING PROGRAM OPERATION AND OVERSIGHT**

(A) There is hereby created the Auto Emissions Test Fund (Fund 5BY). When renewing a contract to continue the E-check program after December 31, 2005, the Ohio Environmental Protection Agency (EPA) shall use the foregoing appropriation item 715-681, Auto Emissions Test in the Auto Emissions Test Fund (Fund 5BY), to pay the contracted amount per test for the operation, and Ohio EPA's costs for oversight, of the auto emissions testing programs in counties still designated as non-attainment or designated by the General Assembly to continue such tests under mandate of the federal Clean Air Act. These amounts are hereby appropriated.

(B)(1) Not later than July 1, 2005, the Director of Environmental Protection, in conjunction with the Office of Budget and Management, shall estimate the amount necessary for operation of the Auto Emissions Testing Program for the period beginning January 1, 2006, and ending June 30, 2006. Notwithstanding section 183.02 of the Revised Code, of the tobacco revenue that is credited to the Tobacco Master Settlement Agreement Fund (Fund 087) in fiscal year 2005, the Director of Budget and Management shall withhold from the share that is determined pursuant to section 183.02 of the Revised Code to be the amount to be transferred from the Tobacco Master Settlement Agreement Fund (Fund 086) to the Tobacco Use Prevention and Cessation Trust Fund (Fund H87) an amount equal to the estimate determined pursuant to this division.

(2) Not later than December 31, 2005, the Director of Environmental Protection shall certify to the Director of Budget and Management the actual amount, not to exceed the estimated amount, necessary for the Auto Emissions Testing Program for the period beginning January 1, 2006, and ending June 30, 2006. Notwithstanding section 183.02 of the Revised Code, on January 1, 2006, or as soon as possible thereafter, the Director of Budget and Management shall transfer the amount certified pursuant to this division

from the Tobacco Master Settlement Agreement Fund (Fund 087) to the Auto Emissions Test Fund (Fund 5BY). Amounts transferred are hereby appropriated to appropriation item 715-681, Auto Emissions Test, in the Environmental Protection Agency.

(3) On January 1, 2006, or as soon as possible thereafter, the Director of Budget and Management shall transfer to the Tobacco Use Prevention and Cessation Trust Fund (Fund H87) any amount withheld from being transferred to the Tobacco Use Prevention and Cessation Trust Fund pursuant to division (B)(1) of this section that is greater than the amount that is transferred under division (B)(2) of this section.

(C) An amount equal to the remaining balance in appropriation item 715-681, Auto Emissions Test, from fiscal year 2006 is hereby appropriated for fiscal year 2007 into appropriation item 715-681, Auto Emissions Test.

(D) Not later than June 30, 2006, the Director of Environmental Protection shall certify to the Director of Budget and Management the amount needed for the Auto Emissions Testing Program for fiscal year 2007 taking into account the amounts appropriated for fiscal year 2007 pursuant to division (C) of this section.

Notwithstanding section 183.02 of the Revised Code, on July 1, 2006, or as soon as possible thereafter, the Director of Budget and Management shall transfer cash equal to the amount certified pursuant to this division from the Tobacco Master Settlement Agreement Fund (Fund 087) to the Auto Emissions Test Fund (Fund 5BY) in the Environmental Protection Agency. Of the tobacco revenue that is credited to the Tobacco Master Settlement Agreement Fund (Fund 087) in fiscal year 2006, the share that is determined pursuant to section 183.02 of the Revised Code to be the amount transferred by the Director of Budget and Management from the Tobacco Master Settlement Agreement Fund (Fund 087) to the Tobacco Use Prevention and Cessation Trust Fund (Fund H87) shall be reduced by the amount that is transferred from the Tobacco Master Settlement Agreement Fund (Fund 087) to the Auto Emissions Test Fund (Fund 5BY) under this division. Amounts transferred are hereby appropriated to appropriation item 715-681, Auto Emissions Test, in the Environmental Protection Agency.

(E) Not later than July 31, 2007, the Director of Budget and Management shall transfer the unencumbered cash balance of the Auto Emissions Test Fund (Fund 5BY) to the Tobacco Use Prevention and Cessation Trust Fund (Fund H87).

(F) The funds identified in this section shall not be used to cover the testing costs of any dealers that are required to provide passing certificates under section 3704.14 of the Revised Code or to provide more than two free

tests for any vehicle in a three-hundred-sixty-five-day period. The cost of testing and retesting for any vehicle shall not exceed the contracted amount per test.

#### NPDES TRANSFER TO AGRICULTURE

On or after the date on which the United States Environmental Protection Agency approves the state program submitted under division (A)(1) of section 903.08 of the Revised Code, the Director of Environmental Protection, the Director of Agriculture, and the Director of Budget and Management shall calculate the amount of compensation to be made to the Environmental Protection Agency and to the Department of Agriculture from federal moneys disbursed and received for purposes of administering the National Pollutant Discharge Elimination System (NPDES) Program and shall calculate the amount of state matching funding that is required for administering that program. The Environmental Protection Agency and the Department of Agriculture may apply separately to the United States Environmental Protection Agency for each agency's respective share of the federal moneys. If the United States Environmental Protection Agency awards all federal moneys for administration of the NPDES program to one agency, that agency shall transfer the appropriate amount of moneys to the other agency in accordance with the calculations of compensation made pursuant to these provisions.

#### CASH TRANSFER FOR ENVIRONMENTAL PROTECTION FUND

On July 1, 2005, or as soon as possible thereafter, the Director of Budget and Management may transfer \$1,000,000 in cash from the Central Support Indirect Fund (Fund 219) into the Environmental Protection Fund (Fund 5BC).

On July 1, 2005, or as soon as possible thereafter, the Director of Budget and Management may transfer \$6,000,000 in cash from the Hazardous Waste Facility Management Fund (Fund 503) into the Environmental Protection Fund (Fund 5BC).

On July 1, 2005, or as soon as possible thereafter, the Director of Budget and Management may transfer \$3,000,000 in cash from the Solid Waste Fund (Fund 4K3) into the Environmental Protection Fund (Fund 5BC).

On July 1, 2005, or as soon as possible thereafter, the Director of Budget and Management may transfer \$1,000,000 in cash from the Hazardous Waste Cleanup Fund (Fund 505) into the Environmental Protection Fund (Fund 5BC).

#### SECTION 206.30. EBR ENVIRONMENTAL REVIEW APPEALS

**COMMISSION****General Revenue Fund**

GRF 172-321	Operating Expenses	\$	479,161	\$	483,859
TOTAL GRF General Revenue Fund		\$	479,161	\$	483,859
TOTAL ALL BUDGET FUND GROUPS		\$	479,161	\$	483,859

**SECTION 206.31. ETC ETECH OHIO****General Revenue Fund**

GRF 935-321	Operations	\$	7,174,453	\$	6,830,918
GRF 935-401	Statehouse News Bureau	\$	244,400	\$	244,400
GRF 935-402	Ohio Government	\$	716,417	\$	716,417
	Telecommunications Studio				
GRF 935-403	Technical Operations	\$	1,768,150	\$	1,768,150
GRF 935-404	Telecommunications	\$	3,632,413	\$	3,632,413
	Operating Subsidy				
GRF 935-406	Technical and Instructional	\$	6,484,763	\$	6,607,144
	Professional Development				
GRF 935-539	Educational Technology	\$	5,968,791	\$	5,968,791
TOTAL GRF General Revenue Fund		\$	25,989,387	\$	25,768,233

**General Services Fund Group**

4F3 935-603	Affiliate Services	\$	2,000,000	\$	2,000,000
4T2 935-605	Government	\$	150,000	\$	150,000
	Television/Telecommunications				
	Operating				
5D4 935-640	Conference/Special Purposes	\$	1,600,645	\$	1,821,817
TOTAL GSF General Services Fund Group		\$	3,750,645	\$	3,971,817

**Federal Special Revenue Fund Group**

3S3 935-606	Enhancing Education	\$	589,363	\$	589,363
	Technology				
TOTAL FED Federal Special Revenue Fund Group		\$	589,363	\$	589,363

**State Special Revenue Fund Group**

4W9 935-630	Telecommunity	\$	50,000	\$	25,000
4X1 935-634	Distance Learning	\$	250,000	\$	100,000
5T3 935-607	Gates Foundation Grants	\$	600,000	\$	200,000
TOTAL SSR State Special Revenue Fund Group		\$	900,000	\$	325,000
TOTAL ALL BUDGET FUND GROUPS		\$	31,229,395	\$	30,654,413

**SECTION 206.31.03. OPERATIONS**

eTech Ohio shall enter into an agreement with the Department of Administrative Services to provide for the maintenance of all of its towers. eTech Ohio and the Department of Administrative Services shall develop a plan to address the best method for transferring ownership and control of all the towers to the Department of Administrative Services. This plan shall be

submitted to the Office of Budget and Management by July 1, 2006.

SECTION 206.31.06. TELECOMMUNICATIONS  
STATEHOUSE NEWS BUREAU

The foregoing appropriation item 935-401, Statehouse News Bureau, shall be used solely to support the operations of the Ohio Statehouse News Bureau.

OHIO GOVERNMENT TELECOMMUNICATIONS STUDIO

The foregoing appropriation item 935-402, Ohio Government Telecommunications Studio, shall be used solely to support the operations of the Ohio Government Telecommunications Studio.

TECHNICAL OPERATIONS

The foregoing appropriation item 935-403, Technical Operations, shall be used by eTech Ohio to pay expenses of the television and radio transmission infrastructure.

TELECOMMUNICATIONS OPERATING SUBSIDY

Of the foregoing appropriation item 935-404, Telecommunications Operating Subsidy, \$45,000 in each fiscal year shall be used to contract for dial-up newspaper reading services for the blind and physically handicapped. The contract shall be awarded through a competitive bidding process. eTech Ohio shall not disburse these funds without prior approval of the Controlling Board.

The remainder of appropriation item 935-404, Telecommunications Operating Subsidy, shall be distributed by eTech Ohio to Ohio's qualified public educational television stations, radio reading services, and educational radio stations to support their operations. The funds shall be distributed pursuant to an allocation formula used by the Ohio Educational Telecommunications Network Commission unless and until a substitute formula is developed by eTech Ohio in consultation with Ohio's qualified public educational television stations, radio reading services, and educational radio stations.

SECTION 206.31.09. TECHNICAL AND INSTRUCTIONAL  
PROFESSIONAL DEVELOPMENT

The foregoing appropriation item 935-406, Technical and Instructional Professional Development, shall be used by eTech Ohio to make grants or provide services to qualifying public schools, including the State School for the Blind and the State School for the Deaf, and the Ohio Department of Youth Services, for the provision of hardware, software,

telecommunications services, and staff development to support educational uses of technology in the classroom. eTech Ohio shall consider the professional development needs associated with the OhioReads Program when making funding allocations and program decisions.

Of the foregoing appropriation item 935-406, Technical and Instructional Professional Development, up to \$200,000 in each fiscal year shall be used by eTech Ohio to provide competitive professional development grants to school districts. Grant proposals shall focus on developing innovative programs that enhance the abilities of teachers to use innovative methods for integrating technology to implement state academic content standards in classroom lessons. Grant requirements and awards shall be approved by eTech Ohio, with priority given to school districts designated in academic emergency, academic watch, or continuous improvement. eTech Ohio shall develop a website to share information learned through these programs with school districts statewide. The website shall be linked with the Ohio Department of Education's Instructional Management System.

Of the foregoing appropriation item 935-406, Technical and Instructional Professional Development, up to \$1,260,000 in each fiscal year shall be allocated equally among the 12 Ohio educational television stations and used with the advice and approval of eTech Ohio. Funds shall be used for the production of interactive instructional programming series with priority given to resources aligned with state academic content standards in consultation with the Ohio Department of Education and for teleconferences to support eTech Ohio. The programming shall be targeted to the needs of the poorest two hundred school districts as determined by the district's adjusted valuation per pupil as defined in section 3317.0213 of the Revised Code as that section existed prior to the effective date of this section.

The remainder of appropriation item 935-406, Technical and Instructional Professional Development, shall be used by eTech Ohio for professional development for teachers and administrators for the use of educational technology. eTech Ohio may make grants to provide technical assistance and professional development on the use of educational technology to school districts.

Eligible recipients of grants include regional training centers, educational service centers, data acquisition sites, educational technology centers, institutions of higher education, public television stations, special education resource centers, area media centers, or other nonprofit educational organizations. In addition, services provided through these grants may include use of private entities subcontracting through the grant

recipient.

Grants shall be made to entities on a contractual basis with eTech Ohio. Contracts shall include provisions that demonstrate how services will benefit technology use in the public schools, and in particular how services will support eTech Ohio's efforts to integrate technology in the public schools. Contracts shall specify the scope of assistance being offered and the potential number of professionals who will be served. Contracting entities may be awarded more than one grant at a time. Grants shall be awarded in a manner consistent with the goals and priorities of eTech Ohio. Special emphasis in the award of grants shall be placed on collaborative efforts among service providers.

Application for grants from appropriation item 935-406, Technical and Instructional Professional Development, shall be consistent with a school district's technology plan that shall meet the minimum specifications for school district technology plans as prescribed by eTech Ohio. Funds allocated through these grants may be combined with funds received through other state or federal grants for technology so long as the school district's technology plan specifies the use of these funds.

#### SECTION 206.31.12. EDUCATION TECHNOLOGY

The foregoing appropriation item 935-539, Education Technology, shall be used to provide funding to suppliers of information services to school districts for the provision of hardware, software, and staff development in support of educational uses of technology in the classroom as prescribed by the State Plan for Technology pursuant to section 3301.07 of the Revised Code, and to support assistive technology for children and youth with disabilities.

Of the foregoing appropriation item 935-539, Education Technology, up to \$1,829,240 in each fiscal year shall be used by eTech Ohio to link all public K-12 classrooms to each other and the Internet, and to provide access to voice, video, and data educational resources for students and teachers through the OneNet Ohio Program.

Up to \$4,139,551 in each fiscal year shall be used by eTech Ohio to contract with educational television to provide Ohio public schools with instructional resources and services with priority given to resources and services aligned with state academic content standards and such resources and services shall be based upon the advice and approval of eTech Ohio, based on a formula used by the Ohio SchoolNet Commission unless and until a substitute formula is developed by eTech Ohio in consultation with Ohio's educational technology agencies and noncommercial educational

television stations.

Resources may include, but not be limited to, the following: prerecorded video materials (including videotape, laser discs, and CD-ROM discs); computer software for student use or student access to electronic communication, databases, spreadsheet, and word processing capability; live student courses or courses delivered electronically; automated media systems; and instructional and professional development materials for teachers. eTech Ohio shall collaborate with public television stations and cooperate with education technology agencies in the acquisition, development, and delivery of such educational resources to ensure high-quality and educational soundness at the lowest possible cost. Delivery of such resources may utilize a variety of technologies, with a preference given to a high speed integrated information network that can transport video, voice, data, and graphics simultaneously.

Services shall include presentations and technical assistance that will help students and teachers integrate educational materials that support curriculum objectives, match specific learning styles, and are appropriate for individual interests and ability levels.

Such instructional resources and services shall be made available for purchase by chartered nonpublic schools or by school districts for the benefit of pupils attending chartered nonpublic schools.

eTech Ohio shall monitor the developments of technology, coordinate with the Office of Information Technology, and assure the most effective and highest quality operation of eTech Ohio networks. All efforts may be aligned with the State's ongoing efforts to coordinate appropriate network operations through the Office of Information Technology and through the Third Frontier Network.

#### SECTION 206.31.15. TELECOMMUNITY

The foregoing appropriation item 935-630, Telecommunity, shall be distributed by eTech Ohio on a grant basis to eligible school districts to establish "distance learning" through interactive video technologies in the school district. Per agreements with eight Ohio local telephone companies: ALLTEL Ohio, CENTURY Telephone of Ohio, Chillicothe Telephone Company, Cincinnati Bell Telephone Company, Orwell Telephone Company, Sprint North Central Telephone, VERIZON, and Western Reserve Telephone Company, school districts are eligible for funds if they are within one of the listed telephone company service areas. Funds to administer the program shall be expended by eTech Ohio up to the amount specified in agreements with the listed telephone companies.



Within thirty days after the effective date of this section, the Director of Budget and Management shall transfer to Fund 4W9 in the state special revenue fund group any investment earnings from moneys paid by any telephone company as part of any settlement agreement between the listed companies and the Public Utilities Commission in fiscal years 1996 and beyond.

#### **DISTANCE LEARNING**

The foregoing appropriation item 935-634, Distance Learning, shall be distributed by eTech Ohio on a grant basis to eligible school districts to establish "distance learning" in the school district. Per the agreement with Ameritech, school districts are eligible for funds if they are within an Ameritech service area. Funds to administer the program shall be expended by eTech Ohio up to the amount specified in the agreement with Ameritech.

Within thirty days after the effective date of this section, the Director of Budget and Management shall transfer to fund 4X1 in the State Special Revenue Fund Group any investment earnings from moneys paid by any telephone company as part of a settlement agreement between the company and the Public Utilities Commission in fiscal year 1995.

#### **GATES FOUNDATION GRANTS**

The foregoing appropriation item 935-607, Gates Foundation Grants, shall be used by eTech Ohio to provide professional development to school district principals, superintendents, and other administrative staff for the use of education technology.

### **SECTION 206.33. ETH OHIO ETHICS COMMISSION**

#### **General Revenue Fund**

GRF 146-321	Operating Expenses	\$	1,536,213	\$	1,536,213
TOTAL GRF General Revenue Fund		\$	1,536,213	\$	1,536,213

#### **General Services Fund Group**

4M6 146-601	Operating Expenses	\$	502,543	\$	432,543
TOTAL GSF General Services Fund Group		\$	502,543	\$	432,543
TOTAL ALL BUDGET FUND GROUPS		\$	2,038,756	\$	1,968,756

### **SECTION 206.36. EXP OHIO EXPOSITIONS COMMISSION**

#### **General Revenue Fund**

GRF 723-403	Junior Fair Subsidy	\$	400,000	\$	400,000
TOTAL GRF General Revenue Fund		\$	400,000	\$	400,000

#### **State Special Revenue Fund Group**

4N2 723-602	Ohio State Fair Harness Racing	\$	520,000	\$	520,000
506 723-601	Operating Expenses	\$	13,643,315	\$	13,643,315

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TOTAL SSR State Special Revenue				
Fund Group	\$	14,163,315	\$	14,163,315
TOTAL ALL BUDGET FUND GROUPS	\$	14,563,315	\$	14,563,315

## SECTION 206.39. GOV OFFICE OF THE GOVERNOR

## General Revenue Fund

GRF 040-321	Operating Expenses	\$	3,981,582	\$	3,981,582
GRF 040-403	Federal Relations	\$	422,760	\$	422,760
GRF 040-408	Office of Veterans' Affairs	\$	292,923	\$	267,923
TOTAL GRF General Revenue Fund		\$	4,697,265	\$	4,672,265

## General Services Fund Group

5AK 040-607	Federal Relations	\$	354,514	\$	354,514
TOTAL GSF General Services Fund Group		\$	354,514	\$	354,514
TOTAL ALL BUDGET FUND GROUPS		\$	5,051,779	\$	5,026,779

## APPOINTMENT OF LEGAL COUNSEL FOR THE GOVERNOR

The Governor may expend a portion of the foregoing appropriation item 040-321, Operating Expenses, to hire or appoint legal counsel to be used in proceedings involving the Governor in the Governor's official capacity or the Governor's office only, without the approval of the Attorney General, notwithstanding sections 109.02 and 109.07 of the Revised Code.

## OHIO VETERANS' HALL OF FAME

Of the foregoing appropriation item 040-408, Office of Veterans' Affairs, \$25,000 shall be used in fiscal year 2006 to fund Ohio Veterans' Hall of Fame expenses.

## FEDERAL RELATIONS

A portion of the foregoing appropriation items 040-403, Federal Relations, and 040-607, Federal Relations, may be used to support Ohio's membership in national or regional associations.

The Office of the Governor may charge any state agency of the executive branch using an intrastate transfer voucher such amounts necessary to defray the costs incurred for the conduct of federal relations associated with issues that can be attributed to the agency. Amounts collected shall be deposited to the Office of the Governor Federal Relations Fund (Fund 5AK).

## SECTION 206.42. DOH DEPARTMENT OF HEALTH

## General Revenue Fund

GRF 440-407	Animal Borne Disease and Prevention	\$	2,452,101	\$	2,452,101
GRF 440-412	Cancer Incidence Surveillance System	\$	1,002,619	\$	1,002,619
GRF 440-413	Local Health Department Support	\$	3,786,794	\$	3,786,794

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GRF 440-416	Child and Family Health Services	\$	9,682,874	\$	9,582,874
GRF 440-418	Immunizations	\$	8,600,615	\$	9,400,615
GRF 440-431	Free Clinic Liability Insurance	\$	275,000	\$	325,000
GRF 440-444	AIDS Prevention and Treatment	\$	7,158,127	\$	7,158,127
GRF 440-446	Infectious Disease Prevention	\$	200,000	\$	200,000
GRF 440-451	Lab and Public Health Prevention Programs	\$	6,085,250	\$	6,085,250
GRF 440-452	Child and Family Health Services Match	\$	1,024,017	\$	1,024,017
GRF 440-453	Health Care Quality Assurance	\$	10,253,728	\$	10,253,728
GRF 440-454	Local Environmental Health	\$	889,752	\$	889,752
GRF 440-459	Help Me Grow	\$	9,323,797	\$	9,323,797
GRF 440-461	Center for Vital and Health Stats	\$	3,629,535	\$	3,629,535
GRF 440-505	Medically Handicapped Children	\$	9,591,784	\$	8,791,784
GRF 440-507	Targeted Health Care Services Over 21	\$	1,631,023	\$	1,631,023
TOTAL GRF General Revenue Fund		\$	75,587,016	\$	75,537,016
<b>General Services Fund Group</b>					
142 440-618	Agency Health Services	\$	2,461,915	\$	2,561,915
211 440-613	Central Support Indirect Costs	\$	26,584,707	\$	26,584,707
473 440-622	Lab Operating Expenses	\$	4,154,045	\$	4,154,045
683 440-633	Employee Assistance Program	\$	1,208,214	\$	1,208,214
698 440-634	Nurse Aide Training	\$	170,000	\$	170,000
TOTAL GSF General Services Fund Group		\$	34,578,881	\$	34,678,881
<b>Federal Special Revenue Fund Group</b>					
320 440-601	Maternal Child Health Block Grant	\$	28,779,322	\$	29,025,635
387 440-602	Preventive Health Block Grant	\$	7,755,005	\$	7,826,659
389 440-604	Women, Infants, and Children	\$	219,920,083	\$	230,077,451
391 440-606	Medicaid/Medicare	\$	24,211,198	\$	24,850,959
392 440-618	Federal Public Health Programs	\$	126,678,202	\$	127,677,458
TOTAL FED Federal Special Revenue Fund Group		\$	407,343,810	\$	419,458,162
<b>State Special Revenue Fund Group</b>					
4D6 440-608	Genetics Services	\$	2,617,000	\$	2,617,000
4F9 440-610	Sickle Cell Disease Control	\$	1,035,344	\$	1,035,344
4G0 440-636	Heirloom Birth Certificate	\$	5,000	\$	5,000
4G0 440-637	Birth Certificate Surcharge	\$	5,000	\$	5,000
4L3 440-609	Non-Governmental Grants and Awards	\$	144,119	\$	144,119
4T4 440-603	Child Highway Safety	\$	233,894	\$	233,894
4V6 440-641	Save Our Sight	\$	1,767,994	\$	1,767,994
470 440-618	Fee Supported Programs	\$	16,025,194	\$	16,025,194
471 440-619	Certificate of Need	\$	581,572	\$	594,572
477 440-627	Medically Handicapped	\$	3,800,000	\$	3,693,016

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		Children Audit			
5BL	440-638	Healthy Ohioans	\$	5,000,000	\$ 0
5B5	440-616	Quality, Monitoring, and Inspection	\$	838,479	\$ 838,479
5CB	440-640	Poison Control Centers	\$	200,000	\$ 200,000
5C0	440-615	Alcohol Testing and Permit	\$	1,455,405	\$ 1,455,405
5D6	440-620	Second Chance Trust	\$	1,054,951	\$ 1,054,951
5G4	440-639	Adoption Services	\$	20,000	\$ 20,000
5L1	440-623	Nursing Facility Technical Assistance Program	\$	617,517	\$ 617,517
610	440-626	Radiation Emergency Response	\$	850,000	\$ 850,000
666	440-607	Medically Handicapped Children - County Assessments	\$	14,320,687	\$ 14,320,687
TOTAL SSR State Special Revenue Fund Group			\$	50,572,156	\$ 45,478,172
<b>Holding Account Redistribution Fund Group</b>					
R14	440-631	Vital Statistics	\$	70,000	\$ 70,000
R48	440-625	Refunds, Grants Reconciliation, and Audit Settlements	\$	20,000	\$ 20,000
TOTAL 090 Holding Account Redistribution Fund Group			\$	90,000	\$ 90,000
TOTAL ALL BUDGET FUND GROUPS			\$	568,171,863	\$ 575,242,231

**SECTION 206.42.03. CHILD AND FAMILY HEALTH SERVICES**

Of the foregoing appropriation item 440-416, Child and Family Health Services, not more than \$1,700,000 in each fiscal year shall be used for women's health services.

Of the foregoing appropriation item 440-416, Child and Family Health Services, not more than \$270,000 shall be used in each fiscal year for the OPTIONS dental care access program.

Of the foregoing appropriation item 440-416, Child and Family Health Services, not more than \$900,000 in each fiscal year shall be used by federally qualified health centers and federally designated look-alikes to provide services to uninsured low-income persons.

Of the foregoing appropriation item 440-416, Child and Family Health Services, not more than \$500,000 in each fiscal year shall be used for abstinence-only education. The Director of Health shall develop guidelines for the establishment of abstinence programs for teenagers with the purpose of decreasing unplanned pregnancies and abortion. The guidelines shall be developed pursuant to Title V of the "Social Security Act," 42 U.S.C. 510, and shall include, but are not limited to, advertising campaigns and direct training in schools and other locations.

Of the foregoing appropriation item 440-416, Child and Family Health

Services, \$10,000 in each fiscal year shall be allocated to the Jewish Family Services in Cleveland, \$10,000 in each fiscal year shall be allocated to the Jewish Family Services in Cincinnati, \$10,000 shall be allocated in each fiscal year to the Jewish Family Services in Columbus, and \$10,000 in each fiscal year shall be allocated to the Wexner Heritage Village in Columbus for interpreters for health care.

Of the foregoing appropriation item 440-416, Child and Family Health Services, \$10,000 in each fiscal year shall be provided to the Jewish Family Services in Dayton, \$5,000 in each fiscal year shall be provided to the Jewish Community Center in Akron, \$5,000 in each fiscal year shall be provided to the Jewish Community Center in Sylvania, \$2,500 in each fiscal year shall be provided to the Jewish Community Center in Youngstown, and \$2,500 in each fiscal year shall be provided to the Jewish Community Center in Canton.

Of the foregoing appropriation item 440-416, Child and Family Health Services, \$450,000 in each fiscal year shall be allocated to the Visiting Nurse Association.

Of the foregoing appropriation item 440-416, Child and Family Health Services, \$16,667 in each fiscal year shall be allocated to the Yassenoff Jewish Community Center, \$16,667 in each fiscal year shall be allocated to the Jewish Community Center in Cincinnati, and \$16,666 in each fiscal year shall be allocated to the Jewish Community Center in Cleveland for children's health and nutrition camp programs.

Of the foregoing appropriation item 440-416, Child and Family Health Services, \$25,000 in each fiscal year shall be allocated to Clermont County's Comprehensive Community Suicide Prevention Program.

Of the foregoing appropriation item 440-416, Child and Family Health Services, \$100,000 in fiscal year 2006 shall be allocated to People Working Cooperatively in Cincinnati.

Of the foregoing appropriation item 440-416, Child and Family Health Services, \$50,000 in each fiscal year shall be allocated to the Mayerson Inclusion Project.

#### SECTION 206.42.06. WOMEN'S HEALTH SERVICES

None of the funds received through grants for women's health services under this section from the foregoing appropriation item 440-416, Child and Family Health Services, shall be used to provide abortion services. None of the funds received through these grants shall be used for counseling for or referrals for abortion, except in the case of a medical emergency. These funds shall be distributed by the Director of Health to programs that the

Department of Health determines will provide services that are physically and financially separate from abortion-providing and abortion-promoting activities, and that do not include counseling for or referrals for abortion, other than in the case of medical emergency.

These women's health services include and are limited to the following: pelvic examinations and laboratory testing; breast examinations and patient education on breast cancer; screening for cervical cancer; screening and treatment for Sexually Transmitted Diseases (STDs) and HIV screening; voluntary choice of contraception, including abstinence and natural family planning; patient education and pre-pregnancy counseling on the dangers of smoking, alcohol, and drug use during pregnancy; education on sexual coercion and violence in relationships; and prenatal care or referral for prenatal care. These health care services shall be provided by licensed doctors, licensed nurses, licensed medical assistants, licensed counselors, and licensed social workers in a medical clinic setting.

The Director of Health shall adopt rules under Chapter 119. of the Revised Code specifying reasonable eligibility standards that must be met to receive the state funding and provide reasonable methods by which a grantee wishing to be eligible for federal funding may comply with these requirements for state funding without losing its eligibility for federal funding.

Each applicant for these funds shall provide sufficient assurance to the Director of Health of all of the following:

(A) The program shall not discriminate in the provision of services based on an individual's religion, race, national origin, handicapping condition, age, sex, number of pregnancies, or marital status;

(B) The program shall provide services without subjecting individuals to any coercion to accept services or to employ any particular methods of family planning;

(C) Acceptance of services shall be solely on a voluntary basis and may not be made a prerequisite to eligibility for, or receipt of, any other service, assistance from, or participation in, any other program of the service provider;

(D) The costs for services provided by the program, if any are charged, shall be based on the patient's ability to pay and priority in the provision of services shall be given to persons from low-income families.

In distributing these grant funds, the Director of Health shall give priority to grant requests from local departments of health for women's health services to be provided directly by personnel of the local department of health. The Director of Health shall issue a single request for proposals

for all grants under this set-aside. The Director of Health shall send a notification of this request for proposals to every local department of health in this state and shall place a notification on the department's web site. The Director shall allow at least 30 days after issuing this notification before closing the period to receive applications.

After the closing date for receiving grant applications, the Director of Health shall first consider grant applications from local departments of health that apply for grants for women's health services to be provided directly by personnel of the local department of health. Local departments of health that apply for grants for women's health services to be provided directly by personnel of the local department of health need not provide all the listed women's health services in order to qualify for a grant. However, in prioritizing awards among local departments of health that qualify for funding under this paragraph, the Director of Health may consider, among other reasonable factors, the comprehensiveness of the women's health services to be offered, provided that no local department of health shall be discriminated against in the process of awarding these grant funds because the applicant does not provide contraception.

If funds remain after awarding grants to all local departments of health that qualify for the priority, the Director of Health may make grants to other applicants. Awards to other applicants may be made to those applicants that will offer all eight of the listed women's health services or that will offer all of the services except contraception. No applicant shall be discriminated against in the process of awarding these grant funds because the applicant does not provide contraception.

#### SECTION 206.42.09. IMMUNIZATIONS

Of the foregoing appropriation item 440-418, Immunizations, \$800,000 in fiscal year 2007 shall be used for the purchase of varicella vaccines.

#### FREE CLINIC LIABILITY INSURANCE

Of the foregoing appropriation item 440-431, Free Clinic Liability Insurance, up to \$20,000 in each fiscal year may be used by the Department of Health for administrative expenses related to the Medical Liability Insurance Reimbursement Program. The remainder in each fiscal year shall be used to pay for medical liability insurance for free clinics, including the clinics' staff and volunteer health care professionals and volunteer health care workers. The necessity and feasibility of the program shall be reviewed as part of the next biennial budget.

#### HIV/AIDS PREVENTION/TREATMENT

Of the foregoing appropriation item 440-444, AIDS Prevention and

Treatment, not more than \$6.7 million per fiscal year shall be used to assist persons with HIV/AIDS in acquiring HIV-related medications.

#### INFECTIOUS DISEASE PREVENTION

The foregoing appropriation item 440-446, Infectious Disease Prevention, shall be used for the purchase of drugs for sexually transmitted diseases.

#### HELP ME GROW

The foregoing appropriation item 440-459, Help Me Grow, shall be used by the Department of Health to distribute subsidies to counties to implement the Help Me Grow Program. Appropriation item 440-459, Help Me Grow, may be used in conjunction with Temporary Assistance for Needy Families from the Department of Job and Family Services, Early Intervention funding from the Department of Mental Retardation and Developmental Disabilities, and in conjunction with other early childhood funds and services to promote the optimal development of young children. Local contracts shall be developed between local departments of job and family services and family and children first councils for the administration of TANF funding for the Help Me Grow Program. The Department of Health shall enter into an interagency agreement with the Department of Education, Department of Mental Retardation and Developmental Disabilities, Department of Job and Family Services, and Department of Mental Health to ensure that all early childhood programs and initiatives are coordinated and school linked.

#### TARGETED HEALTH CARE SERVICES OVER 21

In each fiscal year, of the foregoing appropriation item 440-507, Targeted Health Care Services Over 21, \$731,023 shall be used to administer the cystic fibrosis program and implement the Hemophilia Insurance Premium Payment Program.

Of the foregoing appropriation item 440-507, Targeted Health Care Services Over 21, \$900,000 in each fiscal year shall be used to provide essential medications for the cystic fibrosis program.

#### MATERNAL CHILD HEALTH BLOCK GRANT

Of the foregoing appropriation item 440-601, Maternal Child Health Block Grant (Fund 320), \$2,091,299 shall be used in each fiscal year for the purposes of abstinence-only education. The Director of Health shall develop guidelines for the establishment of abstinence programs for teenagers with the purpose of decreasing unplanned pregnancies and abortion. The guidelines shall be developed under Title V of the "Social Security Act," 42 U.S.C. 510, and shall include, but are not limited to, advertising campaigns and direct training in schools and other locations.



**GENETICS SERVICES**

The foregoing appropriation item 440-608, Genetics Services (Fund 4D6), shall be used by the Department of Health to administer programs authorized by sections 3701.501 and 3701.502 of the Revised Code. None of these funds shall be used to counsel or refer for abortion, except in the case of a medical emergency.

**SAFETY AND QUALITY OF CARE STANDARDS**

The Department of Health may use Fund 471, Certificate of Need, for administering sections 3702.11 to 3702.20 and 3702.30 of the Revised Code in each fiscal year.

**MEDICALLY HANDICAPPED CHILDREN AUDIT**

The Medically Handicapped Children Audit Fund (Fund 477) shall receive revenue from audits of hospitals and recoveries from third-party payers. Moneys may be expended for payment of audit settlements and for costs directly related to obtaining recoveries from third-party payers and for encouraging Medically Handicapped Children's Program recipients to apply for third-party benefits. Moneys also may be expended for payments for diagnostic and treatment services on behalf of medically handicapped children, as defined in division (A) of section 3701.022 of the Revised Code, and Ohio residents who are twenty-one or more years of age and who are suffering from cystic fibrosis or hemophilia. Moneys may also be expended for administrative expenses incurred in operating the Medically Handicapped Children's Program.

**CASH TRANSFER FROM LIQUOR CONTROL FUND TO ALCOHOL TESTING AND PERMIT FUND**

The Director of Budget and Management, pursuant to a plan submitted by the Department of Health, or as otherwise determined by the Director of Budget and Management, shall set a schedule to transfer cash from the Liquor Control Fund (Fund 043) to the Alcohol Testing and Permit Fund (Fund 5C0) to meet the operating needs of the Alcohol Testing and Permit program.

The Director of Budget and Management shall transfer to the Alcohol Testing and Permit Fund (Fund 5C0) from the Liquor Control Fund (Fund 043) created in section 4301.12 of the Revised Code such amounts at such times as determined by the transfer schedule.

**MEDICALLY HANDICAPPED CHILDREN - COUNTY ASSESSMENTS**

The foregoing appropriation item 440-607, Medically Handicapped Children - County Assessments (Fund 666), shall be used to make payments under division (E) of section 3701.023 of the Revised Code.

SECTION 206.42.12. MEDICALLY HANDICAPPED CHILDREN -  
FUTURE FUNDING

(A) There is hereby created the Legislative Committee on the Future Funding of the Bureau for Children with Medical Handicaps. The Speaker of the House of Representatives shall appoint three members of the House of Representatives, not more than two of whom shall belong to the same political party as the Speaker. The President of the Senate shall appoint three members of the Senate, not more than two of whom shall belong to the same political party as the President. The Speaker of the House of Representatives and the President of the Senate shall each appoint three members of the general public who each suffer from a different disease or disorder covered by the Program for Medically Handicapped Children (otherwise known as the Bureau for Children with Medical Handicaps) in the Ohio Department of Health, or family members of such individuals. The following also shall serve on the Committee:

- (1) The Director of Health, or the Director's designee;
- (2) The Superintendent of Insurance, or the Superintendent's designee;
- (3) The Director of Job and Family Services, or the Director's designee;
- (4) One person designated by the County Commissioners Association of Ohio;
- (5) One person designated by the Ohio Children's Hospital Association;
- (6) One person designated by the Ohio Association of Health Plans;
- (7) One person designated by the American Academy of Pediatrics;
- (8) One person designated by the Ohio hospital association;
- (9) One person designated by the Ohio association of health commissioners;
- (10) One person designated by the Ohio nurses association.

Members of the Committee shall elect a chairperson. A majority of the members of the Committee constitutes a quorum for the conduct of Committee meetings.

(B) Members of the Committee shall receive no compensation.

(C) The Committee shall do all of the following:

- (1) Examine the current status of the Program and recommend best practices to be used in assisting working parents who have children with special health needs;
- (2) Review all existing statutes and rules in Ohio pertaining to the Program;
- (3) Review payment strategies in other states that facilitate adequate care for children with chronic conditions and support their families;

(4) Review all funding sources for the Program, including funding received from county levies, the General Revenue Fund and other state-based sources, and the Maternal and Child Health Block Grant of Title V of the "Social Security Act," 40 Stat. 620 (1935), 42 U.S.C. 301;

(5) Request testimony from parents of children with special health needs and the children themselves and from health care professionals and other individuals who provide services to Bureau patients;

(D) Not later than December 31, 2006, the Committee shall make recommendations and submit a report to the Governor, the President and Minority Leader of the Senate, and the Speaker and Minority Leader of the House of Representatives. The report shall include an analysis of the current system of services covered by the Program and may include determinations and recommendations regarding how the state can best address the current and future needs of patients served by the Program. On submission of the report, the Committee shall cease to exist.

#### SECTION 206.42.13. REVISION OF RULES GOVERNING PROGRAM FOR MEDICALLY HANDICAPPED CHILDREN

Not later than December 1, 2005, the Public Health Council shall revise rule 3701-43-16 of the Administrative Code regarding financial eligibility for payment for treatment under the Program for Medically Handicapped Children. As part of the revision, the Public Health Council shall return the financial eligibility levels for fiscal years 2006 and 2007 to the levels in effect prior to October 13, 2003.

Beginning July 1, 2005, the Department of Health shall contact all persons who lost eligibility for the Program for Medically Handicapped Children or their parents or guardians to inform them of revisions made to the Program's eligibility rules.

#### SECTION 206.42.16. NURSING FACILITY TECHNICAL ASSISTANCE PROGRAM

The Director of Budget and Management shall transfer, by intrastate transfer voucher, each fiscal year, cash from Fund 4E3, Resident Protection Fund, in the Ohio Department of Job and Family Services, to Fund 5L1, Nursing Facility Technical Assistance Program Fund, in the Ohio Department of Health, to be used under section 3721.026 of the Revised Code. The transfers shall equal \$183,843 in fiscal year 2006 and \$617,517 in fiscal year 2007.

**SECTION 206.42.19. TRANSFER FROM STATE FIRE MARSHAL'S FUND (FUND 546) TO THE POISON CONTROL FUND (FUND 5CB) IN THE DEPARTMENT OF HEALTH**

Notwithstanding section 3737.71 of the Revised Code, on July 1, 2005, or as soon as possible thereafter, the Director of Budget and Management shall transfer \$200,000 cash from the State Fire Marshal's Fund (Fund 546) in the Department of Commerce to the Poison Control Fund (Fund 5CB) in the Department of Health, which is hereby created. Notwithstanding section 3737.71 of the Revised Code, on July 1, 2006, or as soon as possible thereafter, the Director of Budget and Management shall transfer \$200,000 cash from the State Fire Marshal's Fund (Fund 546) in the Department of Commerce to the Poison Control Fund (Fund 5CB) in the Department of Health.

**POISON CONTROL CENTERS**

Of the foregoing appropriation item 440-640, Poison Control Centers, in each fiscal year, the poison control centers in the municipal corporations of Cleveland, Cincinnati, and Columbus shall each receive an allocation of \$50,000, and the Greater Dayton Area Hospital Association shall also receive an allocation of \$50,000 for poison control purposes.

**SECTION 206.45. HEF HIGHER EDUCATIONAL FACILITY COMMISSION**

**Agency Fund Group**

461 372-601	Operating Expenses	\$	16,819	\$	16,819
TOTAL AGY Agency Fund Group		\$	16,819	\$	16,819
TOTAL ALL BUDGET FUND GROUPS		\$	16,819	\$	16,819

**SECTION 206.48. SPA COMMISSION ON HISPANIC/LATINO AFFAIRS**

**General Revenue Fund**

GRF 148-100	Personal Services	\$	145,880	\$	145,880
GRF 148-200	Maintenance	\$	35,901	\$	35,901
TOTAL GRF General Revenue Fund		\$	181,781	\$	181,781

**General Services Fund Group**

601 148-602	Gifts and Miscellaneous	\$	20,000	\$	20,000
TOTAL GSF General Services Fund Group		\$	20,000	\$	20,000
TOTAL ALL BUDGET FUND GROUPS		\$	201,781	\$	201,781

## SECTION 206.51. OHS OHIO HISTORICAL SOCIETY

## General Revenue Fund

GRF 360-501	Operating Subsidy	\$	3,288,274	\$	3,288,274
GRF 360-502	Site Operations	\$	8,388,725	\$	8,388,725
GRF 360-504	Ohio Preservation Office	\$	281,041	\$	281,041
GRF 360-505	Afro-American Museum	\$	754,884	\$	754,884
GRF 360-506	Hayes Presidential Center	\$	509,231	\$	509,231
GRF 360-508	Historical Grants	\$	1,097,500	\$	1,072,500
TOTAL GRF General Revenue Fund		\$	14,319,655	\$	14,294,655
TOTAL ALL BUDGET FUND GROUPS		\$	14,319,655	\$	14,294,655

## SUBSIDY APPROPRIATION

Upon approval by the Director of Budget and Management, the foregoing appropriation items shall be released to the Ohio Historical Society in quarterly amounts that in total do not exceed the annual appropriations. The funds and fiscal records of the society for fiscal years 2006 and 2007 shall be examined by independent certified public accountants approved by the Auditor of State, and a copy of the audited financial statements shall be filed with the Office of Budget and Management. The society shall prepare and submit to the Office of Budget and Management the following:

(A) An estimated operating budget for each fiscal year of the biennium. The operating budget shall be submitted at or near the beginning of each calendar year.

(B) Financial reports, indicating actual receipts and expenditures for the fiscal year to date. These reports shall be filed at least semiannually during the fiscal biennium.

The foregoing appropriations shall be considered to be the contractual consideration provided by the state to support the state's offer to contract with the Ohio Historical Society under section 149.30 of the Revised Code.

## HAYES PRESIDENTIAL CENTER

If a United States government agency, including, but not limited to, the National Park Service, chooses to take over the operations or maintenance of the Hayes Presidential Center, in whole or in part, the Ohio Historical Society shall make arrangements with the National Park Service or other United States government agency for the efficient transfer of operations or maintenance.

## HISTORICAL GRANTS

Of the foregoing appropriation item 360-508, Historical Grants, \$250,000 in each fiscal year shall be distributed to the Western Reserve Historical Society in Cleveland.

Of the foregoing appropriation item 360-508, Historical Grants,

\$225,000 in each fiscal year shall be distributed to the Great Lakes Historical Society in Vermilion.

Of the foregoing appropriation item 360-508, Historical Grants, \$75,000 in each fiscal year shall be distributed to the Hebrew Union College in Cincinnati for the Center for Holocaust and Humanity Education, \$100,000 in each fiscal year shall be distributed to Art Academy of Cincinnati, and \$250,000 in each fiscal year shall be distributed to the Cincinnati Museum Center.

Of the foregoing appropriation item 360-508, Historical Grants, \$12,500 in each fiscal year shall be distributed to the Roseville Historical Society.

Of the foregoing appropriation item 360-508, Historical Grants, \$125,000 in each fiscal year shall be distributed to the Harbor Heritage Society Steamship Mather in Cleveland.

Of the foregoing appropriation item 360-508, Historical Grants, \$35,000 in each fiscal year shall be distributed to the Castle Farm project in the City of Mason.

#### PROCESSING FEES

The Ohio Historical Society shall not charge or retain an administrative, service, or processing fee for distributing money that the General Assembly appropriates to the Society for grants or subsidies that the Society provides to other entities for their site-related programs.

Of the foregoing appropriation item 360-508, Historical Grants, \$25,000 in fiscal year 2006 shall be distributed to the Springboro Historical Society Heritage Triangle.

#### SECTION 206.54. REP OHIO HOUSE OF REPRESENTATIVES

##### General Revenue Fund

GRF 025-321	Operating Expenses	\$	20,169,168	\$	20,370,859
TOTAL GRF General Revenue Fund		\$	20,169,168	\$	20,370,859

##### General Services Fund Group

103 025-601	House Reimbursement	\$	1,419,469	\$	1,419,469
4A4 025-602	Miscellaneous Sales	\$	37,474	\$	37,474
TOTAL GSF General Services Fund Group		\$	1,456,943	\$	1,456,943
TOTAL ALL BUDGET FUND GROUPS		\$	21,626,111	\$	21,827,802

#### OPERATING EXPENSES

On July 1, 2005, or as soon as possible thereafter, the Chief Administrative Officer of the House of Representatives shall certify to the Director of Budget and Management the total fiscal year 2005 unencumbered appropriations in appropriation item 025-321, Operating Expenses. The Chief Administrative Officer may direct the Director of

Budget and Management to transfer an amount not to exceed the total fiscal year 2005 unencumbered appropriations to fiscal year 2006 for use within appropriation item 025-321, Operating Expenses. Additional appropriation authority equal to the amount certified by the Chief Administrative Officer is hereby appropriated to appropriation item 025-321, Operating Expenses, in fiscal year 2006.

On July 1, 2006, or as soon as possible thereafter, the Chief Administrative Officer of the House of Representatives shall certify to the Director of Budget and Management the total fiscal year 2006 unencumbered appropriations in appropriation item 025-321, Operating Expenses. The Chief Administrative Officer may direct the Director of Budget and Management to transfer an amount not to exceed the total fiscal year 2006 unencumbered appropriations to fiscal year 2007 for use within appropriation item 025-321, Operating Expenses. Additional appropriation authority equal to the amount certified by the Chief Administrative Officer is hereby appropriated to appropriation item 025-321, Operating Expenses, in fiscal year 2007.

#### SECTION 206.57. HFA OHIO HOUSING FINANCE AGENCY

##### General Services Fund Group

5AZ 997-601	Housing Finance Agency	\$	8,100,000	\$	8,100,000
	Personal Services				
TOTAL GSF General Services Fund Group		\$	8,100,000	\$	8,100,000
TOTAL ALL BUDGET FUND GROUPS		\$	8,100,000	\$	8,100,000

#### SECTION 206.60. IGO OFFICE OF THE INSPECTOR GENERAL

##### General Revenue Fund

GRF 965-321	Operating Expenses	\$	1,700,868	\$	979,085
TOTAL GRF General Revenue Fund		\$	1,700,868	\$	979,085

##### General Services Fund Group

4Z3 965-602	Special Investigations	\$	100,000	\$	100,000
TOTAL GSF General Services Fund Group		\$	100,000	\$	100,000
TOTAL ALL BUDGET FUND GROUPS		\$	1,800,868	\$	1,079,085

#### BUREAU OF WORKERS' COMPENSATION FIDUCIARY REVIEW

Of the foregoing appropriation item 965-321, Operating Expenses, up to \$750,000 in fiscal year 2006 shall be used to contract with an independent firm to conduct a fiduciary review of assets invested pursuant to the Administrator of Workers' Compensation's authority under Chapters 4121., 4123., 4127., and 4131. of the Revised Code.

#### SPECIAL INVESTIGATIONS

Of the foregoing appropriation item 965-602, Special Investigations, up

to \$100,000 in each fiscal year may be used for investigative costs, pursuant to section 121.481 of the Revised Code.

#### SECTION 206.63. INS DEPARTMENT OF INSURANCE

##### Federal Special Revenue Fund Group

3U5 820-602	OSHIIP Operating Grant	\$	1,080,000	\$	1,080,000
3AV 820-604	Federal Grant - Special Project	\$	55,000	\$	0
TOTAL FED Federal Special Revenue Fund Group		\$	1,135,000	\$	1,080,000

##### State Special Revenue Fund Group

554 820-601	Operating Expenses - OSHIIP	\$	564,754	\$	571,772
554 820-606	Operating Expenses	\$	22,654,232	\$	22,832,214
555 820-605	Examination	\$	7,639,581	\$	7,639,581
TOTAL SSR State Special Revenue Fund Group		\$	30,858,567	\$	31,043,567
TOTAL ALL BUDGET FUND GROUPS		\$	31,993,567	\$	32,123,567

#### MARKET CONDUCT EXAMINATION

When conducting a market conduct examination of any insurer doing business in this state, the Superintendent of Insurance may assess the costs of the examination against the insurer. The superintendent may enter into consent agreements to impose administrative assessments or fines for conduct discovered that may be violations of statutes or rules administered by the superintendent. All costs, assessments, or fines collected shall be deposited to the credit of the Department of Insurance Operating Fund (Fund 554).

#### EXAMINATIONS OF DOMESTIC FRATERNAL BENEFIT SOCIETIES

The Director of Budget and Management, at the request of the Superintendent of Insurance, may transfer funds from the Department of Insurance Operating Fund (Fund 554), created by section 3901.021 of the Revised Code, to the Superintendent's Examination Fund (Fund 555), created by section 3901.071 of the Revised Code, only for expenses incurred in examining domestic fraternal benefit societies as required by section 3921.28 of the Revised Code.

#### SECTION 206.66. JFS DEPARTMENT OF JOB AND FAMILY SERVICES

##### General Revenue Fund

GRF 600-321	Support Services				
	State	\$	63,797,907	\$	60,565,397
	Federal	\$	8,114,493	\$	8,454,541
	Support Services Total	\$	71,912,400	\$	69,019,938



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GRF 600-410	TANF State	\$	272,619,061	\$	272,619,061
GRF 600-413	Child Care Match/Maintenance of Effort	\$	84,120,596	\$	84,120,596
GRF 600-416	Computer Projects				
	State	\$	114,516,710	\$	117,226,021
	Federal	\$	37,579,198	\$	34,255,465
	Computer Projects Total	\$	152,095,908	\$	151,481,486
GRF 600-420	Child Support Administration	\$	5,091,446	\$	5,091,446
GRF 600-421	Office of Family Stability	\$	4,864,932	\$	4,864,932
GRF 600-423	Office of Children and Families	\$	5,408,020	\$	5,431,690
GRF 600-425	Office of Ohio Health Plans				
	State	\$	24,803,631	\$	24,054,873
	Federal	\$	26,539,544	\$	25,810,409
	Office of Ohio Health Plans Total	\$	51,343,175	\$	49,865,282
GRF 600-502	Child Support Match	\$	16,814,103	\$	16,814,103
GRF 600-511	Disability Financial Assistance	\$	22,839,371	\$	22,839,371
GRF 600-512	Non-TANF Disaster Assistance	\$	1,000,000	\$	1,000,000
GRF 600-513	Disability Medical Assistance	\$	19,500,000	\$	25,500,000
GRF 600-521	Entitlement Administration - Local	\$	151,206,401	\$	151,206,401
GRF 600-523	Children and Families Subsidy	\$	69,438,543	\$	69,438,543
GRF 600-525	Health Care/Medicaid				
	State	\$	3,751,848,959	\$	3,795,940,675
	Federal	\$	5,612,109,788	\$	5,731,692,576
	Health Care Total	\$	9,363,958,747	\$	9,527,633,251
GRF 600-526	Medicare Part D	\$	155,349,266	\$	339,578,325
GRF 600-528	Adoption Services				
	State	\$	33,698,298	\$	35,516,130
	Federal	\$	40,331,807	\$	43,022,485
	Adoption Services Total	\$	74,030,105	\$	78,538,615
TOTAL GRF General Revenue Fund					
	State	\$	4,777,417,244	\$	5,006,307,564
	Federal	\$	5,744,174,880	\$	5,868,735,476
	GRF Total	\$	10,521,592,074	\$	10,875,043,040
General Services Fund Group					
4A8 600-658	Child Support Collections	\$	26,680,794	\$	26,680,794
4R4 600-665	BCII Services/Fees	\$	36,974	\$	36,974
5C9 600-671	Medicaid Program Support	\$	73,015,021	\$	63,947,536
5N1 600-677	County Technologies	\$	1,000,000	\$	1,000,000
613 600-645	Training Activities	\$	135,000	\$	135,000
TOTAL GSF General Services Fund Group					
		\$	100,867,789	\$	91,800,304
Federal Special Revenue Fund Group					
3AW 600-675	Faith Based Initiatives	\$	750,000	\$	750,000
3A2 600-641	Emergency Food Distribution	\$	2,600,000	\$	2,800,000
3BB 600-635	Children's Hospitals - Federal	\$	9,000,000	\$	9,000,000
3D3 600-648	Children's Trust Fund Federal	\$	2,040,524	\$	2,040,524
3F0 600-623	Health Care Federal	\$	616,011,784	\$	771,889,193
3F0 600-650	Hospital Care Assurance Match	\$	343,239,047	\$	343,239,047

3G5	600-655	Interagency Reimbursement	\$	1,364,802,369	\$	1,426,954,440
3H7	600-617	Child Care Federal	\$	208,000,000	\$	208,000,000
3N0	600-628	IV-E Foster Care Maintenance	\$	153,963,142	\$	153,963,142
3S5	600-622	Child Support Projects	\$	534,050	\$	534,050
3V0	600-688	Workforce Investment Act	\$	208,322,037	\$	208,097,948
3V4	600-678	Federal Unemployment Programs	\$	153,435,545	\$	157,202,750
3V4	600-679	Unemployment Compensation Review Commission - Federal	\$	3,829,430	\$	3,800,573
3V6	600-689	TANF Block Grant	\$	767,104,142	\$	792,483,200
3W3	600-659	TANF/Title XX Transfer	\$	8,000,000	\$	5,400,000
327	600-606	Child Welfare	\$	33,160,190	\$	33,090,786
331	600-686	Federal Operating	\$	43,966,134	\$	44,929,546
384	600-610	Food Stamps and State Administration	\$	188,238,706	\$	181,250,799
385	600-614	Refugee Services	\$	6,083,829	\$	6,542,439
395	600-616	Special Activities/Child and Family Services	\$	4,567,112	\$	4,564,877
396	600-620	Social Services Block Grant	\$	120,993,012	\$	121,004,222
397	600-626	Child Support	\$	287,468,576	\$	287,468,576
398	600-627	Adoption Maintenance/ Administration	\$	314,639,519	\$	314,639,519
TOTAL FED Federal Special Revenue Fund Group			\$	4,840,749,148	\$	5,079,645,631
<b>State Special Revenue Fund Group</b>						
198	600-647	Children's Trust Fund	\$	6,788,522	\$	6,788,522
4A9	600-607	Unemployment Compensation Administration Fund	\$	10,811,527	\$	10,811,527
4A9	600-694	Unemployment Compensation Review Commission	\$	3,188,473	\$	3,188,473
4E3	600-605	Nursing Home Assessments	\$	4,759,914	\$	4,759,914
4E7	600-604	Child and Family Services Collections	\$	1,237,500	\$	300,000
4F1	600-609	Foundation Grants/Child and Family Services	\$	61,420	\$	61,420
4J5	600-613	Nursing Facility Bed Assessments	\$	34,613,984	\$	34,613,984
4J5	600-618	Residential State Supplement Payments	\$	15,700,000	\$	15,700,000
4K1	600-621	ICF/MR Bed Assessments	\$	20,074,255	\$	20,064,131
4R3	600-687	Banking Fees	\$	800,000	\$	800,000
4Z1	600-625	HealthCare Compliance	\$	10,000,000	\$	10,000,000
5AA	600-673	Ohio's Best Rx Administration	\$	5,000,000	\$	5,000,000
5AX	600-697	Public Assistance Reconciliation	\$	60,000,000	\$	0
5BE	600-693	Child Support Operating	\$	5,000,000	\$	5,000,000
5BG	600-653	Managed Care Assessment	\$	18,795,483	\$	99,410,121
5CR	600-636	Children's Hospitals - State	\$	6,000,000	\$	6,000,000
5F2	600-667	Building Consolidation	\$	250,000	\$	250,000
5F3	600-668	Building Consolidation	\$	1,000,000	\$	1,000,000
5P5	600-692	Health Care Services	\$	828,587,776	\$	538,301,761
5Q9	600-619	Supplemental Inpatient Hospital Payments	\$	56,125,998	\$	56,125,998
5R2	600-608	Medicaid-Nursing Facilities	\$	160,192,055	\$	176,632,090

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5S3	600-629	MR/DD Medicaid Administration and Oversight	\$	1,620,960	\$	1,620,960
5U3	600-654	Health Care Services Administration	\$	10,115,870	\$	15,474,709
5U6	600-663	Children and Family Support	\$	4,929,717	\$	4,929,717
5Z9	600-672	TANF Quality Control Reinvestments	\$	647,409	\$	688,421
651	600-649	Hospital Care Assurance Program Fund	\$	231,893,404	\$	231,893,404
TOTAL SSR State Special Revenue Fund Group			\$	1,498,194,267	\$	1,249,415,152
<b>Agency Fund Group</b>						
192	600-646	Support Intercept - Federal	\$	110,000,000	\$	110,000,000
5B6	600-601	Food Stamp Intercept	\$	2,000,000	\$	2,000,000
583	600-642	Support Intercept - State	\$	16,000,000	\$	16,000,000
TOTAL AGY Agency Fund Group			\$	128,000,000	\$	128,000,000
<b>Holding Account Redistribution Fund Group</b>						
R12	600-643	Refunds and Audit Settlements	\$	3,600,000	\$	3,600,000
R13	600-644	Forgery Collections	\$	10,000	\$	10,000
TOTAL 090 Holding Account Redistribution Fund Group			\$	3,610,000	\$	3,610,000
TOTAL ALL BUDGET FUND GROUPS			\$	17,093,013,278	\$	17,427,514,127

## SECTION 206.66.03. APPROPRIATION ITEM RESTRUCTURING

(A) If the Directors of Job and Family Services and Budget and Management agree, the Director of Budget and Management may, in fiscal years 2006 and 2007, reduce appropriations in appropriation items 600-321, Support Services, and 600-416, Computer Projects, by amounts equal to the federal share in each appropriation item. The total amount by which these appropriation items are reduced in accordance with this division is hereby appropriated to appropriation item 600-651, Federal General Operating (Fund 3AX).

(B) The Department of Job and Family Services may submit to the Office of Budget and Management a plan to realign appropriation items 600-321, Support Services, and 600-416, Computer Projects. The plan may include a request for the Director of Budget and Management to transfer appropriations from appropriation items 600-321, Support Services, and 600-416, Computer Projects, to any other General Revenue Fund appropriation items in Section 312.03 of this act. If the plan is approved by the Office of Budget and Management, the Director of Budget and Management shall transfer appropriations as requested in the plan. Dollars spent pursuant to appropriations transferred in accordance with this division shall be for the same purposes for which the original appropriations were made.

(C) In fiscal year 2007, the Department of Job and Family Services, with the approval of the Office of Budget and Management, shall utilize a method for determining the payments from applicable appropriation items into the Support Services State Operating Fund (Fund 230). The method shall contain characteristics of administrative ease and uniform application. Payments to the Support Services State Operating Fund (Fund 230) shall be made by intrastate transfer voucher. Amounts transferred in accordance with this division are hereby appropriated to appropriation item 600-661, Support Services State Operating (Fund 230).

**SECTION 206.66.06. GOVERNOR'S OFFICE OF FAITH-BASED AND COMMUNITY INITIATIVES**

Of the foregoing appropriation item 600-321, Support Services, up to \$312,500 per fiscal year may be used to support the activities of the Governor's Office of Faith-Based and Community Initiatives.

**MEDICAID ADMINISTRATIVE STUDY COUNCIL FUNDING**

Of the foregoing appropriation item 600-321, Support Services, \$1,000,000 in fiscal year 2006 and \$500,000 in fiscal year 2007 shall be provided to the Medicaid Administrative Study Council to carry out the duties of the Council as specified under the section of this act entitled "MEDICAID ADMINISTRATIVE STUDY COUNCIL."

**SECTION 206.66.09. TANF OHIO WORKS FIRST CASH ASSISTANCE PAYMENTS**

The Department of Job and Family Services shall use a portion of the moneys appropriated for the TANF program in appropriation items 600-410, TANF State; 600-658, Child Support Collections; and 600-689, TANF Block Grant, to increase the cash assistance provided to recipients of benefits under the TANF Ohio Works First program by up to 10 per cent as compared to the cash assistance provided prior to July 1, 2005. The increased TANF cash assistance benefit shall be effective October 1, 2005.

**SECTION 206.66.10. MEDICAID DATA SYSTEM**

The Department of Job and Family Services shall fund the cost of the assessment specified in division (A) of section 5111.915 of the Revised Code and upon receipt of federal approval and assured ninety per cent reimbursement for the project fund the development or enhancement of a data collection or data warehouse system specified in division (B) of section

5111.915 of the Revised Code.

#### SECTION 206.66.12. OHIO'S BEST RX START-UP COSTS

An amount equal to the remaining unencumbered balance in appropriation item 600-440, Ohio's Best Rx Start-Up Costs, from fiscal year 2005 is hereby appropriated for fiscal year 2006 into appropriation item 600-440, Ohio's Best Rx Start-Up Costs. An amount equal to the remaining unencumbered balance in appropriation item 600-440, Ohio's Best Rx Start-Up Costs, from fiscal year 2006 is hereby appropriated for fiscal year 2007 into appropriation item 600-440, Ohio's Best Rx Start-up Costs. The appropriation item 600-440, Ohio's Best Rx Start-Up Costs, shall be used by the Department of Job and Family Services to pay for the administrative and operational expenses for the Ohio's Best Rx Program in accordance with Chapter 5110. of the Revised Code, including costs associated with the duties assigned by the Department to the Ohio's Best Rx Program Administrator and for making payments to participating terminal distributors until sufficient cash exists to make payments from the accounts created in sections 5110.32 and 5110.33 of the Revised Code. Of appropriation item 600-440, Ohio's Best Rx Start-Up Costs, not more than \$750,000 per fiscal year may be used by the department for administrative and operational costs, excluding outreach, that are not associated with the Ohio's Best Rx Program Administrator or the payments to participating terminal distributors.

If the Director of Job and Family Services estimates that the appropriation is insufficient to fully cover start-up costs, the Director shall, in consultation with the Director of Budget and Management, submit a letter to the Governor, President of the Senate, Speaker of the House of Representatives, and the minority leaders of the Senate and House of Representatives. The letter shall declare the additional appropriation estimated to be needed and shall show a breakdown of how the additional appropriation will be used. The Director of Job and Family Services shall obtain the approval of the Controlling Board for any supplemental appropriation, if required. The amount approved by the Controlling Board is hereby appropriated. The use of state funds for program costs as provided in this section shall in no way obligate the state to fund further program costs, as the program is a discount program, not an entitlement program.

#### OHIO'S BEST RX ADMINISTRATION

The foregoing appropriation item 600-673, Ohio's Best Rx Administration, shall be used on an ongoing basis to cover expenses associated with the Ohio's Best Rx Program defined in section 5110.33 of

the Revised Code. If receipts to the fund exceed the appropriated amount, the Director of Job and Family Services may request that the Director of Budget and Management increase the appropriation of this fund. Upon approval from the Director of Budget and Management, the additional amounts are hereby appropriated.

#### SECTION 206.66.21. TANF TRANSFERS

(A) Notwithstanding any provision of law to the contrary, through June 30, 2007, if the Director of Budget and Management determines that the estimated ending fund balance of the General Revenue Fund will be greater than the amounts assumed in this act for either fiscal year, the director may transfer the excess balance, up to a total of \$96,000,000 to Fund 5AX, Public Assistance Reconciliation Fund, to pay the state's outstanding TANF liability to the federal government. Upon transfer, these amounts are hereby appropriated. This division does not apply to division (A) of Section 312.09, Budget Stabilization Fund Transfers, of this act.

(B) In executing division (A) of this section and division (A) of Section 312.09, Budget Stabilization Fund Transfers, it is intended that these divisions be applied and construed so that both of the transfers authorized under these divisions may be made through June 30, 2007.

#### SECTION 206.66.22. FISCAL YEAR 2006 MEDICAID REIMBURSEMENT SYSTEM FOR NURSING FACILITIES

(A) As used in this section:

"2003 cost report" means a complete and adequate Medicaid cost report covering calendar year 2003 filed with the Department of Job and Family Services under section 5111.26 of the Revised Code.

"Change of operator," "entering operator," and "exiting operator" have the same meanings as in section 5111.65 of the Revised Code.

"Franchise permit fee" means the fee imposed by sections 3721.50 to 3721.58 of the Revised Code.

"Nursing facility" and "provider" have the same meaning as in section 5111.20 of the Revised Code.

"Nursing facility services" means nursing facility services covered by the Medicaid program that a nursing facility provides to a resident of the nursing facility who is a Medicaid recipient eligible for Medicaid-covered nursing facility services.

"Reviewable activity" has the same meaning as in section 3702.51 of the Revised Code.

(B) Except as otherwise provided in this section, the provider of a nursing facility that has a valid Medicaid provider agreement on June 30, 2005, and a valid Medicaid provider agreement for fiscal year 2006 shall be paid, for nursing facility services the nursing facility provides during fiscal year 2006, the sum of the following:

(1) The rate the provider is paid for nursing facility services the nursing facility provides on June 30, 2005;

(2) Unless the nursing facility is exempt from paying the franchise permit fee, one dollar and ninety-five cents.

(C) If a nursing facility undergoes a change of operator on July 1, 2005, the entering operator shall be paid, for nursing facility services the nursing facility provides during fiscal year 2006, the rate paid to the exiting operator for nursing facility services that the nursing facility provided on June 30, 2005, plus, if the entering operator pays the franchise permit fee, one dollar and ninety-five cents. If a nursing facility undergoes a change of operator during the period beginning July 2, 2005, and ending June 30, 2006, the entering operator shall be paid, for nursing facility services the nursing facility provides during the period beginning on the effective date of the change of operator and ending June 30, 2006, the rate paid to the exiting operator for nursing facility services that the nursing facility provided on the day immediately before the effective date of the change of operator.

(D) If, during fiscal year 2006, a nursing facility obtains certification as a nursing facility from the Director of Health and begins participation in the Medicaid program, the provider of the nursing facility shall be paid, for nursing facility services the nursing facility provides during the period beginning on the date the nursing facility begins participation in the Medicaid program and ending June 30, 2006, a rate that is the median of all rates paid to providers of nursing facilities on July 1, 2005.

(E) If, during fiscal year 2007, one or more Medicaid certified beds are added to a nursing facility with a valid Medicaid provider agreement for fiscal year 2006, the provider of the nursing facility shall be paid a rate for the new beds that is the same as the nursing facility's rate for the Medicaid certified beds that are in the nursing facility on the day before the new beds are added.

(F) If the United States Centers for Medicare and Medicaid Services requires that the franchise permit fee be reduced or eliminated, the Department of Job and Family Services shall reduce the amount it pays providers of nursing facilities under this section as necessary to reflect the loss to the state of the revenue and federal financial participation generated from the franchise permit fee.

(G)(1) A nursing facility's rate established under this section shall not be subject to any adjustments except as follows:

(a) An adjustment resulting from an audit of the nursing facility's 2003 cost report may be applied to a rate established under this section for the nursing facility not later than three years after the first day of the fiscal year for which the rate is established.

(b) Subject to division (G)(2) of this section, the nursing facility's rate established under this section may be adjusted pursuant to a process established in rules adopted under section 5111.02 of the Revised Code to reflect a change in the nursing facility's capital costs due to any of the following:

(i) A change of provider agreement that goes into effect before July 1, 2005, and for which a rate adjustment is not implemented before June 30, 2005;

(ii) A reviewable activity for which a certificate of need application is filed with the Director of Health before July 1, 2005, costs are incurred before June 30, 2005, and a rate adjustment is not implemented before June 30, 2005;

(iii) An activity that the Director of Health, before July 1, 2005, rules is not a reviewable activity and for which costs are incurred before June 30, 2005, and a rate adjustment is not implemented before June 30, 2005.

(2) A nursing facility's rate established under this section may be adjusted pursuant to division (G)(1)(b)(ii) or (iii) of this section only if, after all other Medicaid obligations have been met, there are appropriations in appropriation item 600-525, Health Care/Medicaid, that would otherwise lapse to the General Revenue Fund. The Department of Job and Family Services may make adjustments pursuant to division (G)(1)(b)(ii) and (iii) of this section to the extent possible using the remaining appropriations that would otherwise lapse.

(H) The Department of Job and Family Services shall follow this section in determining the rate to be paid to the provider of a nursing facility under the Medicaid program for nursing facility services provided during fiscal year 2006 notwithstanding anything to the contrary in sections 5111.20 to 5111.33 of the Revised Code.

#### SECTION 206.66.23. FISCAL YEAR 2007 MEDICAID REIMBURSEMENT SYSTEM FOR NURSING FACILITIES

(A) As used in this section:

"Franchise permit fee" means the fee imposed by sections 3721.50 to 3721.58 of the Revised Code.



"Nursing facility" and "provider" have the same meanings as in section 5111.20 of the Revised Code.

"Nursing facility services" means nursing facility services covered by the Medicaid program that a nursing facility provides to a resident of the nursing facility who is a Medicaid recipient eligible for Medicaid-covered nursing facility services.

(B) Except as provided in division (C) of this section, the provider of a nursing facility that has a valid Medicaid provider agreement on June 30, 2006, and a valid Medicaid provider agreement for fiscal year 2007 shall be paid, for nursing facility services the nursing facility provides during fiscal year 2007, the rate determined for the nursing facility under sections 5111.20 to 5111.33 of the Revised Code.

(C) If the rate determined for a nursing facility under sections 5111.20 to 5111.33 of the Revised Code for nursing facility services provided during fiscal year 2007 is more than one hundred two per cent of the rate the provider is paid for nursing facility services the nursing facility provides on June 30, 2006, the Department of Job and Family Services shall reduce the nursing facility's fiscal year 2007 rate so that the rate is no more than one hundred two per cent of the nursing facility's rate for June 30, 2006. If the rate determined for a nursing facility under sections 5111.20 to 5111.33 of the Revised Code for nursing facility services provided during fiscal year 2007 is less than ninety-eight per cent of the rate the provider was paid for nursing facility services the nursing facility provides on June 30, 2006, the Department shall increase the nursing facility's fiscal year 2007 rate so that the rate is no less than ninety-eight per cent of the nursing facility's rate for June 30, 2006.

(D) If the United States Centers for Medicare and Medicaid Services requires that the franchise permit fee be reduced or eliminated, the Department of Job and Family Services shall reduce the amount it pays providers of nursing facilities under this section as necessary to reflect the loss to the state of the revenue and federal financial participation generated from the franchise permit fee.

(E) The Department of Job and Family Services shall follow this section in determining the rate to be paid to the provider of a nursing facility that has a valid Medicaid provider agreement on June 30, 2006, and a valid Medicaid provider agreement for fiscal year 2007 notwithstanding anything to the contrary in sections 5111.20 to 5111.33 of the Revised Code.

SECTION 206.66.24. TRANSITION METHODOLOGY FOR  
MEDICAID REIMBURSEMENT FOR NURSING FACILITIES

(A) There is hereby created the Nursing Facility Rate Transition Advisory Council. The Council shall consist of all of the following:

- (1) The Director of Job and Family Services or the Director's designee;
- (2) The Deputy Director of the Office of Ohio Health Plans of the Department of Job and Family Services or the Deputy Director's designee;
- (3) The Director of Health or the Director's designee;
- (4) One representative of Medicaid recipients residing in nursing facilities appointed by the Governor;

(5) One representative of each of the following organizations appointed by the organization:

- (a) The Ohio Academy of Nursing Homes;
- (b) The Association of Ohio Philanthropic Homes and Housing for the Aging;
- (c) The Ohio Health Care Association.

(B) Members of the Nursing Facility Rate Transition Advisory Council shall receive no compensation for serving on the Council.

(C) The Director of Job and Family Services shall serve as chair of the Nursing Facility Rate Transition Advisory Council.

(D) The Nursing Facility Rate Transition Advisory Council shall develop recommendations on the methodology to be used to phase in the nursing facility reimbursement formula established under sections 5111.20 to 5111.33 of the Revised Code. The Council shall prepare quarterly progress reports and, not later than nine months after the effective date of this section, a final report. The Council shall submit copies of the report to the Governor, the President and Minority Leader of the Senate, and the Speaker and Minority Leader of the House of Representatives. The Council shall cease to exist on the issuance of the final report.

#### SECTION 206.66.25. FISCAL YEAR 2006 AND FISCAL YEAR 2007 MEDICAID REIMBURSEMENT SYSTEM FOR ICFs/MR

(A) As used in this section:

"2003 cost report" means a complete and adequate Medicaid cost report covering calendar year 2003 filed with the Department of Job and Family Services under section 5111.26 of the Revised Code.

"Change of operator," "entering operator," and "exiting operator" have the same meanings as in section 5111.65 of the Revised Code.

"Intermediate care facility for the mentally retarded" and "provider" home have the same meanings as in section 5111.20 of the Revised Code.

"ICF/MR services" means intermediate care facility for the mentally retarded services covered by the Medicaid program that an intermediate care

facility for the mentally retarded provides to a resident of the facility who is a Medicaid recipient eligible for Medicaid-covered intermediate care facility for the mentally retarded services.

(B) Except as otherwise provided in this section, the provider of an intermediate care facility for the mentally retarded that has a valid Medicaid provider agreement on June 30, 2005, and a valid Medicaid provider agreement for fiscal years 2006 and 2007 shall be paid, for ICF/MR services the facility provides during fiscal years 2006 and 2007, the rate the provider is paid for ICF/MR services the facility provides on June 30, 2005.

(C) If an intermediate care facility for the mentally retarded undergoes a change of operator during fiscal year 2006 or 2007, the entering operator shall be paid, for ICF/MR services the facility provides during the period beginning on the effective date of the change of provider and ending June 30, 2007, the rate paid to the exiting operator for ICF/MR services that the facility provided on the day immediately before the effective date of the change of operator.

(D) If, during fiscal year 2006 or 2007, an intermediate care facility for the mentally retarded obtains certification as an intermediate care facility for the mentally retarded from the Director of Health and begins participation in the Medicaid program, the provider of the facility shall be paid, for ICF/MR services the facility provides during the period beginning on the date the facility begins participation in the Medicaid program and ending June 30, 2007, a rate that is the median of all rates paid to intermediate care facilities for the mentally retarded on July 1, 2005.

(E) If, during fiscal year 2006 or 2007, one or more Medicaid certified beds are added to an intermediate care facility for the mentally retarded with a valid Medicaid provider agreement for the time that the beds are added, the provider of the facility shall be paid a rate for the new beds that is the same as the facility's rate for the Medicaid certified beds that are in the facility on the day before the new beds are added.

(F) An adjustment necessitated by an audit of an intermediate care facility for the mentally retarded's 2003 cost report may be applied to a rate established under this section for the facility.

(G) The Department of Job and Family Services shall follow this section in determining the rate to be paid to the provider of an intermediate care facility for the mentally retarded under the Medicaid program for ICF/MR services provided during fiscal years 2006 and 2007 notwithstanding anything to the contrary in sections 5111.20 to 5111.33 of the Revised Code.

#### SECTION 206.66.27. FISCAL YEARS 2006 AND 2007 INCREASED

**PAYMENT TO ICFs/MR**

(A) As used in this section:

"Active treatment" has the same meaning as in section 5126.12 of the Revised Code.

"Community alternative funding system" means the former system under which habilitation center services were reimbursed under the Medicaid program pursuant to former section 5111.041 of the Revised Code and former rules adopted under that section.

(B) The Director of Job and Family Services may increase the rate paid to intermediate care facilities for the mentally retarded for fiscal years 2006 and 2007 under the section of this act entitled "FISCAL YEAR 2006 AND FISCAL YEAR 2007 MEDICAID REIMBURSEMENT SYSTEM FOR ICFs/MR" by an amount specified in rules adopted under section 5111.02 of the Revised Code to reimburse the facilities for active treatment day programming because of the termination of the community alternative funding system.

**\* SECTION 206.66.36. ASSISTED LIVING MEDICAID WAIVER PROGRAM**

(A) As used in this section, "Assisted Living Program" has the same meaning as in section 5111.89 of the Revised Code.

(B) After the Department of Job and Family Services enters into a contract with the Department of Aging under section 5111.91 of the Revised Code for the Department of Aging to administer the Assisted Living Program, the Director of Job and Family Services shall quarterly certify to the Director of Budget and Management the estimated costs of the Assisted Living Program for the upcoming quarter. The estimate shall include the state and federal share of the costs. On receipt of the certified estimated costs for an upcoming quarter, the Director of Budget and Management shall do all of the following:

(1) Transfer the state share of the amount of the estimated costs from GRF appropriation item 600-525, Health Care/Medicaid, to GRF appropriation item 490-422, Assisted Living;

(2) Transfer the federal share of the amount of the estimated costs from GRF appropriation item 600-525, Health Care/Medicaid, to Fund 3C4, appropriation item 490-622, Assisted Living - Federal;

(3) Increase the appropriation in JFS Fund 3G5, appropriation item 600-655, Interagency Reimbursement, by the federal share of the amount of the estimated costs.

(C) The funds that the Director of Budget and Management transfers

and increases under this section are hereby appropriated.

\* SECTION 206.66.37. Section 206.66.36 of this act takes effect October 1, 2005.

#### SECTION 206.66.38. MEDICAID PILOT PROGRAM

Each quarter, the Department of Aging shall certify to the Director of Budget and Management the estimated costs of the Medicaid pilot program created under section 5111.971 of the Revised Code.

On a quarterly basis, on receipt of the certified costs, the Director of Budget and Management shall do all of the following:

(1) Transfer the state share of the amount of the estimated costs from the GRF appropriation item 600-525, Health Care/Medicaid, to GRF appropriation item 490-403, PASSPORT, for the remainder of the biennium;

(2) Increase the appropriation in Department of Aging Fund 3C4, appropriation item 490-607, PASSPORT, by the federal share of the amount of the estimated costs;

(3) Reduce the federal share of GRF appropriation item 600-525, Health Care/Medicaid, by the federal share of the amount of the estimated costs;

(4) Increase the appropriation in Department of Job and Family Services Fund 3G5, appropriation item 600-655, Interagency Reimbursement, by the federal share of the amount of the estimated costs.

The funds that the Director of Budget and Management transfers and increases under this section are hereby appropriated.

#### SECTION 206.66.39. MEDICAID ELIGIBILITY REDUCTIONS

The Director of Job and Family Services shall, not later than ninety days after the effective date of this section, submit to the United States Secretary of Health and Human Services an amendment to the state Medicaid plan to reduce to ninety per cent of the federal poverty guidelines the amount specified in division (A)(2) of section 5111.019 of the Revised Code as it existed immediately prior to the amendment made by this act. The reduction shall be implemented not earlier than ninety days after the effective date of this section and not later than the effective date of federal approval.

#### SECTION 206.66.41. MEDICAID MANAGED CARE COVERAGE OF RESPIRATORY ANTI-VIRAL DRUGS FOR FY 2006 AND 2007

For fiscal years 2006 and 2007, the Department of Job and Family

Services shall require a health insuring corporation with which the Department contracts under section 5111.17 of the Revised Code to provide coverage of prescription drugs that protect against respiratory syncytial virus for Medicaid recipients enrolled in the health insuring corporation who, as an infant born premature or other pediatric patient, are at risk for respiratory syncytial virus. In covering the drugs for these Medicaid recipients, the health insuring corporation shall do both of the following:

(A) Cover the drugs in at least the same amount, duration, and scope as the Medicaid program's coverage of the drugs for Medicaid recipients who receive state Medicaid plan services under the fee-for-service system;

(B) Establish access requirements for the drugs that are less or no more restrictive than the access requirements for the drugs under the fee-for-service system.

#### SECTION 206.66.42. DISABILITY MEDICAL ASSISTANCE PROGRAM

(A) The foregoing appropriation item 600-513, Disability Medical Assistance, shall be used by the Department of Job and Family Services to operate a Disability Medical Assistance Program before or after October 1, 2005, to replace the Disability Medical Assistance program established in Chapter 5115. of the Revised Code. The Department of Job and Family Services shall terminate the Disability Medical Assistance Program effective October 1, 2005. All rules, standards, guidelines, or orders adopted or issued by the Director of Job and Family Services to govern the Disability Medical Assistance Program before its termination shall remain in effect on and after October 1, 2005, for the following purposes:

(1) To establish the legal obligations of the Department for claims arising from the Program;

(2) To determine an individual's previous eligibility for the Program;

(3) To determine the validity of a claim for services under the Program;

(4) To recover erroneous payments, as defined in section 5115.23 of the Revised Code, made before October 1, 2005.

(B) The Department may use funds appropriated to it to satisfy Program claims or contingent claims existing before October 1, 2005. The Department shall not pay claims for services rendered on or after October 1, 2005.

(C) The Department shall pay a claim for services rendered by a medical provider to a Disability Medical Assistance Program recipient before October 1, 2005, only if the claim is received by the Department not later than April 1, 2006.

(D) A judge or other person designated to make a decision in a state hearing, administrative appeal, or judicial proceeding initiated under section 5101.35 of the Revised Code may adjudicate an appeal of a determination made by the Department under the Program before October 1, 2005. No person may adjudicate an appeal of a determination made by the Department under the Program on or after October 1, 2005.

(E) Notwithstanding the termination of the Disability Medical Assistance Program, the following remain effective on and after October 1, 2005:

(1) As described in section 5101.58 of the Revised Code, the Department's and a county's right of recovery against the liability of a third party for the cost of medical services and care;

(2) As described in section 5101.59 of the Revised Code, the assignment of a Program recipient's right to medical support made by court or administrative order or payments from a third party.

(F) The Department may take reasonable steps to inform Program recipients about the termination of the Program. A county department of job and family services shall take action with respect to these activities when requested by the Department.

(G) An action taken under division (F) of this section shall not be the basis for requiring the Department to extend the Program or to approve or extend a person's eligibility for the Program on or after October 1, 2005.

(H) The Director may adopt rules in accordance with section 111.15 of the Revised Code to implement this section.

#### SECTION 206.66.43. DISABILITY MEDICAL ASSISTANCE COUNCIL

(A) There is hereby established the Disability Medical Assistance Council, composed of the following individuals:

(1) The Director of Job and Family Services or the Director's designee;

(2) The Director of the Rehabilitative Services Commission or the Director's designee;

(3) The Director of Rehabilitation and Correction or the Director's designee;

(4) The Director of Mental Health or the Director's designee;

(5) The Director of Alcohol and Drug Addiction Services or the Director's designee;

(6) Two individuals appointed by the Director of Job and Family Services to represent health care and behavioral health care trade associations, one of whom shall represent county behavioral health boards;

(7) Three members of the Medicaid Care Advisory Committee in the Department of Job and Family Services;

(8) Three individuals appointed by the Director of Job and Family Services to represent low-income disabled individuals;

(9) An individual appointed by the Director of Job and Family Services to represent county boards of job and family services;

(10) An individual appointed by the Director of Job and Family Services to represent hospitals;

(11) Two individuals appointed by the Director of Job and Family Services to represent the pharmaceutical industry.

(B) By not later than September 1, 2005, the Council shall submit to the Governor, the Speaker of the House of Representatives, and the President of the Senate a written report to propose a program to replace the Disability Medical Assistance Program when that program terminates. The report shall include recommendations for the program regarding all of the following:

(1) The type, scope, and duration of services to be covered;

(2) Delivery system options;

(3) Eligibility criteria;

(4) Measures that can be taken to assist individuals who received benefits from the Disability Medical Assistance Program but do not meet the eligibility criteria of the new program to transition to other government or private medical assistance programs;

(5) A disability advocacy program to assist applicants for and recipients of assistance under the new program in the same manner as the disability advocacy program established under section 5115.20 of the Revised Code assisted Disability Medical Assistance Program applicants and recipients prior to October 1, 2005;

(6) Any other recommendations the Council considers necessary and appropriate.

(C) The program proposed by the Council in the report described in division (B) of this section shall be implemented by not later than October 1, 2005.

#### SECTION 206.66.44. MEDICAID COVERAGE OF DENTAL SERVICES

For fiscal years 2006 and 2007, the Medicaid program shall do the following:

(A) For Medicaid recipients under twenty-one years of age, the Medicaid program shall cover dental services. This section does not limit the ability of the Department of Job and Family Services to adopt, amend, or



rescind rules applicable to dental services, including rules that limit or reduce covered services, reduce reimbursement levels, or subject covered services to co-payments.

(B) For Medicaid recipients twenty-one years of age or older, the Medicaid program shall cover dental services in an amount, duration, and scope specified in rules that the Director of Job and Family Services shall adopt under section 5111.02 of the Revised Code but shall be less in amount, duration, and scope than the Medicaid program covered those services immediately before the effective date of this amendment.

#### SECTION 206.66.45. MEDICAID COVERAGE OF VISION SERVICES

For fiscal years 2006 and 2007, the Medicaid program shall cover vision services. This section does not limit the ability of the Department of Job and Family Services to adopt, amend, or rescind rules applicable to vision services, including rules that limit or reduce covered services, reduce reimbursement levels, or subject covered services to copayments.

#### SECTION 206.66.46. DISABILITY DETERMINATIONS

(A) A study shall be conducted by the state and local government entities actively engaged in providing programs or services for which disability is an eligibility requirement, including the Department of Job and Family Services, county departments of job and family services, and Rehabilitation Services Commission. The study shall consider all of the following:

(1) The feasibility of an interagency agreement among the state and local government entities actively engaged in providing programs or services for which disability is an eligibility requirement, including the Department of Job and Family Services, county departments of job and family services, and the Rehabilitation Services Commission whereby one of these state or local government entities would perform disability determinations for all programs and services provided by a state or local government entity in which disability is an eligibility requirement;

(2) Which of the state and local government entities engaged in providing programs or services for which disability is an eligibility requirement should perform disability determinations under an interagency agreement described in division (A)(1) of this section.

(3) Potential cost-savings and other advantages, as well as any potential disadvantages, that might result from the interagency agreement;

(4) Processes by which the interagency agreement could be

implemented, including an estimate of the approximate time needed to implement it.

(B) Not later than six months after the effective date of this section, a written report of the results of the study shall be prepared and submitted to the Speaker of the House of Representatives, President of the Senate, the Minority Leader of the House of Representatives, and the Minority Leader of the Senate.

#### SECTION 206.66.47. HEALTH CARE/MEDICAID

The foregoing appropriation item 600-525, Health Care/Medicaid, shall not be limited by section 131.33 of the Revised Code.

The Director of Job and Family Services may request that the Director of Budget and Management increase the appropriation in appropriation item 600-525, Health Care/Medicaid, by up to \$107,272,266 state share in fiscal year 2007. If the Director of Budget and Management approves the request, the Director of Budget and Management shall also increase the appropriation in appropriation item 600-525, Health Care/Medicaid, by the appropriate corresponding federal share. The increased amounts are hereby appropriated. The Department of Job and Family Services shall use this appropriation to pay for Medicaid services.

The Director of Budget and Management may consider the appropriation authorized in this section for the purposes of the calculations required in section 131.44 of the Revised Code.

#### SECTION 206.66.48. STATE MEDICAID PLAN AMENDMENT REGARDING ESTATE RECOVERY

The Director of Job and Family Services shall submit a state Medicaid plan amendment to the United States Secretary of Health and Human Services as necessary for the implementation of the amendments by this act to sections 5111.11 and 5111.111 of the Revised Code.

#### SECTION 206.66.49. SINGLE AUDIT OF MEDICAID DURING FY 2006 AND 2007

The Auditor of State may, during fiscal years 2006 and 2007, conduct a single performance audit of the Medicaid program, as defined in section 5111.01 of the Revised Code, to determine ways of reducing or eliminating fraud, waste, and abuse in the program, making the program more efficient, and enhancing the program's results. An audit conducted under this section

shall be conducted in accordance with generally accepted government auditing standards. Expenses incurred by the Auditor of State to conduct the performance audit shall be reimbursed by the Department of Job and Family Services.

SECTION 206.66.51. MEDICAID PAYMENT FOR GRADUATE MEDICAL EDUCATION COSTS

The Director of Job and Family Service may submit to the United States Secretary of Health and Human Services an amendment to the state Medicaid plan to implement section 5111.191 of the Revised Code. The Department may implement that section upon the Secretary's approval of the amendment.

MEDICARE PART D

The foregoing appropriation item 600-526, Medicare Part D, may be used by the Department of Job and Family Services for the implementation and operation of the Medicare Part D requirements contained in the "Medicare Prescription Drug, Improvement, and Modernization Act of 2003," Pub. L. No. 108-173, as amended. Upon the request of the Department of Job and Family Services, the Director of Budget and Management may increase the state share of appropriations in either appropriation item 600-525, Health Care/Medicaid, or appropriation item 600-526, Medicare Part D, with a corresponding decrease in the state share of the other appropriation item to allow the Department of Job and Family Services to implement and operate the new Medicare Part D requirements. If the state share of appropriation item 600-525, Health Care/Medicaid, is adjusted, the Director of Budget and Management shall adjust the federal share accordingly.

SECTION 206.66.52. LEGISLATIVE INTENT TO CREATE NEW MEDICAID DEPARTMENT

It is the intent of the General Assembly that a new cabinet level department to administer the Medicaid program is to be established by July 1, 2007.

SECTION 206.66.53. MEDICAID ADMINISTRATIVE STUDY COUNCIL

(A) There is hereby created the Medicaid Administrative Study Council composed of the following:

(1) One member of the Ohio Commission to Reform Medicaid, appointed by the Governor;

(2) One member of the staff of the Governor's office, appointed by the Governor;

(3) One individual with expertise in health-care finance, appointed by the Governor;

(4) One individual with expertise in health-care management, appointed by the Governor;

(5) One individual with expertise in health-care information technology, appointed by the Governor;

(6) One individual with expertise in health insurance, appointed by the Governor;

(7) One individual with expertise in health care quality assurance, appointed by the Governor;

(8) Two individuals with expertise in organizational change representing the business community, one appointed by the President of the Senate and one appointed by the Speaker of the House of Representatives;

(9) The Director of Budget and Management or the Director's designee;

(10) The State Chief Information Officer or the Officer's designee;

(11) The Administrator of Workers' Compensation or the Administrator's designee;

(12) The following non-voting members:

(a) The Director of Job and Family Services or the Director's designee;

(b) The Director of Aging or the Director's designee;

(c) The Director of Drug and Alcohol Addiction Services or the Director's designee;

(d) The Director of Health or the Director's designee;

(e) The Director of Mental Health or the Director's designee;

(f) The Director of Mental Retardation and Developmental Disabilities or the Director's designee.

(B) The Governor shall appoint a member of the Council to serve as the chairperson of the Council.

(C) The Council shall study the administration of the Medicaid program. In conducting the study, the Council shall operate under the assumption that the General Assembly will enact by July 1, 2007, a law establishing a new cabinet level department to administer the program. The Council shall examine and consider all of the following as part of the study:

(1) Structuring the program's administration in a manner that optimizes the program's fiscal and operational objectives;

(2) Centralizing financing and information technology functions to

coordinate the new department's activities with other state agencies, if any, that assist in the program's administration;

(3) Creating a unified budget for Medicaid-funded long-term care services;

(4) The fiscal and operating impact that a new administrative structure for the program would have on the Department of Job and Family Services and other state agencies that currently assist in the program's administration;

(5) The role of government entities that administer the Medicaid program on the local level and the fiscal and operating impact that a new administrative structure for the program would have on those entities;

(6) The recommendations of the Ohio Commission to Reform Medicaid.

(D) Beginning ninety days after the effective date of this section, the Council shall submit written, quarterly reports on the Council's progress to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The Council shall submit a final written report of its study to the Governor, the President of the Senate, and the Speaker of the House of Representatives not later than December 31, 2006. The final report shall include all of the following:

(1) Recommendations regarding the scope and structure of the new department;

(2) A business plan that directs the transition of the Medicaid program's administration from the Department of Job and Family Services and the other state agencies that assist the Department to the new department and addresses the transition's fiscal and operational impact;

(3) Identification of the resources needed to implement the business plan.

(E) The Council may hire staff, enter into contracts, and take other actions the Council deems necessary to fulfill its duties.

#### SECTION 206.66.57. ODJFS FUNDS

##### AGENCY FUND GROUP

The Agency Fund Group and Holding Account Redistribution Fund Group shall be used to hold revenues until the appropriate fund is determined or until the revenues are directed to the appropriate governmental agency other than the Department of Job and Family Services. If it is determined that additional appropriation authority is necessary, such amounts are hereby appropriated.

#### SECTION 206.66.60. EMPLOYER SURCHARGE

The surcharge and the interest on the surcharge amounts due for calendar years 1988, 1989, and 1990 as required by Am. Sub. H.B. 171 of the 117th General Assembly, Am. Sub. H.B. 111 of the 118th General Assembly, and section 4141.251 of the Revised Code as it existed prior to its repeal by Sub. H.B. 478 of the 122nd General Assembly, again shall be assessed and collected by, accounted for, and made available to the Department of Job and Family Services in the same manner as set forth in section 4141.251 of the Revised Code as it existed prior to its repeal by Sub. H.B. 478 of the 122nd General Assembly, notwithstanding the repeal of the surcharge for calendar years after 1990, pursuant to Sub. H.B. 478 of the 122nd General Assembly, except that amounts received by the Director on or after July 1, 2001, shall be deposited into the Unemployment Compensation Special Administrative Fund (Fund 4A9) established pursuant to section 4141.11 of the Revised Code.

**SECTION 206.66.63. TRANSFER OF FUNDS TO THE DEPARTMENT OF AGING**

The Department of Job and Family Services shall transfer, through intrastate transfer vouchers, cash from Fund 4J5, Home and Community-Based Services for the Aged, to Fund 4J4, PASSPORT, in the Department of Aging. The sum of the transfers shall be \$33,268,052 in fiscal year 2006 and \$33,263,984 in fiscal year 2007. The transfer may occur on a quarterly basis or on a schedule developed and agreed to by both departments.

**SECTION 206.66.64. INDIVIDUALS MOVED FROM NURSING FACILITIES TO PASSPORT**

(A) As used in this section:

(1) "Area agency on aging" has the same meaning as in section 173.14 of the Revised Code.

(2) "Long-Term Care Consultation Program" means the program the Department of Aging is required to develop under section 173.42 of the Revised Code.

(3) "Long-Term Care Consultation Program administrator" or "administrator" means the Department of Aging or, if the Department contracts with an area agency on aging or other entity to administer the Long-Term Care Consultation Program for a particular area, that agency or entity.

(4) "Nursing facility" has the same meaning as in section 5111.20 of the

Revised Code.

(5) "PASSPORT program" means the program created under section 173.40 of the Revised Code.

(B) Each month during fiscal years 2006 and 2007, each area agency on aging shall determine whether individuals who reside in the area that the area agency on aging serves and are on a waiting list for the PASSPORT program have been admitted to a nursing facility. If an area agency on aging determines that such an individual has been admitted to a nursing facility, the agency shall notify the Long-Term Care Consultation Program administrator serving the area in which the individual resides about the determination. The administrator shall determine whether the PASSPORT program is appropriate for the individual and whether the individual would rather participate in the PASSPORT program than continue residing in the nursing facility. If the administrator determines that the PASSPORT program is appropriate for the individual and the individual would rather participate in the PASSPORT program than continue residing in the nursing facility, the administrator shall so notify the Department of Aging. On receipt of the notice from the administrator, the Department of Aging shall approve the enrollment of the individual in the PASSPORT program regardless of whether other individuals who are not in a nursing facility are ahead of the individual on the PASSPORT program's waiting list. Each quarter, the Department of Aging shall certify to the Director of Budget and Management the estimated increase in costs of the PASSPORT program for the individuals enrolled in the PASSPORT program pursuant to this section.

(C) On a quarterly basis, on receipt of the certified costs, the Director of Budget and Management shall do all of the following:

(1) Transfer the state share of the amount of the estimated costs from GRF appropriation item 600-525, Health Care/Medicaid, to GRF appropriation item 490-403, PASSPORT, for the remainder of the biennium;

(2) Increase the appropriation in Ohio Department of Aging Fund 3C4, appropriation item 490-607, PASSPORT, by the federal share of the amount of the estimated costs;

(3) Increase the appropriation in JFS Fund 3G5, appropriation item 600-655, Interagency Reimbursement, by the federal share of the amount of the estimated costs.

The funds that the Director of Budget and Management transfers and increases under this division are hereby appropriated.

(D) The individuals placed in the PASSPORT program pursuant to this section shall be in addition to the individuals placed in the PASSPORT program during fiscal years 2006 and 2007 based on the amount of money

that is in GRF appropriation item 490-403, PASSPORT; Fund 4J4, appropriation item 490-610, PASSPORT/Residential State Supplement; Fund 4U9, appropriation item 490-602, PASSPORT Fund; and Fund 3C4, appropriation item 490-607, PASSPORT, before any transfers to GRF appropriation item 490-403, PASSPORT, and Fund 3C4, appropriation item 490-607, PASSPORT, are made under this section.

(E) The Director of Job and Family Services shall do both of the following:

(1) Submit to the United States Secretary of Health and Human Services an amendment to the Medicaid waiver authorizing the PASSPORT program as necessary for the implementation of this section;

(2) By not later than December 31, 2006, submit to the General Assembly a report regarding the number of individuals placed in the PASSPORT program pursuant to this section and the costs incurred and savings achieved as a result of the individuals being placed in the PASSPORT program.

#### SECTION 206.66.66. OHIO ACCESS SUCCESS PROJECT

Notwithstanding any limitations in sections 3721.51 and 3721.56 of the Revised Code, in each fiscal year, cash from Fund 4J5, Home and Community-Based Services for the Aged, in excess of the amounts needed for the transfers may be used by the Department of Job and Family Services for the following purposes: (A) up to \$1.0 million in each fiscal year to fund the state share of audits of Medicaid cost reports filed with the Department of Job and Family Services by nursing facilities and intermediate care facilities for the mentally retarded; and (B) up to \$350,000 in fiscal year 2006 and up to \$350,000 in fiscal year 2007 to provide one-time transitional benefits under the Ohio Access Success Project that the Director of Job and Family Services may establish under section 5111.88 of the Revised Code.

#### SECTION 206.66.69. OHIO ASSOCIATION OF SECOND HARVEST FOOD BANKS

As used in this section, "federal poverty guidelines" has the same meaning as in section 5101.46 of the Revised Code.

Notwithstanding section 5101.46 of the Revised Code, and prior to making any allocation to county departments of job and family services, the Department of Job and Family Services shall provide \$5,500,000 in each fiscal year from the foregoing appropriation item 600-620, Social Services Block Grant, for use in funding a grant agreement with the Ohio Association



of Second Harvest Food Banks. The Department shall enter into a grant agreement with the Ohio Association of Second Harvest Food Banks to reimburse it for costs incurred in the purchase of food products and the distribution of those food products to agencies participating in the emergency food distribution program. Notwithstanding section 5101.46 of the Revised Code, the grant may permit the Ohio Association of Second Harvest Food Banks to use up to 5 per cent of the annual funding for administrative costs. The Department may advance funds to the grantee under section 5101.10 of the Revised Code.

Prior to entering into the grant agreement, the Ohio Association of Second Harvest Food Banks shall submit to the Department for approval a plan for the distribution of the food products to local food distribution agencies. If the plan meets the requirements and conditions established by the Department, the plan shall be incorporated into the grant agreement. The grant agreement shall also require the Ohio Association of Second Harvest Food Banks to ensure that local agencies will limit participation of individuals and families who receive any of the food products purchased with these funds to those who have an income at or below 200 per cent of the federal poverty guidelines. The Department and the Ohio Association of Second Harvest Food Banks shall agree on reporting requirements to be incorporated into the grant agreement, including a statement of expected performance outcomes from the Ohio Association of Second Harvest Food Banks and a requirement for their evaluation of their success in achieving those outcomes.

#### SECTION 206.66.72. TRANSFER OF FUNDS TO THE DEPARTMENT OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES

The Department of Job and Family Services shall transfer, through intrastate transfer vouchers, cash from Fund 4K1, ICF/MR Bed Assessments, to Fund 4K8, Home and Community-Based Services, in the Department of Mental Retardation and Developmental Disabilities. The amount transferred shall equal \$12,000,000 in fiscal year 2006 and \$12,000,000 in fiscal year 2007. The transfer may occur on a quarterly basis or on a schedule developed and agreed to by both departments.

#### SECTION 206.66.75. FUNDING FOR HABILITATIVE SERVICES

Notwithstanding any limitations contained in sections 5112.31 and 5112.37 of the Revised Code, in each fiscal year, cash from Fund 4K1,

ICF/MR Bed Assessments, in excess of the amounts needed for transfers to Fund 4K8, Home and Community-Based Services, in the Department of Mental Retardation and Developmental Disabilities, may be used by the Department of Job and Family Services to cover costs of care provided to participants in a waiver with an ICF/MR level of care requirement administered by the Department of Job and Family Services.

SECTION 206.66.78. COMMUNITY ALTERNATIVE FUNDING SYSTEM

(A) As used in this section, "habilitation center services" has the same meaning as in former section 5111.041 of the Revised Code as that section existed on June 30, 2005.

(B) The Director of Job and Family Services may adopt rules under section 111.15 of the Revised Code as necessary to terminate the community alternative funding system on July 1, 2005.

(C) The Department of Job and Family Services may inform individuals who received habilitation center services under the community alternative funding system on June 30, 2005, and such individuals' representatives about alternative services that may be available for the individuals. The Department may require county departments of job and family services to provide such information to the individuals and their representatives.

(D) Habilitation center services provided before July 1, 2005, are subject to the laws, rules, standards, guidelines, and orders regarding habilitation center services that were in effect at the time the services were provided. This includes such laws, rules, standards, guidelines, and orders regarding the responsibility for the nonfederal share of the services, the fee assessed under division (D) of section 5123.041 of the Revised Code as that section existed on the day the services were provided, cost reports, audits, and the recovery of erroneous payments.

(E) The Department of Job and Family Services may use funds appropriated to the Department for the purpose of habilitation center services to satisfy a claim or contingent claim for habilitation center services provided before July 1, 2005, if the Department receives the claim or contingent claim before July 1, 2006. The Department has no liability to satisfy either of the following:

(1) A claim for habilitation center services provided before July 1, 2005, if the Department receives the claim on or after July 1, 2006.

(2) A claim for habilitation center services provided on or after July 1, 2005.

(F) To the extent authorized by section 5101.35 of the Revised Code, an

individual may initiate or continue a state hearing, administrative appeal, or appeal to a court of common pleas regarding a decision or order concerning habilitation center services that were available before July 1, 2005. A decision resulting from a state hearing, administrative appeal, or appeal to a court of common pleas may not extend an individual's eligibility for habilitation center services beyond June 30, 2005. No individual may utilize section 5101.35 of the Revised Code to contest the July 1, 2005, termination of the community alternative funding system.

(G) Neither of the following are abrogated by the termination of the community alternative funding system:

(1) The right of recovery given to the Department of Job and Family Services or a county department of job and family services under section 5101.58 of the Revised Code for habilitation center services provided before July 1, 2005.

(2) The right to medical support or payments from a third party that is assigned to the Department under section 5101.59 of the Revised Code for habilitation center services provided before July 1, 2005.

#### SECTION 206.66.79. CHILDREN'S HOSPITALS

The foregoing appropriation items 600-635, Children's Hospitals – Federal, and 600-636, Children's Hospitals – State, shall be used by the Department of Job and Family Services to create a program under which it makes supplemental Medicaid payments to children's hospitals for inpatient services based on federal upper payment limits for children's hospitals. The Department shall submit to the United States Secretary of Health and Human Services an amendment to the State Medicaid Plan for the purpose of requesting federal approval to implement the program. On receipt of federal approval, the Department shall implement the program. Under the program, the Department shall pay children's hospitals the federally allowable supplemental payment for hospital discharges qualifying for the program and occurring in fiscal year 2006 and fiscal year 2007, except that the amount used for the program shall not exceed \$6 million (state share) in each fiscal year plus the corresponding federal match, if available, for the qualifying discharges in fiscal year 2006 and fiscal year 2007.

#### SECTION 206.66.84. CHILDREN'S TRUST FUND

Notwithstanding sections 3109.13 to 3109.18 of the Revised Code, in fiscal year 2006, the Director of Budget and Management shall transfer \$1,500,000 cash from the Children's Trust Fund (Fund 198 in the

Department of Job and Family Services) to the Partnerships for Success Fund (Fund 5BH in the Department of Youth Services). On or before January 1, 2007, the Director of Budget and Management shall transfer to the Children's Trust Fund (Fund 198) any amount of cash that remains unspent in the Partnerships for Success Fund (Fund 5BH).

**SECTION 206.66.85. HOSPITAL CARE ASSURANCE MATCH FUND**

Appropriation item 600-650, Hospital Care Assurance Match, shall be used by the Department of Job and Family Services in accordance with division (B) of section 5112.18 of the Revised Code.

**SECTION 206.66.87. HEALTH CARE SERVICES ADMINISTRATION**

The foregoing appropriation item 600-654, Health Care Services Administration, shall be used by the Department of Job and Family Services for costs associated with the administration of the Medicaid program.

**SECTION 206.66.90. HEALTH CARE SERVICES ADMINISTRATION FUND**

Of the amount received by the Department of Job and Family Services during fiscal year 2006 and fiscal year 2007 from the first installment of assessments paid under section 5112.06 of the Revised Code and intergovernmental transfers made under section 5112.07 of the Revised Code, the Director of Job and Family Services shall deposit \$350,000 in each fiscal year into the state treasury to the credit of the Health Care Services Administration Fund (Fund 5U3).

**SECTION 206.66.91.** The Department of Job and Family Services shall retain \$1,500,000 of the federal incentives that are described in division (A) of section 3125.19 of the Revised Code and authorized by 42 U.S.C. 658a that the Department of Job and Family Services receives from the United States Department of Human Services to reimburse the Department of Job and Family Services for the state share of payments made by the Department of Job and Family Services for mandatory contracts utilized by county child support enforcement agencies in the program of child support enforcement authorized by sections 3125.03 and 3125.11 of the Revised Code. This revenue shall be deposited in the Child Support Operating Fund (Fund 5BE in the Department of Job and Family Services).

SECTION 206.66.92. Based on the actual usage of optional contracts by each county, the Department of Job and Family Services shall retain a portion of the federal incentives described in division (A) of section 3125.19 of the Revised Code and authorized by 42 U.S.C. 658a that the Department of Job and Family Services receives from the United States Department of Human Services that are paid to the county child support enforcement agencies each month based on the Department's estimate of what the county child support enforcement agency will earn in federal incentives. The portion retained by the Department of Job and Family Services shall reimburse the Department for the state share of the contractual obligation for the monthly utilization of optional contracts by each county child support enforcement agency in the program of child support enforcement authorized by sections 3125.03 and 3125.11 of the Revised Code. This revenue shall be deposited in the Child Support Operating Fund (Fund 5BE in the Department of Job and Family Services).

SECTION 206.66.93. CHILD SUPPORT COLLECTIONS/TANF MOE

The foregoing appropriation item 600-658, Child Support Collections, shall be used by the Department of Job and Family Services to meet the TANF maintenance of effort requirements of Pub. L. No. 104-193. Once the state is assured that it will meet the maintenance of effort requirement, the Department of Job and Family Services may use funds from appropriation item 600-658, Child Support Collections, to support public assistance activities.

SECTION 206.66.96. MEDICAID PROGRAM SUPPORT FUND - STATE

The foregoing appropriation item 600-671, Medicaid Program Support, shall be used by the Department of Job and Family Services to pay for Medicaid services and contracts. The Department may also deposit to Fund 5C9 revenues received from other state agencies for Medicaid services under the terms of interagency agreements between the Department and other state agencies, and all funds the Department recovers because the benefits a person received under the disability medical assistance program established in section 5115.10 of the Revised Code were determined to be covered by the medical assistance program established under Chapter 5111. of the Revised Code.

SECTION 206.66.99. TRANSFERS OF IMD/DSH CASH TO THE  
DEPARTMENT OF MENTAL HEALTH

The Department of Job and Family Services shall transfer, through intrastate transfer voucher, cash from Fund 5C9, Medicaid Program Support, to the Department of Mental Health's Fund 4X5, OhioCare, in accordance with an interagency agreement that delegates authority from the Department of Job and Family Services to the Department of Mental Health to administer specified Medicaid services.

SECTION 206.67.03. FEDERAL UNEMPLOYMENT PROGRAMS

All unexpended funds remaining at the end of fiscal year 2005 that were appropriated and made available to the state under section 903(d) of the Social Security Act, as amended, in the foregoing appropriation item 600-678, Federal Unemployment Programs (Fund 3V4), are hereby appropriated to the Department of Job and Family Services. Upon the request of the Director of Job and Family Services, the Director of Budget and Management shall increase the appropriation for fiscal year 2006 by the amount remaining unspent from the fiscal year 2005 appropriation and shall increase the appropriation for fiscal year 2007 by the amount remaining unspent from the fiscal year 2006 appropriation. The appropriation shall be used under the direction of the Department of Job and Family Services to pay for administrative activities for the Unemployment Insurance Program, employment services, and other allowable expenditures under section 903(d) of the Social Security Act, as amended.

The amounts obligated pursuant to this section shall not exceed at any time the amount by which the aggregate of the amounts transferred to the account of the state under section 903(d) of the Social Security Act, as amended, exceeds the aggregate of the amounts obligated for administration and paid out for benefits and required by law to be charged against the amounts transferred to the account of the state.

SECTION 206.67.06. WORKFORCE DEVELOPMENT GRANT  
AGREEMENT

The Department of Job and Family Services may use appropriations from appropriation item 600-688, Workforce Investment Act, to provide financial assistance for workforce development activities included in a grant agreement entered into by the department in accordance with section

5101.20 of the Revised Code.

SECTION 206.67.07. ACCOUNTABILITY AND CREDIBILITY TOGETHER

Of the foregoing appropriation item 600-689, TANF Block Grant, up to \$1 million in each fiscal year shall be reimbursed to Accountability and Credibility Together (ACT) to continue its welfare diversion program for TANF eligible individuals pursuant to section 5101.801 of the Revised Code.

SECTION 206.67.08. KINSHIP PERMANENCY INCENTIVE PROGRAM

Of the foregoing appropriation item 600-689, TANF Block Grant (Fund 3V6), \$10 million per fiscal year shall be used to support the activities of the Kinship Permanency Incentive Program created under section 5101.802 of the Revised Code.

The Department of Job and Family Services shall prepare reports concerning both of the following:

(A) Stability and permanency outcomes for children for whom incentive payments are made under the Kinship Permanency Incentive Program;

(B) The total amount of payments made under the Program, patterns of expenditures made per child under the Program, and cost savings realized through the Program from placement with kinship caregivers rather than other out-of-home placements.

The Department shall submit a report to the Governor, the Speaker and Minority Leader of the House of Representatives, and the President and Minority Leader of the Senate not later than December 31, 2008, and December 31, 2010.

SECTION 206.67.09. OHIO ALLIANCE OF BOYS AND GIRLS CLUBS

Of the foregoing appropriation item 600-689, TANF Block Grant (Fund 3V6), the Department of Job and Family Services shall use up to \$600,000 in each fiscal year to support expenditures of the Ohio Alliance of Boys and Girls Clubs pursuant to section 5101.801 of the Revised Code to provide after-school programs that protect at-risk children and enable youth to become responsible adults. The Ohio Alliance of Boys and Girls Clubs shall provide nutritional meals, snacks, and educational, youth development, and

career development services to TANF eligible children participating in programs and activities operated by eligible Boys and Girls Clubs.

The Department shall provide an annual grant of \$600,000 in each fiscal year to the Ohio Alliance of Boys and Girls Clubs. The Department of Job and Family Services and the Ohio Alliance of Boys and Girls Clubs shall agree on reporting requirements to be incorporated into the grant agreement.

#### CHILD WELFARE TRAINING INITIATIVE

In each fiscal year, the Department of Job and Family Services shall grant \$50,000 from appropriation item 600-528, Adoption Services, and \$150,000 from appropriation item 600-606, Child Welfare (Fund 327), to the National Center for Adoption Law and Policy to fund a multi-disciplinary child welfare training initiative. The Department of Job and Family Services shall coordinate with the National Center for Adoption Law and Policy to determine the focus of the training provided each year.

#### TALBERT HOUSE

Of the foregoing appropriation item 600-689, TANF Block Grant (Fund 3V6), up to \$75,000 in each fiscal year shall be reimbursed to the Talbert House pursuant to section 5101.801 of the Revised Code to provide TANF eligible non-medical substance or alcohol abuse services.

#### CHILDREN'S HUNGER ALLIANCE

Of the foregoing appropriation item 600-689, TANF Block Grant (Fund 3V6), up to \$500,000 in each fiscal year shall be reimbursed to the Children's Hunger Alliance pursuant to section 5101.801 of the Revised Code for Child Nutrition Program outreach efforts.

#### PROJECT GRAD

Of the foregoing appropriation item 600-689, TANF Block Grant (Fund 3V6), up to \$185,000 in each fiscal year shall be reimbursed for TANF eligible activities pursuant to section 5101.801 of the Revised Code to reduce the dropout rate by addressing the academic and social problems of inner-city students through Project GRAD.

#### \* SECTION 206.67.10. EMPLOYMENT RETENTION INCENTIVE PROGRAM

(A) As used in this section:

(1) "Assistance group" has the same meaning as in section 5107.02 of the Revised Code.

(2) "Ohio Works First" means the program established under Chapter 5107. of the Revised Code.

(B) Subject to section 5101.801 of the Revised Code, in fiscal year 2007 the Department of Job and Family Services may establish and administer the



Employment Retention Incentive Program under which the Department provides cash payments to eligible assistance groups. The Department shall use the foregoing appropriation item 600-689, TANF Block Grant, to fund the program.

To be eligible for the Employment Retention Incentive Program, an assistance group must meet all of the following requirements:

(1) The assistance group must apply using an application that contains all of the information that rules specified in this section require in accordance with the application process established in those rules;

(2) The assistance group must have ceased to participate in Ohio Works First in accordance with rules specified in this section;

(3) The assistance group must include a member who was employed during the last month the assistance group participated in Ohio Works First in accordance with rules specified in this section;

(4) That member of the assistance group must remain employed in accordance with rules specified in this section;

(5) The assistance group must meet all other eligibility requirements established in rules specified in this section.

(C) If the Department establishes the Employment Retention Incentive Program, the Department shall provide cash payments under the program in a manner that enables the cash payments to be excluded from the definition of "assistance" in 45 C.F.R. 260.31(a) and instead be benefits that 45 C.F.R. 260.31(b) excludes from the definition of assistance. Each county Department of Job and Family Services shall make eligibility determinations for the program and perform other administrative duties for the program in accordance with rules specified in this section.

(D) If the Department establishes the Employment Retention Incentive Program, the Department shall adopt rules under division (C) of section 5101.801 of the Revised Code to establish all of the following for the program:

(1) The information that an application for the program must contain;

(2) The application process for the program, including the process to verify eligibility for the program;

(3) The manner in which an assistance group must have ceased to participate in Ohio Works First for the assistance group to qualify for the program;

(4) The manner in which an assistance group member must have been employed during the last month the assistance group participated in Ohio Works First for the assistance group to qualify for the program;

(5) The manner in which an assistance group member must remain

employed for the assistance group to qualify for the program;

(6) Other eligibility requirements for the program;

(7) The amounts that eligible assistance groups are to receive as cash payments under the program;

(8) The frequency and duration that eligible assistance groups are to receive cash payments under the program;

(9) Requirements governing county departments' administrative duties regarding the program.

(E) In adopting rules under division (D)(2) of this section establishing the application process for the Employment Retention Incentive Program, the director may not require that application be submitted to county departments of job and family services.

\* SECTION 206.67.11. Section 206.67.10 of this act takes effect July 1, 2006.

#### SECTION 206.67.12. EARLY LEARNING INITIATIVE

(A) As used in this section:

(1) "Title IV-A services" means benefits and services that are allowable under Title IV-A of the "Social Security Act," as specified in 42 U.S.C. 604(a), except that they shall not be benefits and services included in the term "assistance" as defined in 45 C.F.R. 260.31(a) and shall be benefits and services that are excluded from the definition of the term "assistance" under 45 C.F.R. 260.31(b).

(2) "Title IV-A funds" means funds provided under the temporary assistance for needy families block grant established by Title IV-A of the "Social Security Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as amended.

(3) "Child care" has the same meaning as in section 5104.01 of the Revised Code.

(4) "Eligible child" means a child who is at least three years of age but not of compulsory school age or enrolled in kindergarten, is eligible for Title IV-A services, and whose family income does not exceed one hundred eighty-five per cent of the federal poverty line at application. If the family income of a child receiving early learning services under this section exceeds one hundred ninety-five per cent of the federal poverty line, the child ceases to be eligible for an early learning program.

(5) "Early learning program" means a program for eligible children that is funded with Title IV-A funds and provides Title IV-A services that are both of the following:

(a) Early learning services, as defined by the Department of Education pursuant to division (C)(1) of Section 206.09.54 of this act;

(b) Child care.

(6) "Early learning provider" means an entity that is receiving Title IV-A funds to operate an early learning program.

(7) "Early learning agency" means an early learning provider or an entity that has entered into an agreement with an early learning provider requiring the early learning provider to operate an early learning program on behalf of the entity.

(8) "Federal poverty line" has the same meaning as in section 5104.01 of the Revised Code.

(9) "Of compulsory school age" has the same meaning as in section 3321.01 of the Revised Code.

(B) The Department of Job and Family Services and the Department of Education shall administer the Early Learning Initiative, established under Section 206.09.54 of this act, in accordance with sections 5101.80 and 5101.801 of the Revised Code. The Initiative shall provide early learning programs and child care to eligible children. Early learning programs may provide early learning services on a full-day basis, a part-day basis, or both a full-day and part-day basis.

(C) The Department of Job and Family Services shall do all of the following:

(1) Enter into a contract with each early learning agency in accordance with Section 206.09.54 of this act;

(2) Reimburse early learning agencies for Title IV-A services provided to eligible children according to the terms of the contract and the rules adopted under division (C)(3) of this section;

(3) In consultation with the Department of Education, adopt rules in accordance with Chapter 119. of the Revised Code to implement the Early Learning Initiative. The rules shall include all of the following:

(a) Provisions regarding the establishment of co-payments for families of eligible children whose family income is more than one hundred sixty-five per cent of the federal poverty line but equal to or less than one hundred ninety-five per cent of the federal poverty line;

(b) An exemption from co-payment requirements for families whose family income is equal to or less than one hundred sixty-five per cent of the federal poverty line;

(c) A definition of "weekly attendance rate" for the purpose of reimbursing early learning agencies;

(d) Provisions that establish the following reimbursement rates for early

learning agencies based on the attendance of eligible children:

(i) If an eligible child attends twenty-five or more hours in a given week, the weekly reimbursement shall not be less than two hundred dollars and seventy-three cents;

(ii) If an eligible child attends fifteen or more hours but less than twenty-five hours in a given week, the weekly reimbursement rate shall not be less than one hundred sixty dollars and fifty-eight cents;

(iii) If an eligible child attends less than fifteen hours in a given week, the hourly reimbursement rate shall not be less than eight dollars and three cents.

(4) If, on the effective date of this section and Section 206.09.54 of this act, no early learning agencies have been approved for a given county, the Department of Job and Family Services, in consultation with the Department of Education, shall establish a deadline for the submission of applications to be an early learning agency that occurs after the effective date of this section.

(5)(a) Subject to division (C)(6)(b) of this Section and in consultation with the Department of Education, establish a caretaker employment eligibility requirement for participation in the Early Learning Initiative that specifies the minimum number of hours that the caretaker of the eligible child must be employed and the time period over which the minimum number of hours is to be measured. These minimum hours may, but are not required to, overlap the period during the day or week in which the child participates in the early learning program. This caretaker employment eligibility requirement shall permit the child to be determined to be, and to remain, an eligible child for up to thirty days if the county department of job and family services determines that the caretaker is expected to begin engaging in an approved activity within that thirty-day period. The county department of job and family services shall inform both the early learning provider and the Department of Job and Family Services of this determination. The Department of Job and Family Services shall designate by rule the activities that constitute approved activities for purposes of this requirement.

(b) The Department shall periodically review the requirement described in division (C)(6)(a) of this Section to ensure that it complies with federal law and regulations.

(D) Each county department of job and family services shall determine eligibility for Title IV-A services for children seeking to enroll in an early learning program within fifteen days after receipt of a completed application and establish co-payment requirements in accordance with the rules adopted

under division (C)(3) of this section.

(E)(1) The Department of Job and Family Services shall ensure that all reimbursements paid to an early learning agency under this section are only for Title IV-A services provided to eligible children.

(2) In calculating reimbursements, the Department shall reimburse the early learning agency for up to twenty-five days per year in which an eligible child is absent from the early learning program on a day the child is scheduled to attend the program.

(F) The provision of early learning services in an early learning program shall not prohibit or otherwise prevent an individual from obtaining certificates for payment under division (C) of section 5104.32 of the Revised Code that the individual may use to purchase services from any provider qualified to provide publicly funded child care under section 5104.31 of the Revised Code.

(G) Upon the transfer of appropriation from Department of Education appropriation line 200-663, Early Learning Initiative (Fund 5W2), to Department of Job and Family Services appropriation item 600-689, TANF Block Grant (Fund 3V6), up to \$104,380,000 in fiscal year 2006 and up to \$125,256,000 in fiscal year 2007 shall be used to reimburse early learning agencies under this section. The Department of Job and Family Services shall provide up to 10,000 slots of services for eligible children in fiscal year 2006 and up to 12,000 slots of services for eligible children in fiscal year 2007 through the Early Learning Initiative. In each fiscal year, the Department shall allocate at least seventeen slots of services to each county in the state.

If, on or after the thirty-first day of December of each fiscal year, the Director of Budget and Management, in consultation with the Director of Job and Family Services and the Superintendent of Public Instruction, determines that there is a balance of funds in the Early Learning Initiative in either fiscal year 2006 or fiscal year 2007, the Director of Budget and Management may approve the use of the funds by the Department of Job and Family Services to provide publicly funded child care, as defined in section 5104.01 of the Revised Code.

Of the foregoing appropriation item 600-689, TANF Block Grant (Fund 3V6), up to \$800,000 in each fiscal year may be used by the Department of Job and Family Services for administration of the Early Learning Initiative.

The Director of Budget and Management, at the request of the Director of Job and Family Services, may transfer in each fiscal year up to \$2,200,000 cash from the Temporary Assistance for Needy Families Federal Fund (Fund 3V6) to the Early Learning Initiative (Fund 5W2) for

administration of the Early Learning Initiative by the Department of Education.

(H) Any contract executed prior to July 1, 2005, between an early learning agency, the Department of Job and Family Services, and the Department of Education shall be deemed to be effective as of July 1, 2005, upon issuance of a state purchase order even if such purchase order is approved at some later date, unless the executed contract expressly provides for a start date after July 1, 2005.

#### SECTION 206.67.13. PUBLICLY FUNDED CHILD CARE

(A) The Department of Job and Family Services shall increase, for fiscal years 2006 and 2007, the reimbursement ceilings for providers of publicly funded child care to sixty-five per cent of the market's usual and customary cost to the public based on the most recently conducted market rate survey required by 45 C.F.R. 98.16.

(B) The Department shall estimate the monthly average of children the Department expects to enroll in publicly funded child care from December 2005 through March 2006. The Department shall then determine the actual monthly average of children enrolled in publicly funded child care for that period. If the monthly average of children expected to enroll exceeds the monthly average of children actually enrolled by at least two thousand children, the Department may increase, for fiscal year 2007, the reimbursement ceilings for providers of publicly funded child care to not more than seventy per cent of the market's usual and customary cost to the public based on the most recently conducted market rate survey required by 45 C.F.R. 98.16.

(C) The Department of Job and Family Services shall conduct a study of the market rates for the provision of child care to establish new rates for the funding of publicly funded child care. The Department shall complete this study and establish new rates for reimbursement not later than July 1, 2006.

Each child care provider shall cooperate with the Department on this study.

#### SECTION 206.67.15. PRESCRIPTION DRUG REBATE FUND

The foregoing appropriation item 600-692, Health Care Services, shall be used by the Department of Job and Family Services in accordance with section 5111.081 of the Revised Code. Moneys recovered by the Department for either hospital settlements or pursuant to the Department's rights of recovery under section 5101.58 of the Revised Code, that are not

directed to the Health Care Services Administration Fund (Fund 5U3) under section 5111.94 of the Revised Code, shall also be deposited into Fund 5P5.

SECTION 206.67.18. COMMUNITY BEHAVIORAL HEALTH  
MEDICAID BUSINESS PLAN

(A) As used in this section, "State of Ohio Community Behavioral Health Medicaid Business Plan" means the plan of that title finalized in August 2004, by the Departments of Job and Family Services, Mental Health, and Alcohol and Drug Addiction Services and the Ohio Association of Behavioral Health Authorities.

(B) As soon as practicable, the Departments of Job and Family Services, Mental Health, and Alcohol and Drug Addiction Services, in conjunction with behavioral health providers and boards of alcohol, drug addiction, and mental health services, shall specify procedures that are consistent with federal law for implementation of the State of Ohio Community Behavioral Health Medicaid Business Plan. If it is determined that any portion of the Plan does not comply with federal law, the Departments, in conjunction with the providers and boards, shall specify procedures to work toward implementation of that portion of the Plan.

A report on the progress being made in implementing the Plan shall be submitted to the Speaker of the House of Representatives, the President of the Senate, the Minority Leader of the House of Representatives, and the Minority Leader of the Senate not later than the first day of March and first day of October of each year until all components of the Plan have been fully implemented.

SECTION 206.67.21. TRANSFER OF TOBACCO MASTER  
SETTLEMENT AGREEMENT FUNDS TO SUPPORT THE AGED,  
BLIND, AND DISABLED MANAGED CARE PROGRAM

(A) Not later than June 30, 2006, the Director of Job and Family Services, in conjunction with the Office of Budget and Management, shall determine the amount necessary to implement the Aged, Blind, and Disabled Managed Care Program established under section 5111.16 of the Revised Code.

(B) Notwithstanding section 183.02 of the Revised Code, on July 1, 2006, or as soon as possible thereafter, the Director of Budget and Management shall transfer cash equal to the state share of the amount determined pursuant to division (A) of this section from the Tobacco Master Settlement Agreement Fund (Fund 087) to the ABD Managed Care Program

– State Fund (Fund 5BZ in the Department of Job and Family Services), which is hereby created. Of the tobacco revenue that is credited to the Tobacco Master Settlement Agreement Fund (Fund 087) in fiscal year 2006, the share that is determined pursuant to section 183.02 of the Revised Code to be the amount transferred by the Director of Budget and Management from the Tobacco Master Settlement Agreement Fund (Fund 087) to the Tobacco Use Prevention and Cessation Trust Fund (Fund H87) shall be reduced by the amount that is transferred from the Tobacco Master Settlement Agreement Fund (Fund 087) to the ABD Managed Care Program – State Fund (Fund 5BZ) in accordance with this section. The amount transferred under this division is hereby appropriated to appropriation item 600-698, ABD Managed Care Program – State.

(C) The Department of Job and Family Services shall deposit federal reimbursement received for the Aged, Blind, and Disabled Managed Care Program into the ABD Managed Care Program – Federal Fund (Fund 3AZ), which is hereby created. Amounts deposited into Fund 3AZ are hereby appropriated to appropriation item 600-699, ABD Managed Care Program – Federal.

#### SECTION 206.67.24. WAIVER OF FOOD STAMP WORK REQUIREMENTS

Pursuant to 7 U.S.C. 2015(o)(4)(A)(i), the Department of Job and Family Services shall request that the United States Secretary of Agriculture waive the applicability of the work requirement of 7 U.S.C. 2015(o)(2) during fiscal years 2006 and 2007 to food stamp benefit recipients who reside in a county of this state that the Department determines has an unemployment rate of over 10 per cent or does not have a sufficient number of jobs to provide employment for the recipients. The Department shall make monthly determinations of which counties the waiver shall be in effect in. No individual may be exempted from the work requirements for more than a total of twelve months beginning July 1, 2005, and ending June 30, 2007.

The Department shall report to the Speaker and Minority Leader of the House of Representatives and President and Minority Leader of the Senate on receipt or rejection of the waiver sought under this section.

#### SECTION 206.72. JCO JUDICIAL CONFERENCE OF OHIO

##### General Revenue Fund

GRF 018-321	Operating Expenses	\$	957,000	\$	957,000
TOTAL GRF General Revenue Fund		\$	957,000	\$	957,000



**General Services Fund Group**

403 018-601	Ohio Jury Instructions	\$	225,000	\$	225,000
TOTAL GSF General Services Fund Group		\$	225,000	\$	225,000
TOTAL ALL BUDGET FUND GROUPS		\$	1,182,000	\$	1,182,000

**STATE COUNCIL OF UNIFORM STATE LAWS**

Notwithstanding section 105.26 of the Revised Code, of the foregoing appropriation item 018-321, Operating Expenses, up to \$66,000 in fiscal year 2006 and up to \$68,000 in fiscal year 2007 may be used to pay the expenses of the State Council of Uniform State Laws, including membership dues to the National Conference of Commissioners on Uniform State Laws.

**OHIO JURY INSTRUCTIONS FUND**

The Ohio Jury Instructions Fund (Fund 403) shall consist of grants, royalties, dues, conference fees, bequests, devises, and other gifts received for the purpose of supporting costs incurred by the Judicial Conference of Ohio in dispensing educational and informational data to the state's judicial system. Fund 403 shall be used by the Judicial Conference of Ohio to pay expenses incurred in dispensing educational and informational data to the state's judicial system. All moneys accruing to Fund 403 in excess of \$225,000 in fiscal year 2006 and in excess of \$225,000 in fiscal year 2007 are hereby appropriated for the purposes authorized.

No money in the Ohio Jury Instructions Fund shall be transferred to any other fund by the Director of Budget and Management or the Controlling Board.

**SECTION 206.75. JSC THE JUDICIARY/SUPREME COURT****General Revenue Fund**

GRF 005-321	Operating Expenses - Judiciary/Supreme Court	\$	118,855,655	\$	121,441,259
GRF 005-401	State Criminal Sentencing Council	\$	328,676	\$	343,730
GRF 005-406	Law-Related Education	\$	216,131	\$	222,615
GRF 005-502	Commission for Legal Education Opportunity	\$	435,000	\$	875,000
TOTAL GRF General Revenue Fund		\$	119,835,462	\$	122,882,604

**General Services Fund Group**

672 005-601	Continuing Judicial Education	\$	130,000	\$	130,000
TOTAL GSF General Services Fund Group		\$	130,000	\$	130,000

**Federal Special Revenue Fund Group**

3J0 005-603	Federal Grants	\$	848,070	\$	861,382
TOTAL FED Federal Special Revenue Fund Group		\$	848,070	\$	861,382

**State Special Revenue Fund Group**

4C8 005-605	Attorney Registration	\$	3,169,774	\$	3,264,867
5T8 005-609	Grants and Awards	\$	10,000	\$	10,000

6A8 005-606	Supreme Court Admissions	\$	1,410,718	\$	1,453,042
643 005-607	Commission on Continuing Legal Education	\$	569,203	\$	586,261
TOTAL SSR State Special Revenue Fund Group		\$	5,159,695	\$	5,314,170
TOTAL ALL BUDGET FUND GROUPS		\$	125,973,227	\$	129,188,156

**LAW-RELATED EDUCATION**

The foregoing appropriation item 005-406, Law-Related Education, shall be distributed directly to the Ohio Center for Law-Related Education for the purposes of providing continuing citizenship education activities to primary and secondary students, expanding delinquency prevention programs, increasing activities for at-risk youth, and accessing additional public and private money for new programs.

**COMMISSION FOR LEGAL EDUCATION OPPORTUNITY**

The foregoing appropriation item 005-502, Commission for Legal Education Opportunity, shall be used to fund activities of the Commission for Legal Education Opportunity created by the Chief Justice of the Supreme Court of Ohio for purposes of assisting minority, low-income, and educationally disadvantaged college graduates in transition to legal education. Moneys appropriated to the Commission for Legal Education Opportunity may be used to establish and provide intensive course study designed to prepare eligible college graduates for law education, provide annual stipends for students who successfully complete the course of study and are admitted to and maintain satisfactory academic standing in an Ohio law school, and pay the administrative costs associated with the program.

**CONTINUING JUDICIAL EDUCATION**

The Continuing Judicial Education Fund (Fund 672) shall consist of fees paid by judges and court personnel for attending continuing education courses and other gifts and grants received for the purpose of continuing judicial education. The foregoing appropriation item 005-601, Continuing Judicial Education, shall be used to pay expenses for continuing education courses for judges and court personnel. If it is determined by the Administrative Director of the Supreme Court that additional appropriations are necessary, the amounts are hereby appropriated.

No money in the Continuing Judicial Education Fund shall be transferred to any other fund by the Director of Budget and Management or the Controlling Board. Interest earned on moneys in the Continuing Judicial Education Fund shall be credited to the fund.

**FEDERAL GRANTS**

The Federal Grants Fund (Fund 3J0) shall consist of grants and other moneys awarded to the Supreme Court (The Judiciary) by the United States Government or other entities that receive the moneys directly from the

United States Government and distribute those moneys to the Supreme Court (The Judiciary). The foregoing appropriation item 005-603, Federal Grants, shall be used in a manner consistent with the purpose of the grant or award. If it is determined by the Administrative Director of the Supreme Court that additional appropriations are necessary, the amounts are hereby appropriated.

No money in the Federal Grants Fund shall be transferred to any other fund by the Director of Budget and Management or the Controlling Board. However, interest earned on moneys in the Federal Grants Fund shall be credited or transferred to the General Revenue Fund.

#### ATTORNEY REGISTRATION

In addition to funding other activities considered appropriate by the Supreme Court, the foregoing appropriation item 005-605, Attorney Registration, may be used to compensate employees and to fund appropriate activities of the following offices established by the Supreme Court under the Rules for the Government of the Bar of Ohio: the Office of Disciplinary Counsel, the Board of Commissioners on Grievances and Discipline, the Clients' Security Fund, the Board of Commissioners on the Unauthorized Practice of Law, and the Office of Attorney Registration. If it is determined by the Administrative Director of the Supreme Court that additional appropriations are necessary, the amounts are hereby appropriated.

No moneys in the Attorney Registration Fund shall be transferred to any other fund by the Director of Budget and Management or the Controlling Board. Interest earned on moneys in the Attorney Registration Fund shall be credited to the fund.

#### GRANTS AND AWARDS

The Grants and Awards Fund (Fund 5T8) shall consist of grants and other moneys awarded to the Supreme Court (The Judiciary) by the State Justice Institute, the Division of Criminal Justice Services, or other entities. The foregoing appropriation item 005-609, Grants and Awards, shall be used in a manner consistent with the purpose of the grant or award. If it is determined by the Administrative Director of the Supreme Court that additional appropriations are necessary, the amounts are hereby appropriated.

No moneys in the Grants and Awards Fund shall be transferred to any other fund by the Director of Budget and Management or the Controlling Board. However, interest earned on moneys in the Grants and Awards Fund shall be credited or transferred to the General Revenue Fund.

#### SUPREME COURT ADMISSIONS

The foregoing appropriation item 005-606, Supreme Court Admissions,

shall be used to compensate Supreme Court employees who are primarily responsible for administering the attorney admissions program under the Rules for the Government of the Bar of Ohio, and to fund any other activities considered appropriate by the court. Moneys shall be deposited into the Supreme Court Admissions Fund (Fund 6A8) under the Supreme Court Rules for the Government of the Bar of Ohio. If it is determined by the Administrative Director of the Supreme Court that additional appropriations are necessary, the amounts are hereby appropriated.

No moneys in the Supreme Court Admissions Fund shall be transferred to any other fund by the Director of Budget and Management or the Controlling Board. Interest earned on moneys in the Supreme Court Admissions Fund shall be credited to the fund.

#### CONTINUING LEGAL EDUCATION

The foregoing appropriation item 005-607, Commission on Continuing Legal Education, shall be used to compensate employees of the Commission on Continuing Legal Education established under the Supreme Court Rules for the Government of the Bar of Ohio, and to fund other activities of the commission considered appropriate by the court. If it is determined by the Administrative Director of the Supreme Court that additional appropriations are necessary, the amounts are hereby appropriated.

No moneys in the Continuing Legal Education Fund shall be transferred to any other fund by the Director of Budget and Management or the Controlling Board. Interest earned on moneys in the Continuing Legal Education Fund shall be credited to the fund.

#### SECTION 206.78. LEC LAKE ERIE COMMISSION

##### State Special Revenue Fund Group

4C0 780-601	Lake Erie Protection Fund	\$	875,000	\$	875,000
5D8 780-602	Lake Erie Resources Fund	\$	486,072	\$	492,794
TOTAL SSR State Special Revenue					
Fund Group		\$	1,361,072	\$	1,367,794
TOTAL ALL BUDGET FUND GROUPS		\$	1,361,072	\$	1,367,794

#### CASH TRANSFER

Not later than the thirtieth day of November of each fiscal year, the Executive Director of the Ohio Lake Erie Office, with the approval of the Lake Erie Commission, shall certify to the Director of Budget and Management the cash balance in the Lake Erie Resources Fund (Fund 5D8) in excess of amounts needed to meet operating expenses of the Lake Erie Office. The Lake Erie Office may request the Director of Budget and Management to transfer up to the certified amount from the Lake Erie Resources Fund (Fund 5D8) to the Lake Erie Protection Fund (Fund 4C0).

The Director of Budget and Management may transfer the requested amount, or the Director may transfer a different amount up to the certified amount. Cash transferred shall be used for the purposes described in division (A) of section 1506.23 of the Revised Code. The amount transferred by the director is hereby appropriated to the foregoing appropriation item 780-601, Lake Erie Protection Fund, which shall be increased by the amount transferred.

#### SECTION 206.81. LRS LEGAL RIGHTS SERVICE

##### General Revenue Fund

GRF 054-100	Personal Services	\$	162,281	\$	162,281
GRF 054-200	Maintenance	\$	33,938	\$	33,938
GRF 054-300	Equipment	\$	1,856	\$	1,856
GRF 054-401	Ombudsman	\$	291,247	\$	291,247
TOTAL GRF General Revenue Fund		\$	489,322	\$	489,322

##### General Services Fund Group

416 054-601	Gifts and Donations	\$	1,352	\$	1,352
5M0 054-610	Settlements	\$	75,000	\$	75,000
TOTAL GSF General Services Fund Group		\$	76,352	\$	76,352

##### Federal Special Revenue Fund Group

3AG 054-613	Protection and Advocacy - Voter Accessibility	\$	114,089	\$	114,089
3B8 054-603	Protection and Advocacy - Mentally Ill	\$	1,059,041	\$	1,059,041
3N3 054-606	Protection and Advocacy - Individual Rights	\$	550,283	\$	550,283
3N9 054-607	Assistive Technology	\$	141,686	\$	141,686
3R9 054-604	Family Support Collaborative	\$	50,000	\$	50,000
3T2 054-609	Client Assistance Program	\$	400,553	\$	400,553
3X1 054-611	Protection and Advocacy for Beneficiaries of Social Security	\$	187,784	\$	187,784
3Z6 054-612	Traumatic Brain Injury	\$	65,138	\$	65,138
305 054-602	Protection and Advocacy - Developmentally Disabled	\$	1,369,082	\$	1,369,082
TOTAL FED Federal Special Revenue Fund Group		\$	3,937,656	\$	3,937,656

##### State Special Revenue Fund Group

5AE 054-614	Grants and Contracts	\$	75,000	\$	75,000
TOTAL SSR State Special Revenue Fund Group		\$	75,000	\$	75,000
TOTAL ALL BUDGET FUND GROUPS		\$	4,578,330	\$	4,578,330

#### SECTION 206.84. JLE JOINT LEGISLATIVE ETHICS COMMITTEE

##### General Revenue Fund

2090

GRF 028-321	Legislative Ethics Committee	\$	550,000	\$	550,000
TOTAL GRF General Revenue Fund		\$	550,000	\$	550,000
TOTAL ALL BUDGET FUND GROUPS		\$	550,000	\$	550,000

## SECTION 206.87. LSC LEGISLATIVE SERVICE COMMISSION

## General Revenue Fund

GRF 035-321	Operating Expenses	\$	15,398,213	\$	16,026,427
GRF 035-402	Legislative Interns	\$	1,012,000	\$	1,012,000
GRF 035-404	Legislative Office of Education Oversight	\$	628,214	\$	0
GRF 035-405	Correctional Institution Inspection Committee	\$	375,000	\$	390,000
GRF 035-409	National Associations	\$	445,000	\$	456,000
GRF 035-410	Legislative Information Systems	\$	3,625,000	\$	3,625,000
TOTAL GRF General Revenue Fund		\$	21,483,427	\$	21,509,427

## General Services Fund Group

4F6 035-603	Legislative Budget Services	\$	152,000	\$	152,500
410 035-601	Sale of Publications	\$	25,000	\$	25,000
TOTAL GSF General Services Fund Group		\$	177,000	\$	177,500
TOTAL ALL BUDGET FUND GROUPS		\$	21,660,427	\$	21,686,927

JOINT LEGISLATIVE COMMITTEE ON MEDICAID  
TECHNOLOGY AND REFORM

Of the foregoing appropriation item 035-321, Operating Expenses, \$100,000 in each fiscal year shall be used for costs associated with employing an executive director for the Joint Legislative Committee on Medicaid Technology and Reform as authorized by division (C) of section 101.391 of the Revised Code.

ELIMINATION OF LEGISLATIVE OFFICE OF EDUCATION  
OVERSIGHT

The Legislative Office of Education Oversight shall complete statutorily required studies by December 31, 2005. On January 1, 2006, the Director of Budget and Management shall transfer the unencumbered cash balance from GRF appropriation item 035-404, Legislative Office of Education Oversight, to GRF appropriation item 035-321, Operating Expenses.

It is the intent of the General Assembly to reconstitute the Legislative Budget Office within the Legislative Service Commission to focus on revenue forecasting. The Legislative Service Commission shall employ a Legislative Budget Officer. The Legislative Service Commission shall also employ a person to focus on Medicaid, TANF, and other federally-funded, caseload-driven programs. It is the intent of the General Assembly to retain current fiscal staff within the Legislative Service Commission.

**SECTION 206.90. LIB STATE LIBRARY BOARD****General Revenue Fund**

GRF 350-321	Operating Expenses	\$	6,298,677	\$	6,298,677
GRF 350-400	Ohio Public Library Information Network	\$	4,330,000	\$	4,330,000
GRF 350-401	Ohioana Rental Payments	\$	124,816	\$	124,816
GRF 350-501	Library for the Blind-Cincinnati	\$	535,615	\$	535,615
GRF 350-502	Regional Library Systems	\$	1,010,441	\$	1,010,441
GRF 350-503	Library for the Blind-Cleveland	\$	805,642	\$	805,642
TOTAL GRF General Revenue Fund		\$	13,105,191	\$	13,105,191

**General Services Fund Group**

139 350-602	Intra-Agency Service Charges	\$	9,000	\$	9,000
4S4 350-604	OPLIN Technology	\$	3,000,000	\$	3,000,000
459 350-602	Interlibrary Service Charges	\$	2,469,925	\$	2,708,092
TOTAL GSF General Services Fund Group		\$	5,478,925	\$	5,717,092

**Federal Special Revenue Fund Group**

313 350-601	LSTA Federal	\$	5,643,905	\$	5,643,905
TOTAL FED Federal Special Revenue Fund Group		\$	5,643,905	\$	5,643,905
TOTAL ALL BUDGET FUND GROUPS		\$	24,228,021	\$	24,466,188

**OHIOANA RENTAL PAYMENTS**

The foregoing appropriation item 350-401, Ohioana Rental Payments, shall be used to pay the rental expenses of the Martha Kinney Cooper Ohioana Library Association pursuant to section 3375.61 of the Revised Code.

**LIBRARY FOR THE BLIND-CINCINNATI**

The foregoing appropriation item 350-501, Library for the Blind-Cincinnati, shall be used for the Talking Book program, which assists the blind and disabled.

**REGIONAL LIBRARY SYSTEMS**

The foregoing appropriation item 350-502, Regional Library Systems, shall be used to support regional library systems eligible for funding under sections 3375.83 and 3375.90 of the Revised Code.

**LIBRARY FOR THE BLIND-CLEVELAND**

The foregoing appropriation item 350-503, Library for the Blind-Cleveland, shall be used for the Talking Book program, which assists the blind and disabled.

**OHIO PUBLIC LIBRARY INFORMATION NETWORK**

The foregoing appropriation items 350-604, OPLIN Technology, and 350-400, Ohio Public Library Information Network, shall be used for an

information telecommunications network linking public libraries in the state and such others as may be certified as participants by the Ohio Public Library Information Network Board.

The Ohio Public Library Information Network Board shall consist of eleven members appointed by the State Library Board from among the staff of public libraries and past and present members of boards of trustees of public libraries, based on the recommendations of the Ohio library community. The Ohio Public Library Information Network Board, in consultation with the State Library, shall develop a plan of operations for the network. The board may make decisions regarding use of the foregoing appropriation items 350-400, Ohio Public Library Information Network, and 350-604, OPLIN Technology, may receive and expend grants to carry out the operations of the network in accordance with state law, and may appoint and fix the compensation of a director and necessary staff. The State Library shall be the fiscal agent for the network and shall have fiscal accountability for the expenditure of funds. The Ohio Public Library Information Network Board members shall be reimbursed for actual travel and necessary expenses incurred in carrying out their responsibilities.

In order to limit access to obscene and illegal materials through internet use at Ohio Public Library Information Network (OPLIN) terminals, local libraries with OPLIN computer terminals shall adopt and implement policies that control access to obscene and illegal materials. These policies may include use of technological systems to select or block certain internet access. The OPLIN shall condition provision of its funds, goods, and services on compliance with these policies. The OPLIN Board shall also adopt and communicate specific recommendations, including recommendations related to computer filtering, to local libraries on methods to control such improper usage. These methods may include each library implementing a written policy controlling such improper use of library terminals and requirements for parental involvement or written authorization for juvenile internet usage.

Of the foregoing appropriation item 350-400, Ohio Public Library Information Network, up to \$100,000 in each fiscal year shall be used to help local libraries purchase or maintain filters to screen out obscene and illegal internet materials. At least 50 per cent of the funds used for these purposes in each fiscal year shall be used for the purchase of filters.

The OPLIN Board shall research and assist or advise local libraries with regard to emerging technologies and methods that may be effective means to control access to obscene and illegal materials. The OPLIN Executive Director shall biannually provide written reports to the Governor, the



Speaker and Minority Leader of the House of Representatives, and the President and Minority Leader of the Senate on any steps being taken by OPLIN and public libraries in the state to limit and control such improper usage as well as information on technological, legal, and law enforcement trends nationally and internationally affecting this area of public access and service.

The Ohio Public Library Information Network, INFOhio, and OhioLINK shall, to the extent feasible, coordinate and cooperate in their purchase or other acquisition of the use of electronic databases for their respective users and shall contribute funds in an equitable manner to such effort.

#### SECTION 206.93. LCO LIQUOR CONTROL COMMISSION

##### Liquor Control Fund Group

043 970-321	Operating Expenses	\$	781,181	\$	803,348
TOTAL LCF Liquor Control Fund Group		\$	781,181	\$	803,348
TOTAL ALL BUDGET FUND GROUPS		\$	781,181	\$	803,348

#### SECTION 206.96. LOT STATE LOTTERY COMMISSION

##### General Services Fund Group

231 950-604	Charitable Gaming Oversight	\$	1,200,000	\$	1,200,000
TOTAL GSF General Services Fund Group		\$	1,200,000	\$	1,200,000

##### State Lottery Fund Group

044 950-100	Personal Services	\$	24,969,422	\$	25,457,016
044 950-200	Maintenance	\$	17,642,894	\$	17,954,156
044 950-300	Equipment	\$	2,517,533	\$	2,494,718
044 950-402	Game and Advertising Contracts	\$	70,524,000	\$	70,024,000
044 950-500	Problem Gambling Subsidy	\$	335,000	\$	335,000
044 950-601	Prizes, Bonuses, and Commissions	\$	150,952,466	\$	147,716,286
871 950-602	Annuity Prizes	\$	148,680,031	\$	138,918,557
TOTAL SLF State Lottery Fund Group		\$	415,621,346	\$	402,899,733
TOTAL ALL BUDGET FUND GROUPS		\$	416,821,346	\$	404,099,733

#### OPERATING EXPENSES

Notwithstanding sections 127.14 and 131.35 of the Revised Code, the Controlling Board may, at the request of the State Lottery Commission, authorize additional appropriations for operating expenses of the State Lottery Commission from the State Lottery Fund up to a maximum of 15 per cent of anticipated total revenue accruing from the sale of lottery tickets.

#### PRIZES, BONUSES, AND COMMISSIONS

Any amounts, in addition to the amounts appropriated in appropriation

item 950-601, Prizes, Bonuses, and Commissions, that the Director of the State Lottery Commission determines to be necessary to fund prizes, bonuses, and commissions are hereby appropriated.

#### ANNUITY PRIZES

With the approval of the Office of Budget and Management, the State Lottery Commission shall transfer cash from the State Lottery Fund Group (Fund 044) to the Deferred Prizes Trust Fund (Fund 871) in an amount sufficient to fund deferred prizes. The Treasurer of State, from time to time, shall credit the Deferred Prizes Trust Fund (Fund 871) the pro rata share of interest earned by the Treasurer of State on invested balances.

Any amounts, in addition to the amounts appropriated in appropriation item 950-602, Annuity Prizes, that the Director of the State Lottery Commission determines to be necessary to fund deferred prizes and interest earnings are hereby appropriated.

#### TRANSFERS TO THE LOTTERY PROFITS EDUCATION FUND

The Ohio Lottery Commission shall transfer an amount greater than or equal to \$637,900,000 in fiscal year 2006 and \$637,900,000 in fiscal year 2007 to the Lottery Profits Education Fund. Transfers from the Commission to the Lottery Profits Education Fund shall represent the estimated net income from operations for the Commission in fiscal year 2006 and fiscal year 2007. Transfers by the Commission to the Lottery Profits Education Fund shall be administered as the statutes direct.

#### SECTION 206.99. MHC MANUFACTURED HOMES COMMISSION

##### General Services Fund Group

4K9 996-609 Operating Expenses	\$	272,500	\$	0
TOTAL GSF General Services Fund Group	\$	272,500	\$	0
TOTAL ALL BUDGET FUND GROUPS	\$	272,500	\$	0

#### INCREASED APPROPRIATION THROUGH CONTROLLING BOARD

The Manufactured Homes Commission shall seek Controlling Board approval in fiscal year 2006 for a planned increase of at least \$356,250 in appropriation item 996-609, Operating Expenses.

#### SECTION 209.03. MED STATE MEDICAL BOARD

##### General Services Fund Group

5C6 883-609 Operating Expenses	\$	7,467,317	\$	7,467,317
TOTAL GSF General Services Fund Group	\$	7,467,317	\$	7,467,317
TOTAL ALL BUDGET FUND GROUPS	\$	7,467,317	\$	7,467,317

## SECTION 209.04. AMB MEDICAL TRANSPORTATION BOARD

## General Services Fund Group

4N1 915-601 Operating Expenses	\$	388,450	\$	0
TOTAL GSF General Services				
Fund Group	\$	388,450	\$	0
TOTAL ALL BUDGET FUND GROUPS	\$	388,450	\$	0

## SECTION 209.06. DMH DEPARTMENT OF MENTAL HEALTH

## General Services Fund Group

151 235-601 General Administration	\$	89,614,180	\$	93,898,713
TOTAL ISF Intragovernmental				
Service Fund Group	\$	89,614,180	\$	93,898,713

## Division of Mental Health--

## Psychiatric Services to Correctional Facilities

## General Revenue Fund

GRF 332-401 Forensic Services	\$	4,338,858	\$	4,338,858
TOTAL GRF General Revenue Fund	\$	4,338,858	\$	4,338,858

## FORENSIC SERVICES

The foregoing appropriation item 332-401, Forensic Services, shall be used to provide psychiatric services to courts of common pleas. The appropriation shall be allocated through community mental health boards to certified community agencies and shall be distributed according to the criteria delineated in rule 5122:4-1-01 of the Administrative Code. These community forensic funds may also be used to provide forensic training to community mental health boards and to forensic psychiatry residency programs in hospitals operated by the Department of Mental Health and to provide evaluations of patients of forensic status in facilities operated by the Department of Mental Health prior to conditional release to the community.

In addition, appropriation item 332-401, Forensic Services, may be used to support projects involving mental health, substance abuse, courts, and law enforcement to identify and develop appropriate alternative services to institutionalization for nonviolent mentally ill offenders, and to provide linkage to community services for severely mentally disabled offenders released from institutions operated by the Department of Rehabilitation and Correction. Funds may also be utilized to provide forensic monitoring and tracking in addition to community programs serving persons of forensic status on conditional release or probation.

## Division of Mental Health--

## Administration and Statewide Programs

## General Revenue Fund

2096

GRF 333-321	Central Administration	\$	23,853,669	\$	23,853,669
GRF 333-402	Resident Trainees	\$	1,364,919	\$	1,364,919
GRF 333-403	Pre-Admission Screening Expenses	\$	650,135	\$	650,135
GRF 333-415	Lease-Rental Payments	\$	23,296,200	\$	23,833,600
GRF 333-416	Research Program Evaluation	\$	1,001,551	\$	1,001,551
TOTAL GRF General Revenue Fund		\$	50,166,474	\$	50,703,874
<b>General Services Fund Group</b>					
149 333-609	Central Office Rotary - Operating	\$	883,773	\$	893,786
232 333-621	Family and Children First Administration	\$	625,000	\$	625,000
TOTAL General Services Fund Group		\$	1,508,773	\$	1,518,786
<b>Federal Special Revenue Fund Group</b>					
3A6 333-608	Community & Hospital Services	\$	65,000	\$	0
3A8 333-613	Federal Grant - Administration	\$	562,417	\$	512,417
3A9 333-614	Mental Health Block Grant	\$	748,740	\$	748,470
3B1 333-635	Community Medicaid Expansion	\$	3,671,537	\$	3,691,683
324 333-605	Medicaid/Medicare	\$	150,000	\$	150,000
TOTAL Federal Special Revenue Fund Group		\$	5,197,694	\$	5,102,570
<b>State Special Revenue Fund Group</b>					
4X5 333-607	Behavioral Health Medicaid Services	\$	3,000,634	\$	3,000,634
5V2 333-611	Non-Federal Miscellaneous	\$	35,000	\$	35,000
485 333-632	Mental Health Operating	\$	134,233	\$	134,233
TOTAL State Special Revenue Fund Group		\$	3,169,867	\$	3,169,867
TOTAL ALL BUDGET FUND GROUPS		\$	60,042,808	\$	60,495,097

**RESIDENCY TRAINEESHIP PROGRAMS**

The foregoing appropriation item 333-402, Resident Trainees, shall be used to fund training agreements entered into by the Department of Mental Health for the development of curricula and the provision of training programs to support public mental health services.

**PRE-ADMISSION SCREENING EXPENSES**

The foregoing appropriation item 333-403, Pre-Admission Screening Expenses, shall be used to pay for costs to ensure that uniform statewide methods for pre-admission screening are in place to perform assessments for persons in need of mental health services or for whom institutional placement in a hospital or in another inpatient facility is sought. Pre-admission screening includes the following activities: pre-admission assessment, consideration of continued stay requests, discharge planning and referral, and adjudication of appeals and grievance procedures.

**LEASE-RENTAL PAYMENTS**

The foregoing appropriation item 333-415, Lease-Rental Payments,

shall be used to meet all payments at the times they are required to be made during the period from July 1, 2005, to June 30, 2007, by the Department of Mental Health under leases and agreements made under section 154.20 of the Revised Code, but limited to the aggregate amount of \$47,129,800. Nothing in this act shall be deemed to contravene the obligation of the state to pay, without necessity for further appropriation, from the sources pledged thereto, the bond service charges on obligations issued under section 154.20 of the Revised Code.

#### BEHAVIORAL HEALTH MEDICAID SERVICES

The Department of Mental Health shall administer specified Medicaid Services as delegated by the Department of Job and Family Services in an interagency agreement. The foregoing appropriation item 333-607, Behavioral Health Medicaid Services, may be used to make payments for free-standing psychiatric hospital inpatient services as defined in an interagency agreement with the Department of Job and Family Services.

#### SECTION 209.06.03. DIVISION OF MENTAL HEALTH - HOSPITALS

##### General Revenue Fund

GRF 334-408	Community and Hospital Mental Health Services	\$	390,424,545	\$	400,324,545
GRF 334-506	Court Costs	\$	976,652	\$	976,652
TOTAL GRF General Revenue Fund		\$	391,401,197	\$	401,301,197

##### General Services Fund Group

149 334-609	Hospital Rotary - Operating Expenses	\$	24,408,053	\$	24,408,053
150 334-620	Special Education	\$	120,930	\$	120,930
TOTAL GSF General Services Fund Group		\$	24,528,983	\$	24,528,983

##### Federal Special Revenue Fund Group

3A6 334-608	Subsidy for Federal Grants	\$	586,224	\$	586,224
3A8 334-613	Federal Letter of Credit	\$	200,000	\$	200,000
3B0 334-617	Elementary and Secondary Education Act	\$	171,930	\$	178,807
3B1 334-635	Hospital Medicaid Expansion	\$	2,000,000	\$	2,000,000
324 334-605	Medicaid/Medicare	\$	11,764,280	\$	11,873,408
TOTAL FED Federal Special Revenue Fund Group		\$	14,722,434	\$	14,838,439

##### State Special Revenue Fund Group

485 334-632	Mental Health Operating	\$	2,476,297	\$	2,476,297
692 334-636	Community Mental Health Board Risk Fund	\$	80,000	\$	80,000
TOTAL SSR State Special Revenue Fund Group		\$	2,556,297	\$	2,556,297
TOTAL ALL BUDGET FUND GROUPS		\$	433,208,911	\$	443,224,916

#### COMMUNITY MENTAL HEALTH BOARD RISK FUND

2098

The foregoing appropriation item 334-636, Community Mental Health Board Risk Fund, shall be used to make payments under section 5119.62 of the Revised Code.

SECTION 209.06.06. DIVISION OF MENTAL HEALTH -			
COMMUNITY SUPPORT SERVICES			
<b>General Revenue Fund</b>			
GRF 335-404	Behavioral Health Services-Children	\$ 5,865,265	\$ 6,865,265
GRF 335-405	Family & Children First	\$ 2,260,000	\$ 2,260,000
GRF 335-419	Community Medication Subsidy	\$ 12,292,848	\$ 13,626,748
GRF 335-505	Local Mental Health Systems of Care	\$ 94,687,868	\$ 99,687,868
TOTAL GRF General Revenue Fund		\$ 115,105,981	\$ 122,439,881
<b>General Services Fund Group</b>			
4P9 335-604	Community Mental Health Projects	\$ 250,000	\$ 250,000
TOTAL GSF General Services Fund Group		\$ 250,000	\$ 250,000
<b>Federal Special Revenue Fund Group</b>			
3A6 335-608	Federal Miscellaneous	\$ 1,089,699	\$ 678,699
3A7 335-612	Social Services Block Grant	\$ 8,657,288	\$ 8,657,288
3A8 335-613	Federal Grant - Community Mental Health Board Subsidy	\$ 2,407,040	\$ 2,407,040
3A9 335-614	Mental Health Block Grant	\$ 14,969,400	\$ 14,969,400
3B1 335-635	Community Medicaid Expansion	\$ 264,088,404	\$ 282,807,902
TOTAL FED Federal Special Revenue Fund Group		\$ 291,211,831	\$ 309,520,329
<b>State Special Revenue Fund Group</b>			
5AU 335-615	Behavioral Healthcare	\$ 4,690,000	\$ 4,690,000
5CH 335-622	Residential State Supplement	\$ 1,500,000	\$ 1,500,000
632 335-616	Community Capital Replacement	\$ 350,000	\$ 350,000
TOTAL SSR State Special Revenue Fund Group		\$ 6,540,000	\$ 6,540,000
TOTAL ALL BUDGET FUND GROUPS		\$ 413,107,812	\$ 438,750,210
DEPARTMENT TOTAL			
GENERAL REVENUE FUND		\$ 561,012,510	\$ 578,783,810
DEPARTMENT TOTAL			
GENERAL SERVICES FUND GROUP		\$ 115,901,936	\$ 120,196,482
DEPARTMENT TOTAL			
FEDERAL SPECIAL REVENUE FUND GROUP		\$ 311,131,959	\$ 329,461,338
DEPARTMENT TOTAL			
STATE SPECIAL REVENUE FUND GROUP		\$ 12,266,164	\$ 12,266,164
DEPARTMENT TOTAL			
TOTAL DEPARTMENT OF MENTAL HEALTH		\$ 1,000,312,569	\$ 1,040,707,794

**SECTION 209.06.09. COMMUNITY MEDICATION SUBSIDY**

The foregoing appropriation item 335-419, Community Medication Subsidy, shall be used to provide subsidized support for psychotropic medication needs of indigent citizens in the community to reduce unnecessary hospitalization because of lack of medication and to provide subsidized support for methadone costs.

Of the foregoing appropriation item 335-419, Community Medication Subsidy, \$4,333,050 in fiscal year 2006 and \$5,666,950 in fiscal year 2007 shall be used to provide services to persons who meet criteria that is consistent with the criteria for the Disability Medical Assistance Program.

**LOCAL MENTAL HEALTH SYSTEMS OF CARE**

The foregoing appropriation item 335-505, Local Mental Health Systems of Care, shall be used for mental health services provided by community mental health boards in accordance with a community mental health plan submitted under section 340.03 of the Revised Code and as approved by the Department of Mental Health.

Of the foregoing appropriation, not less than \$34,818,917 in fiscal year 2006 and not less than \$34,818,917 in fiscal year 2007 shall be distributed by the Department of Mental Health on a per capita basis to community mental health boards.

Of the foregoing appropriation, \$100,000 in each fiscal year shall be used to fund family and consumer education and support.

**BEHAVIORAL HEALTH - CHILDREN**

The foregoing appropriation item 335-404, Behavioral Health Services-Children, shall be used to provide behavioral health services for children and their families. Behavioral health services include mental health and alcohol and other drug treatment services and other necessary supports.

Of the foregoing appropriation item 335-404, Behavioral Health Services-Children, an amount up to \$4.5 million in fiscal year 2006 and \$5.5 million in fiscal year 2007 shall be distributed to local Alcohol, Drug Addiction, and Mental Health Boards; Community Mental Health Boards; and Alcohol and Drug Addiction Boards, based upon a formula and an approved children's behavioral health transformation plan developed and endorsed by the local Family and Children First Council with the leadership from the Alcohol, Drug Addiction, and Mental Health Board, or the Community Mental Health Board, and the Alcohol and Drug Addiction Services Board. The use of these funds shall be approved by a team of state and local stakeholders appointed by the Ohio Family and Children First Cabinet Council. This team shall be appointed not later than July 1, 2005,

and shall include, but not be limited to, all of the following:

(A) At least one representative from each of the Departments of Alcohol and Drug Addiction Services, Mental Health, Education, Health, Job and Family Services, Mental Retardation and Developmental Disabilities, and the Department of Youth Services;

(B) At least one person representing local public children's services agencies;

(C) At least one person representing juvenile courts;

(D) At least one person representing local Alcohol, Drug Addiction, and Mental Health Boards; Community Mental Health Boards; and Alcohol and Drug Addiction Boards;

(E) At least one person representing local Family and Children First Council Coordinators;

(F) At least one family representative.

Children's behavioral health transformation plans shall be congruent with the development and implementation of the process described in division (B)(2)(b) of section 121.37 of the Revised Code and shall address all of the following as determined by a team of state and local stakeholders appointed by the Ohio Family and Children First Cabinet Council:

(A) Specific strategies and actions for use of all funds allocated for the Access to Better Care Initiative by all Ohio Family and Children First Cabinet Council agencies that will further the transformation of the local Children's Behavioral Health Care System;

(B) Providing services to children with behavioral health disorders, particularly those with intensive needs, and their families, across all child-serving systems, including child welfare and juvenile justice and for those youth whose parents would otherwise have to relinquish custody to obtain needed behavioral health services;

(C) Assuring that families are included in all service planning activities and have access to advocates to assist them if they choose;

(D) Implementation of home-based services and other alternatives to out-of-home placement;

(E) Assuring that all individual service plans for children and their families address the academic achievement of the child;

(F) Coordinating the most efficient and effective use of federal, state, and local funds to meet the needs of children and their families.

Funds may be used to support the following services and activities:

(A) Mental health services provided by the Ohio Department of Mental Health certified agencies and alcohol and other drug services provided by Department of Alcohol and Drug Addiction Services certified agencies;



(B) Services and supports for children and their families that further the implementation of their individual service plans;

(C) Treatment services in out-of-home settings, including residential facilities, when other alternatives are not available or feasible;

(D) Administrative support for efforts associated with this initiative;

(E) These funds shall not be used to supplant existing efforts.

The Ohio Family and Children First Cabinet Council appointed team shall approve the plans for local behavioral health services and ensure the plans are components of and properly coordinated with the county service coordination plan as defined in section 121.37 of the Revised Code. In addition to approving the plans for new behavioral health funding, this team shall design a mechanism to provide technical assistance to local communities, monitor the plans, and may, as part of the monitoring role, conduct site visits.

Of the foregoing appropriation item 335-404, Behavioral Health Services-Children, an amount up to \$1.0 million in fiscal year 2006 and \$1.0 million in fiscal year 2007 shall be used to support projects, as determined by the Ohio Family and Children First Cabinet Council, in select areas around the state to focus on improving behavioral health services for children involved in the child welfare and juvenile justice systems. At least one of these projects shall focus on services for adolescent girls that are involved in or at risk of involvement with the juvenile justice system.

Of the foregoing appropriation item 335-405, Family & Children First, an amount up to \$500,000 in fiscal year 2006 and \$500,000 in fiscal year 2007 shall be used for children who do not have behavioral health disorders but require assistance through the County Family and Children First Council.

#### RESIDENTIAL STATE SUPPLEMENT

The foregoing appropriation item 335-622, Residential State Supplement, shall be used to provide subsidized support for licensed adult care facilities which serve individuals with mental illness.

SECTION 209.06.15. The Department of Mental Health, with the Bureau of Workers' Compensation, Department of Rehabilitation and Correction, the Department of Youth Services, and any other state or local government agency that purchases prescription drugs, other than the Department of Job and Family Services for the purposes of the Medicaid program shall do all of the following:

(A) Study intrastate consolidated prescription drug purchasing systems currently in effect in other states under which a single entity administers the

state's prescription drug purchases;

(B) Estimate potential cost-savings and other advantages, as well as any potential disadvantages, that might result if Ohio were to consolidate its executive agencies' prescription drug purchases under a prescription drug purchasing program;

(C) Design a consolidated prescription drug purchasing program appropriate to the prescription drug purchasing needs of the state, including the following elements:

(1) The scope and structure of the consolidated prescription drug purchasing program;

(2) A business plan to direct the implementation of the program and the transition of prescription drug purchasing from the state's executive agencies to the consolidated prescription drug purchasing program;

(3) Identification of the resources required to implement the business plan described in division (C)(2) of this section;

(4) A schedule of the amount of time required to implement the business plan described in division (C)(2) of this section.

(D) By not later than January 1, 2006, prepare and submit a written report of its findings to the Governor, the Speaker and Minority Leader of the House of Representatives, and the President and Minority Leader of the Senate. The report shall include an analysis of any costs Ohio may incur in creating a consolidated prescription drug purchasing program.

## SECTION 209.09. DMR DEPARTMENT OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES

### SECTION 209.09.03. GENERAL ADMINISTRATION AND STATEWIDE SERVICES

#### General Revenue Fund

GRF 320-321	Central Administration	\$	9,357,877	\$	9,357,874
GRF 320-412	Protective Services	\$	2,463,000	\$	2,463,000
GRF 320-415	Lease-Rental Payments	\$	23,296,200	\$	23,833,600
TOTAL GRF General Revenue Fund		\$	35,117,077	\$	35,654,474

#### General Services Fund Group

4B5 320-640	Conference/Training	\$	300,000	\$	300,000
TOTAL GSF General Services Fund Group		\$	300,000	\$	300,000

#### Federal Special Revenue Fund Group

3A4 320-605	Administrative Support	\$	13,492,892	\$	13,492,892
3A5 320-613	DD Council Operating Expenses	\$	895,440	\$	895,440
325 320-634	Protective Services	\$	100,000	\$	100,000

TOTAL FED Federal Special Revenue Fund Group	\$	14,488,332	\$	14,488,332
State Special Revenue Fund Group				
5S2 590-622 Medicaid Administration & Oversight	\$	8,000,000	\$	8,000,000
TOTAL SSR State Special Revenue Fund Group	\$	8,000,000	\$	8,000,000
TOTAL ALL GENERAL ADMINISTRATION AND STATEWIDE SERVICES BUDGET FUND GROUPS	\$	57,905,409	\$	58,442,806
LEASE-RENTAL PAYMENTS				

The foregoing appropriation item 320-415, Lease-Rental Payments, shall be used to meet all payments at the times they are required to be made during the period from July 1, 2005, to June 30, 2007, by the Department of Mental Retardation and Developmental Disabilities under leases and agreements made under section 154.20 of the Revised Code, but limited to the aggregate amount of \$47,129,800. Nothing in this act shall be deemed to contravene the obligation of the state to pay, without necessity for further appropriation, from the sources pledged thereto, the bond service charges on obligations issued under section 154.20 of the Revised Code.

#### SECTION 209.09.06. COMMUNITY SERVICES

##### General Revenue Fund

GRF 322-405	State Use Program	\$	20,000	\$	0
GRF 322-413	Residential and Support Services	\$	7,423,021	\$	7,423,021
GRF 322-416	Waiver State Match	\$	103,090,738	\$	104,397,504
GRF 322-417	Supported Living	\$	43,160,198	\$	43,160,198
GRF 322-451	Family Support Services	\$	6,938,898	\$	6,938,898
GRF 322-452	Service and Support Administration	\$	8,672,730	\$	8,672,730
GRF 322-501	County Boards Subsidies	\$	32,193,542	\$	32,193,542
GRF 322-503	Tax Equity	\$	14,500,000	\$	14,500,000
TOTAL GRF General Revenue Fund		\$	215,999,127	\$	217,285,893

##### General Services Fund Group

4J6 322-645	Intersystem Services for Children	\$	300,000	\$	0
4U4 322-606	Community MR and DD Trust	\$	300,000	\$	50,000
4V1 322-611	Family and Children First	\$	40,000	\$	0
488 322-603	Provider Audit Refunds	\$	350,000	\$	350,000
TOTAL GSF General Services Fund Group		\$	990,000	\$	400,000

**Federal Special Revenue Fund Group**

3A4	322-605	Community Program Support	\$	1,500,000	\$	1,500,000
3A5	322-613	DD Council Grants	\$	3,204,240	\$	3,204,240
3G6	322-639	Medicaid Waiver	\$	373,772,814	\$	373,772,814
3M7	322-650	CAFS Medicaid	\$	125,924,299	\$	103,773,730
325	322-608	Grants for Infants and Families with Disabilities	\$	1,763,165	\$	1,763,165
325	322-612	Community Social Service Programs	\$	11,500,000	\$	11,500,000

TOTAL FED Federal Special Revenue Fund Group

\$ 517,664,518 \$ 495,513,949

**State Special Revenue Fund Group**

4K8	322-604	Waiver - Match	\$	12,000,000	\$	12,000,000
5H0	322-619	Medicaid Repayment	\$	25,000	\$	25,000
5Z1	322-624	County Board Waiver Match	\$	82,000,000	\$	82,000,000

TOTAL SSR State Special Revenue

Fund Group

\$ 94,025,000 \$ 94,025,000

TOTAL ALL COMMUNITY SERVICES

BUDGET FUND GROUPS

\$ 828,678,645 \$ 807,224,842

**RESIDENTIAL AND SUPPORT SERVICES**

The Department of Mental Retardation and Developmental Disabilities may designate a portion of appropriation item 322-413, Residential and Support Services, for the following:

(A) Sermak Class Services used to implement the requirements of the agreement settling the consent decree in *Sermak v. Manuel*, Case No. c-2-80-220, United States District Court for the Southern District of Ohio, Eastern Division;

(B) Medicaid-reimbursed programs other than home and community-based waiver services, in an amount not to exceed \$1,000,000 in each fiscal year, that enable persons with mental retardation and developmental disabilities to live in the community.

**WAIVER STATE MATCH**

The purposes for which the foregoing appropriation item 322-416, Waiver State Match, shall be used include the following:

(A) Home and community-based waiver services under Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended.

(B) Services contracted by county boards of mental retardation and developmental disabilities.

(C) To pay the nonfederal share of the cost of one or more new intermediate-care-facility-for-the-mentally-retarded certified beds in a county where the county board of mental retardation and developmental disabilities does not initiate or support the development or certification of such beds, if the Director of Mental Retardation and Developmental Disabilities is required by this act to transfer to the Director of Job and Family Services funds to pay such nonfederal share.

The Department of Mental Retardation and Developmental Disabilities may designate a portion of appropriation item 322-416, Waiver State Match, to county boards of mental retardation and developmental disabilities that have greater need for various residential and support services because of a low percentage of residential and support services development in comparison to the number of individuals with mental retardation or developmental disabilities in the county.

Of the foregoing appropriation item 322-416, Waiver State Match, \$9,850,000 in each year of the biennium shall be distributed by the Department to county boards of mental retardation and developmental disabilities to support existing residential facilities waiver and individual options waiver related to Medicaid activities provided for in the component of a county board's plan developed under division (A)(2) of section 5126.054 of the Revised Code and approved under section 5123.046 of the Revised Code. Up to \$3,000,000 of these funds in each fiscal year may be used to implement day-to-day program management services under division (A)(2) of section 5126.054 of the Revised Code. Up to \$4,200,000 in each fiscal year may be used to implement the program and health and welfare requirements of division (A)(2) of section 5126.054 of the Revised Code.

In fiscal years 2006 and 2007 not less than \$2,650,000 of these funds shall be used to recruit and retain, under division (A)(2) of section 5126.054 of the Revised Code, the direct care staff necessary to implement the services included in an individualized service plan in a manner that ensures the health and welfare of the individuals being served.

The method utilized by the department to determine each residential facilities waiver and individual options provider's allocation of such funds in fiscal year 2005 shall be used for allocation purposes to such providers in fiscal years 2006 and 2007, respectively.

#### SUPPORTED LIVING

The purposes for which the foregoing appropriation item 322-417, Supported Living, shall be used include supported living services contracted by county boards of mental retardation and developmental disabilities under sections 5126.40 to 5126.47 of the Revised Code and paying the nonfederal share of the cost of one or more new intermediate-care-facility-for-the-mentally-retarded certified beds in a county where the county board of mental retardation and developmental disabilities does not initiate or support the development or certification of such beds, if the Director of Mental Retardation and Developmental Disabilities is required by this act to transfer to the Director of Job and Family Services funds to pay such nonfederal share.

**OTHER RESIDENTIAL AND SUPPORT SERVICE PROGRAMS**

Notwithstanding Chapters 5123. and 5126. of the Revised Code, the Department of Mental Retardation and Developmental Disabilities may develop residential and support service programs funded by appropriation item 322-413, Residential and Support Services; appropriation item 322-416, Waiver State Match; or appropriation item 322-417, Supported Living, that enable persons with mental retardation and developmental disabilities to live in the community. Notwithstanding Chapter 5121. and section 5123.122 of the Revised Code, the Department may waive the support collection requirements of those statutes for persons in community programs developed by the Department under this section. The Department shall adopt rules under Chapter 119. of the Revised Code or may use existing rules for the implementation of these programs.

**FAMILY SUPPORT SERVICES**

Notwithstanding sections 5123.171, 5123.19, 5123.20, and 5126.11 of the Revised Code, the Department of Mental Retardation and Developmental Disabilities may implement programs funded by appropriation item 322-451, Family Support Services, to provide assistance to persons with mental retardation or developmental disabilities and their families who are living in the community. The department shall adopt rules to implement these programs. The department may also use the foregoing appropriation item 322-451, Family Support Services, to pay the nonfederal share of the cost of one or more new intermediate-care-facility-for-the-mentally-retarded certified beds in a county where the county board of mental retardation and developmental disabilities initiates or supports the development or certification of such beds, if the Director of Mental Retardation and Developmental Disabilities is required by this act to transfer to the Director of Job and Family Services funds to pay such nonfederal share.

**SERVICE AND SUPPORT ADMINISTRATION**

The foregoing appropriation item 322-452, Service and Support Administration, shall be allocated to county boards of mental retardation and developmental disabilities for the purpose of providing service and support administration services and to assist in bringing state funding for all department-approved service and support administrators within county boards of mental retardation and developmental disabilities to the level authorized in division (C) of section 5126.15 of the Revised Code. The department may request approval from the Controlling Board to transfer any unobligated appropriation authority from other state General Revenue Fund appropriation items within the department's budget to appropriation item

322-452, Service and Support Administration, to be used to meet the statutory funding level in division (C) of section 5126.15 of the Revised Code.

Notwithstanding division (C) of section 5126.15 of the Revised Code and subject to funding in appropriation item 322-452, Service and Support Administration, no county may receive less than its allocation in fiscal year 1995. Wherever case management services are referred to in any law, contract, or other document, the reference shall be deemed to refer to service and support administration. No action or proceeding pending on the effective date of this section is affected by the renaming of case management services as service and support administration.

The Department of Mental Retardation and Developmental Disabilities shall adopt, amend, and rescind rules as necessary to reflect the renaming of case management services as service and support administration. All boards of mental retardation and developmental disabilities and the entities with which they contract for services shall rename the titles of their employees who provide service and support administration. All boards and contracting entities shall make corresponding changes to all employment contracts.

The Department also may use the foregoing appropriation item 322-452, Service and Support Administration, to pay the nonfederal share of the cost of one or more new intermediate-care-facility-for-the-mentally-retarded certified beds in a county where the county board of mental retardation and developmental disabilities initiates or supports the development or certification of such beds, if the Director of Mental Retardation and Developmental Disabilities is required by this act to transfer to the Director of Job and Family Services funds to pay such nonfederal share.

#### STATE SUBSIDIES TO MR/DD BOARDS

Notwithstanding section 5126.12 of the Revised Code, for fiscal year 2006, the Department shall, if sufficient funds as determined by the Department are available, use the foregoing appropriation item 322-501, County Boards Subsidies, to pay each county board of mental retardation and developmental disabilities an amount that is equal to the amount such board received in fiscal year 2005. If the Department determines that there are not sufficient funds available in appropriation item 322-501, County Boards Subsidies, for this purpose, the Department shall pay to each county board an amount that is proportionate to the amount such board received in fiscal year 2005. Proportionality shall be determined by comparing the payment a county board received in a category in fiscal year 2005 to the total payments distributed to all county boards for such category in fiscal year 2005. For fiscal year 2007, the Department shall pay to each county

board an amount that is determined by an allocation formula to be developed by the Department that considers the applicable factors in section 5126.12 of the Revised Code.

The Department also may use the foregoing appropriation item 322-501, County Boards Subsidies, to pay the nonfederal share of the cost of one or more new intermediate-care-facility-for-the-mentally-retarded certified beds in a county where the county board of mental retardation and developmental disabilities initiates or supports the development or certification of such beds, if the Director of Mental Retardation and Developmental Disabilities is required by this act to transfer to the Director of Job and Family Services funds to pay such nonfederal share.

#### NONFEDERAL MATCH FOR ACTIVE TREATMENT SERVICES

Pursuant to an agreement between the county board and the Director of Mental Retardation and Developmental Disabilities, a county may pledge funds from its state allocation from GRF appropriation item 322-501, County Boards Subsidies, to cover the cost of providing the nonfederal match for active treatment services that the county provides to residents of the Department's developmental centers. The Director of Mental Retardation and Developmental Disabilities is authorized to transfer, through intrastate transfer vouchers, cash from these pledges from GRF appropriation item 322-501, County Boards Subsidies, to Fund 489, Mental Retardation Operating. Any other county funds received by the Department from county boards for active treatment shall be deposited in Fund 489, Mental Retardation Operating.

#### WAIVER - MATCH

The foregoing appropriation item 322-604, Waiver - Match (Fund 4K8), shall be used as state matching funds for the home and community-based waivers.

#### COUNTY BOARD WAIVER MATCH

The Director of Mental Retardation and Developmental Disabilities shall transfer, through intrastate transfer vouchers, cash from any allowable General Revenue Fund appropriation item to Fund 5Z1, appropriation item 322-624, County Board Waiver Match. (The amounts being transferred reflect the amounts that county boards pledge from their state General Revenue Funds allocations to cover the cost of providing the non-federal match for waiver services.)

#### TRANSFER OF FUNDS FOR THE FAMILY AND CHILDREN FIRST CABINET COUNCIL TO THE DEPARTMENT OF MENTAL HEALTH

On July 1, 2005, or as soon as possible thereafter, the Director of



Mental Retardation and Developmental Disabilities shall certify the remaining cash balance in Fund 4V1, Miscellaneous Use, to the Director of Budget and Management. Upon receipt of the certification, the Director of Budget and Management shall transfer that amount and re-establish existing encumbrances in the Department of Mental Health, Fund 232, Family and Children First Administration Fund. When this transfer has been completed, Fund 4V1 shall be abolished.

On November 1, 2005, or as soon as possible thereafter, the Director of Mental Retardation and Developmental Disabilities shall certify the remaining cash balance in Fund 4J6, Youth Cluster, to the Director of Budget and Management, who upon receipt shall transfer that amount to the General Revenue Fund and increase the Department of Mental Health's GRF appropriation item 335-404, Behavioral Health Services-Children, by the same amount. When this transfer has been completed, Fund 4J6 shall be abolished.

#### SECTION 209.09.09. COMMUNITY ALTERNATIVE FUNDING SYSTEM

(A) As used in this section, "habilitation center services" has the same meaning as in former section 5111.041 of the Revised Code as that section existed on June 30, 2005.

(B) The Department of Mental Retardation and Developmental Disabilities may use funds appropriated to the Department for the purpose of habilitation center services to satisfy a claim or contingent claim for habilitation center services provided before July 1, 2005, if the Department receives the claim or contingent claim before July 1, 2006. The Department has no liability to satisfy either of the following:

(1) A claim for habilitation center services provided before July 1, 2005, if the Department receives the claim on or after July 1, 2006.

(2) A claim for habilitation center services provided on or after July 1, 2005.

(C) The Department of Mental Retardation and Developmental Disabilities may inform individuals who received habilitation center services under the community alternative funding system on June 30, 2005, and such individuals' representatives about alternative services that may be available for the individuals. The Department may require county boards of mental retardation and developmental disabilities to provide such information to the individuals and their representatives.

SECTION 209.09.12. DEVELOPMENTAL CENTER PROGRAM TO DEVELOP A MODEL BILLING FOR SERVICES RENDERED

Developmental centers of the Department of Mental Retardation and Developmental Disabilities may provide services to persons with mental retardation or developmental disabilities living in the community or to providers of services to these persons. The department may develop a method for recovery of all costs associated with the provisions of these services.

SECTION 209.09.15. TRANSFER OF FUNDS FOR DEVELOPMENTAL CENTER PHARMACY PROGRAMS

The Department of Mental Retardation and Developmental Disabilities shall pay the Department of Job and Family Services quarterly, through intrastate transfer voucher, the nonfederal share of Medicaid prescription drug claim costs for all developmental centers paid by the Department of Job and Family Services.

SECTION 209.09.16. TRANSFER OF ADMINISTRATION OF FAMILY AND CHILDREN FIRST

The Department of Mental Retardation and Developmental Disabilities shall transfer the administrative duties related to the operation of the Ohio Family and Children First Cabinet Council to the Department of Mental Health. As part of the transfer, all of the following shall occur on July 1, 2005, or as soon as possible thereafter as the Departments of Mental Retardation and Developmental Disabilities and Mental Health are able to make the transfers:

(A) Individuals employed by the Department of Mental Retardation and Developmental Disabilities on June 30, 2005, to perform administrative functions for the Ohio Family and Children First Cabinet Council shall be transferred to the Department of Mental Health.

(B) The assets, liabilities, equipment, and records, irrespective of form or medium, related to the administrative duties of the Ohio Family and Children First Cabinet Council shall transfer or be transferred to the Department of Mental Health;

(C) The Department of Mental Health shall assume the obligations of the Ohio Family and Children First Cabinet Council's administrative duties.

**SECTION 209.09.18. RESIDENTIAL FACILITIES****General Revenue Fund**

GRF 323-321	Residential Facilities Operations	\$	101,764,366	\$	100,457,600
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TOTAL GRF General Revenue Fund		\$	101,764,366	\$	100,457,600
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**General Services Fund Group**

152 323-609	Residential Facilities Support	\$	912,177	\$	912,177
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TOTAL GSF General Services Fund Group		\$	912,177	\$	912,177
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**Federal Special Revenue Fund Group**

3A4 323-605	Developmental Center Operation Expenses	\$	120,000,000	\$	120,000,000
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325 323-608	Foster Grandparent Program	\$	575,000	\$	575,000
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TOTAL FED Federal Special Revenue Fund Group		\$	120,575,000	\$	120,575,000
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**State Special Revenue Fund Group**

221 322-620	Supplement Service Trust	\$	150,000	\$	150,000
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489 323-632	Developmental Center Direct Care Support	\$	12,125,628	\$	12,125,628
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TOTAL SSR State Special Revenue Fund Group		\$	12,275,628	\$	12,275,628
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**TOTAL ALL RESIDENTIAL FACILITIES**

BUDGET FUND GROUPS		\$	235,527,171	\$	234,220,405
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**DEPARTMENT TOTAL**

GENERAL REVENUE FUND		\$	352,880,570	\$	353,397,967
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**DEPARTMENT TOTAL**

GENERAL SERVICES FUND GROUP		\$	2,202,177	\$	1,612,177
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**DEPARTMENT TOTAL**

FEDERAL SPECIAL REVENUE FUND GROUP		\$	652,727,850	\$	630,577,281
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**GROUP****DEPARTMENT TOTAL**

STATE SPECIAL REVENUE FUND GROUP		\$	114,300,628	\$	114,300,628
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**TOTAL DEPARTMENT OF MENTAL****RETARDATION AND DEVELOPMENTAL**

DISABILITIES		\$	1,122,111,225	\$	1,099,888,053
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**SECTION 209.09.21. (A) As used in this section:**

(1) "Family support services," "home and community-based services," "service and support administration," and "supported living" have the same meaning as in section 5126.01 of the Revised Code.

(2) "Intermediate care facility for the mentally retarded" has the same meaning as in section 5111.20 of the Revised Code.

(B) If one or more new beds obtain certification as an intermediate-care-facility-for-the-mentally-retarded bed on or after the effective date of this section, the Director of Mental Retardation and

Developmental Disabilities shall transfer funds to the Department of Job and Family Services to pay the nonfederal share of the cost under the Medicaid Program for those beds. The Director shall use only the following funds for the transfer:

(1) If the beds are located in a county served by a county board of mental retardation and developmental disabilities that does not initiate or support the beds' certification, funds appropriated to the Department of Mental Retardation and Developmental Disabilities for home and community-based services and supported living for which the Director is authorized to make allocations to county boards;

(2) If the beds are located in a county served by a county board that initiates or supports the beds' certification, funds appropriated to the Department for family support services, service and support administration, and other services for which the Director is authorized to make allocations to counties.

(C) The funds that the Director transfers under division (B)(2) of this section shall be funds that the Director has allocated to the county board serving the county in which the beds are located unless the amount of the allocation is insufficient to pay the entire nonfederal share of the cost under the Medicaid Program for those beds. If the allocation is insufficient, the Director shall use as much of such funds allocated to other counties as is needed to make up the difference.

#### SECTION 209.09.24. HABILITATION CENTERS PROVIDING MEDICAID CASE MANAGEMENT SERVICES

A habilitation center holding on June 30, 2005, a valid certificate issued under former section 5123.041 of the Revised Code may provide Medicaid case management services until the earlier of the following:

(A) The date the United States Secretary of Health and Human Services approves an amendment to the state Medicaid plan that provides that only county boards of mental retardation and developmental disabilities may provide Medicaid case management services;

(B) The habilitation center ceases to meet the requirements that were in effect on June 30, 2005, for the certificate issued under former section 5123.041 of the Revised Code.

#### SECTION 209.09.27. INTENT OF SECTION 5123.045 OF THE REVISED CODE

(A) A person or government entity described in division (A) of section

5123.045 of the Revised Code shall not receive payment for home and community-based services unless both of the following are the case:

(1) The individuals who receive the services reside with not more than three other individuals with mental retardation or an other developmental disability unless the individuals are related by blood or marriage.

(2) Except as provided in division (B) of this section, the person or government entity does not provide to the individuals who receive the services a residence and home and community-based services.

(B) A person described in division (A) of section 5123.045 of the Revised Code may receive payment for home and community-based services and provide a residence to the individuals who receive the services if one of the following is the case:

(1) The person lives in the residence and provides the services to not more than three individuals who reside in the residence at any one time.

(2) The person is an association of family members related to two or more of the individuals who reside in the residence and provides the services to not more than four individuals who reside in the residence at any one time.

#### SECTION 209.12. MIH COMMISSION ON MINORITY HEALTH

##### General Revenue Fund

GRF 149-321	Operating Expenses	\$	539,319	\$	539,319
GRF 149-501	Minority Health Grants	\$	670,965	\$	670,965
GRF 149-502	Lupus Program	\$	136,126	\$	136,126
TOTAL GRF General Revenue Fund		\$	1,346,410	\$	1,346,410

##### Federal Special Revenue Fund Group

3J9 149-602	Federal Grants	\$	150,000	\$	150,000
TOTAL FED Federal Special Revenue Fund Group		\$	150,000	\$	150,000

##### State Special Revenue Fund Group

4C2 149-601	Minority Health Conference	\$	250,000	\$	150,000
TOTAL SSR State Special Revenue Fund Group		\$	250,000	\$	150,000
TOTAL ALL BUDGET FUND GROUPS		\$	1,746,410	\$	1,646,410

#### LUPUS PROGRAM

The foregoing appropriation item 149-502, Lupus Program, shall be used to provide grants for programs in patient, public, and professional education on the subject of systemic lupus erythematosus; to encourage and develop local centers on lupus information gathering and screening; and to provide outreach to minority women.

#### SECTION 209.15. CRB MOTOR VEHICLE COLLISION REPAIR

**REGISTRATION BOARD****General Service Fund Group**

5H9 865-609 Operating Expenses - CRB	\$	325,047	\$	0
TOTAL GSF General Services				
Fund Group	\$	325,047	\$	0
TOTAL ALL BUDGET FUND GROUPS	\$	325,047	\$	0

**SECTION 209.18. DNR DEPARTMENT OF NATURAL RESOURCES****General Revenue Fund**

GRF 725-401 Wildlife-GRF Central Support	\$	1,000,000	\$	1,000,000
GRF 725-404 Fountain Square Rental	\$	1,025,300	\$	1,092,000
				Payments - OBA
GRF 725-407 Conservation Reserve	\$	1,000,000	\$	1,000,000
				Enhancement Program
GRF 725-413 OPFC Lease Rental Payments	\$	18,699,100	\$	20,962,800
GRF 725-423 Stream and Ground Water	\$	311,910	\$	311,910
				Gauging
GRF 725-425 Wildlife License	\$	646,319	\$	646,319
				Reimbursement
GRF 725-456 Canal Lands	\$	332,859	\$	332,859
GRF 725-502 Soil and Water Districts	\$	9,836,436	\$	9,836,436
GRF 725-903 Natural Resources General	\$	25,866,000	\$	24,359,100
				Obligation Debt Service
GRF 727-321 Division of Forestry	\$	8,541,511	\$	8,541,511
GRF 728-321 Division of Geological Survey	\$	1,630,000	\$	1,630,000
GRF 729-321 Office of Information	\$	440,895	\$	440,895
				Technology
GRF 730-321 Division of Parks and	\$	37,874,841	\$	39,874,841
				Recreation
GRF 731-321 Office of Coastal Management	\$	259,707	\$	259,707
GRF 733-321 Division of Water	\$	3,257,619	\$	3,207,619
GRF 736-321 Division of Engineering	\$	3,118,703	\$	3,118,703
GRF 737-321 Division of Soil and Water	\$	4,074,788	\$	4,074,788
GRF 738-321 Division of Real Estate and	\$	2,291,874	\$	2,291,874
				Land Management
GRF 741-321 Division of Natural Areas and	\$	3,009,505	\$	3,009,505
				Preserves
GRF 744-321 Division of Mineral Resources	\$	3,068,167	\$	3,068,167
				Management
TOTAL GRF General Revenue Fund	\$	126,285,534	\$	129,059,034
<b>General Services Fund Group</b>				
155 725-601 Departmental Projects	\$	3,135,821	\$	3,011,726
157 725-651 Central Support Indirect	\$	6,528,675	\$	6,528,675
204 725-687 Information Services	\$	4,676,627	\$	4,676,627
206 725-689 REALM Support Services	\$	475,000	\$	475,000
207 725-690 Real Estate Services	\$	64,000	\$	64,000
223 725-665 Law Enforcement	\$	2,096,225	\$	2,096,225
				Administration
227 725-406 Parks Projects Personnel	\$	175,000	\$	110,000

4D5	725-618	Recycled Materials	\$	50,000	\$	50,000
4S9	725-622	NatureWorks Personnel	\$	472,648	\$	307,648
4X8	725-662	Water Resources Council	\$	125,000	\$	125,000
430	725-671	Canal Lands	\$	797,582	\$	847,582
508	725-684	Natural Resources Publications	\$	157,792	\$	157,792
510	725-631	Maintenance - State-owned Residences	\$	260,849	\$	260,849
516	725-620	Water Management	\$	2,442,956	\$	2,459,120
635	725-664	Fountain Square Facilities Management	\$	3,182,223	\$	3,190,223
697	725-670	Submerged Lands	\$	542,011	\$	542,011
TOTAL GSF General Services						
Fund Group			\$	25,182,409	\$	24,902,478
<b>Federal Special Revenue Fund Group</b>						
3B3	725-640	Federal Forest Pass-Thru	\$	150,000	\$	150,000
3B4	725-641	Federal Flood Pass-Thru	\$	350,000	\$	350,000
3B5	725-645	Federal Abandoned Mine Lands	\$	14,310,497	\$	14,307,666
3B6	725-653	Federal Land and Water Conservation Grants	\$	5,000,000	\$	5,000,000
3B7	725-654	Reclamation - Regulatory	\$	2,107,292	\$	2,107,291
3P0	725-630	Natural Areas and Preserves - Federal	\$	315,000	\$	315,000
3P1	725-632	Geological Survey - Federal	\$	479,651	\$	479,651
3P2	725-642	Oil and Gas-Federal	\$	362,933	\$	367,912
3P3	725-650	Coastal Management - Federal	\$	1,592,923	\$	1,607,686
3P4	725-660	Water - Federal	\$	419,766	\$	420,525
3R5	725-673	Acid Mine Drainage Abatement/Treatment	\$	2,225,000	\$	2,225,000
3Z5	725-657	REALM-Federal	\$	1,578,871	\$	1,578,871
328	725-603	Forestry Federal	\$	1,813,827	\$	2,228,081
332	725-669	Federal Mine Safety Grant	\$	258,102	\$	258,102
TOTAL FED Federal Special Revenue						
Fund Group			\$	30,963,862	\$	31,395,785
<b>State Special Revenue Fund Group</b>						
4J2	725-628	Injection Well Review	\$	93,957	\$	79,957
4M7	725-631	Wildfire Suppression	\$	100,000	\$	100,000
4U6	725-668	Scenic Rivers Protection	\$	407,100	\$	407,100
5B3	725-674	Mining Regulation	\$	28,850	\$	28,850
5BV	725-683	Soil and Water Districts	\$	1,850,000	\$	1,850,000
5P2	725-634	Wildlife Boater Angler Administration	\$	4,200,000	\$	3,500,000
509	725-602	State Forest	\$	2,291,664	\$	2,591,664
511	725-646	Ohio Geological Mapping	\$	549,310	\$	549,310
512	725-605	State Parks Operations	\$	26,814,288	\$	26,814,288
512	725-680	Parks Facilities Maintenance	\$	2,576,240	\$	2,576,240
514	725-606	Lake Erie Shoreline	\$	612,075	\$	657,113
518	725-643	Oil and Gas Permit Fees	\$	2,674,377	\$	2,674,378
518	725-677	Oil and Gas Well Plugging	\$	1,200,000	\$	1,200,000
521	725-627	Off-Road Vehicle Trails	\$	143,490	\$	143,490
522	725-656	Natural Areas Checkoff Funds	\$	1,550,670	\$	1,550,670
526	725-610	Strip Mining Administration	\$	1,932,492	\$	1,932,492

		Fee			
527	725-637	Surface Mining Administration	\$	2,312,815	\$ 2,322,702
529	725-639	Unreclaimed Land Fund	\$	623,356	\$ 631,257
531	725-648	Reclamation Forfeiture	\$	2,061,861	\$ 2,062,237
532	725-644	Litter Control and Recycling	\$	7,100,000	\$ 7,100,000
586	725-633	Scrap Tire Program	\$	1,000,000	\$ 1,000,000
615	725-661	Dam Safety	\$	365,223	\$ 365,223
TOTAL SSR State Special Revenue Fund Group			\$	60,487,768	\$ 60,136,971
<b>Clean Ohio Fund Group</b>					
061	725-405	Clean Ohio Operating	\$	155,000	\$ 155,000
TOTAL CLF Clean Ohio Fund Group			\$	155,000	\$ 155,000
<b>Wildlife Fund Group</b>					
015	740-401	Division of Wildlife Conservation	\$	49,447,500	\$ 50,447,500
815	725-636	Cooperative Management Projects	\$	120,449	\$ 120,449
816	725-649	Wetlands Habitat	\$	966,885	\$ 966,885
817	725-655	Wildlife Conservation Checkoff Fund	\$	5,000,000	\$ 5,000,000
818	725-629	Cooperative Fisheries Research	\$	1,500,000	\$ 1,500,000
819	725-685	Ohio River Management	\$	128,584	\$ 128,584
TOTAL WLF Wildlife Fund Group			\$	57,163,418	\$ 58,163,418
<b>Waterways Safety Fund Group</b>					
086	725-414	Waterways Improvement	\$	3,792,343	\$ 3,792,343
086	725-418	Buoy Placement	\$	52,182	\$ 52,182
086	725-501	Waterway Safety Grants	\$	137,867	\$ 137,867
086	725-506	Watercraft Marine Patrol	\$	576,153	\$ 576,153
086	725-513	Watercraft Educational Grants	\$	366,643	\$ 366,643
086	739-401	Division of Watercraft	\$	20,027,909	\$ 20,086,681
5AW	725-682	Watercraft Revolving Loans	\$	3,000,000	\$ 1,000,000
TOTAL WSF Waterways Safety Fund Group			\$	27,953,097	\$ 26,011,869
<b>Holding Account Redistribution Fund Group</b>					
R17	725-659	Performance Cash Bond Refunds	\$	374,263	\$ 374,263
R43	725-624	Forestry	\$	2,500,000	\$ 1,500,000
TOTAL 090 Holding Account Redistribution Fund Group			\$	2,874,263	\$ 1,874,263
<b>Accrued Leave Liability Fund Group</b>					
4M8	725-675	FOP Contract	\$	20,844	\$ 20,844
TOTAL ALF Accrued Leave Liability Fund Group			\$	20,844	\$ 20,844
TOTAL ALL BUDGET FUND GROUPS			\$	331,086,195	\$ 331,719,662

## SECTION 209.18.03. CENTRAL SUPPORT INDIRECT

With the exception of the Division of Wildlife, whose direct and indirect central support charges shall be paid out of the General Revenue



Fund from the foregoing appropriation item 725-401, Wildlife-GRF Central Support, the Department of Natural Resources, with approval of the Director of Budget and Management, shall utilize a methodology for determining each division's payments into the Central Support Indirect Fund (Fund 157). The methodology used shall contain the characteristics of administrative ease and uniform application in compliance with federal grant requirements. It may include direct cost charges for specific services provided. Payments to the Central Support Indirect Fund (Fund 157) shall be made using an intrastate transfer voucher.

#### SECTION 209.18.06. FOUNTAIN SQUARE

The foregoing appropriation item 725-404, Fountain Square Rental Payments - OBA, shall be used by the Department of Natural Resources to meet all payments required to be made to the Ohio Building Authority during the period from July 1, 2005, to June 30, 2007, pursuant to leases and agreements with the Ohio Building Authority under section 152.241 of the Revised Code, but limited to the aggregate amount of \$2,117,300.

The Director of Natural Resources, using intrastate transfer vouchers, shall make payments to the General Revenue Fund from funds other than the General Revenue Fund to reimburse the General Revenue Fund for the other funds' shares of the lease rental payments to the Ohio Building Authority. The transfers from the non-General Revenue funds shall be made within 10 days of the payment to the Ohio Building Authority for the actual amounts necessary to fulfill the leases and agreements pursuant to section 152.241 of the Revised Code.

The foregoing appropriation item 725-664, Fountain Square Facilities Management (Fund 635), shall be used for payment of repairs, renovation, utilities, property management, and building maintenance expenses for the Fountain Square Complex. Cash transferred by intrastate transfer vouchers from various department funds and rental income received by the Department of Natural Resources shall be deposited into the Fountain Square Facilities Management Fund (Fund 635).

#### LEASE RENTAL PAYMENTS

The foregoing appropriation item 725-413, OPFC Lease Rental Payments, shall be used to meet all payments at the times they are required to be made during the period from July 1, 2005, to June 30, 2007, by the Department of Natural Resources pursuant to leases and agreements made under section 154.22 of the Revised Code, but limited to the aggregate amount of \$50,375,100. Nothing in this act shall be deemed to contravene the obligation of the state to pay, without necessity for further appropriation,

from the sources pledged thereto, the bond service charges on obligations issued pursuant to section 154.22 of the Revised Code.

#### NATURAL RESOURCES GENERAL OBLIGATION DEBT SERVICE

The foregoing appropriation item 725-903, Natural Resources General Obligation Debt Service, shall be used to pay all debt service and related financing costs at the times they are required to be made pursuant to sections 151.01 and 151.05 of the Revised Code during the period from July 1, 2005, to June 30, 2007. The Office of the Sinking Fund or the Director of Budget and Management shall effectuate the required payments by an intrastate transfer voucher.

#### SECTION 209.18.09. WILDLIFE LICENSE REIMBURSEMENT

Notwithstanding the limits of the transfer from the General Revenue Fund to the Wildlife Fund, as adopted in section 1533.15 of the Revised Code, up to the amount available in appropriation item 725-425, Wildlife License Reimbursement, may be transferred from the General Revenue Fund to the Wildlife Fund (Fund 015). Pursuant to the certification of the Director of Budget and Management of the amount of foregone revenue in accordance with section 1533.15 of the Revised Code, the foregoing appropriation item in the General Revenue Fund, appropriation item 725-425, Wildlife License Reimbursement, shall be used to reimburse the Wildlife Fund (Fund 015) for the cost of hunting and fishing licenses and permits issued after June 30, 1990, to individuals who are exempted under the Revised Code from license, permit, and stamp fees.

#### CANAL LANDS

The foregoing appropriation item 725-456, Canal Lands, shall be used to transfer funds to the Canal Lands Fund (Fund 430) to provide operating expenses for the State Canal Lands Program. The transfer shall be made using an intrastate transfer voucher and shall be subject to the approval of the Director of Budget and Management.

#### SOIL AND WATER DISTRICTS

In addition to state payments to soil and water conservation districts authorized by section 1515.10 of the Revised Code, the Department of Natural Resources may pay to any soil and water conservation district, from authority in appropriation item 725-502, Soil and Water Districts, an annual amount not to exceed \$30,000, upon receipt of a request and justification from the district and approval by the Ohio Soil and Water Conservation Commission. The county auditor shall credit the payments to the special fund established under section 1515.10 of the Revised Code for the local

soil and water conservation district. Moneys received by each district shall be expended for the purposes of the district. The foregoing appropriation item 725-683, Soil and Water Districts, shall be expended for the purposes described above, except that the funding source for this appropriation shall be a fee applied on the disposal of construction and demolition debris as provided in section 1515.14 of the Revised Code, as amended by this act.

Of the foregoing appropriation item 725-502, Soil and Water Districts, \$25,000 in each fiscal year shall be used for the Conservation Action Project.

Of the foregoing appropriation item, 725-683, Soil and Water Districts, \$200,000 in each fiscal year shall be used to support the Heidelberg College Water Quality Laboratory.

Of the foregoing appropriation item 725-683, Soil and Water Districts, \$100,000 in each fiscal year shall be used to support the Muskingum Watershed Conservancy District.

Of the foregoing appropriation item 725-683, Soil and Water Districts, \$100,000 in each fiscal year shall be used to support the Indian Lake Watershed in Logan County.

#### DIVISION OF WATER

Of the foregoing appropriation item 733-321, Division of Water, \$50,000 in fiscal year 2006 shall be used for the Fairport Harbor Port Authority boat launch in Lake County.

#### FUND CONSOLIDATION

The Director of Budget and Management shall transfer an amount certified by the Director of Natural Resources from the Central Support Indirect Fund (Fund 157) to the Law Enforcement Administration Fund (Fund 223) and the Information Services Fund (Fund 204) to implement a direct cost recovery plan.

#### STATE PARK DEPRECIATION RESERVE

The foregoing appropriation item 725-680, Parks Facilities Maintenance, shall be used by the Division of Parks and Recreation to maintain state park revenue producing facilities in the best economic operating condition and to repair and replace equipment used in the operation of state park revenue producing facilities.

Upon certification of the Director of Natural Resources, the Director of Budget and Management shall transfer the cash balance in the Depreciation Reserve Fund (Fund 161), which is abolished in section 1541.221 of the Revised Code, as amended by this act, to the State Park Fund (Fund 512), which is created in section 1541.22 of the Revised Code. All outstanding encumbrances shall be cancelled on October 1, 2005.

**OIL AND GAS WELL PLUGGING**

The foregoing appropriation item 725-677, Oil and Gas Well Plugging, shall be used exclusively for the purposes of plugging wells and to properly restore the land surface of idle and orphan oil and gas wells pursuant to section 1509.071 of the Revised Code. No funds from the appropriation item shall be used for salaries, maintenance, equipment, or other administrative purposes, except for those costs directly attributed to the plugging of an idle or orphan well. Appropriation authority from this appropriation item shall not be transferred to any other fund or line item.

**LITTER CONTROL AND RECYCLING**

Of the foregoing appropriation item, 725-644, Litter Control and Recycling, not more than \$1,500,000 may be used in each fiscal year for the administration of the Recycling and Litter Prevention program.

**CLEAN OHIO OPERATING EXPENSES**

The foregoing appropriation item 725-405, Clean Ohio Operating, shall be used by the Department of Natural Resources in administering section 1519.05 of the Revised Code.

**WATERCRAFT MARINE PATROL**

Of the foregoing appropriation item 739-401, Division of Watercraft, not more than \$200,000 in each fiscal year shall be expended for the purchase of equipment for marine patrols qualifying for funding from the Department of Natural Resources pursuant to section 1547.67 of the Revised Code. Proposals for equipment shall accompany the submission of documentation for receipt of a marine patrol subsidy pursuant to section 1547.67 of the Revised Code and shall be loaned to eligible marine patrols pursuant to a cooperative agreement between the Department of Natural Resources and the eligible marine patrol.

**WATERCRAFT REVOLVING LOAN PROGRAM**

Upon certification by the Director of Natural Resources, the Director of Budget and Management shall transfer an amount not to exceed \$3,000,000 in fiscal year 2006 and not to exceed \$1,000,000 in fiscal year 2007 so certified from the Waterways Safety Fund (Fund 086) to the Watercraft Revolving Loans Fund (Fund 5AW). The moneys shall be used pursuant to section 1547.721 of the Revised Code.

**PARKS CAPITAL EXPENSES FUND**

There is hereby created in the state treasury the Parks Capital Expenses Fund (Fund 227). The fund shall be used to pay for design, engineering, and planning costs incurred by the Department of Natural Resources for capital parks projects.

The Director of Natural Resources shall submit to the Director of

Budget and Management the estimated design, engineering, and planning costs of capital-related work to be done by Department of Natural Resources staff for parks projects. If the Director of Budget and Management approves the estimated costs, the Director may release appropriations from appropriation item 725-406, Parks Projects Personnel, for those purposes. Upon release of the appropriations, the Department of Natural Resources shall pay for these expenses from the Parks Capital Expenses Fund (Fund 227). Expenses paid from Fund 227 shall be reimbursed by the Parks and Recreation Improvement Fund (Fund 035) using an intrastate transfer voucher.

#### SECTION 209.21. NUR STATE BOARD OF NURSING

##### General Services Fund Group

4K9 884-609	Operating Expenses	\$	5,661,280	\$	5,661,280
5P8 884-601	Nursing Special Issues	\$	5,000	\$	5,000
TOTAL GSF General Services					
Fund Group		\$	5,666,280	\$	5,666,280
TOTAL ALL BUDGET FUND GROUPS					
		\$	5,666,280	\$	5,666,280

##### NURSING SPECIAL ISSUES

The foregoing appropriation item 884-601, Nursing Special Issues (Fund 5P8), shall be used to pay the costs the Board of Nursing incurs in implementing section 4723.062 of the Revised Code.

#### SECTION 209.24. PYT OCCUPATIONAL THERAPY, PHYSICAL THERAPY, AND ATHLETIC TRAINERS BOARD

##### General Services Fund Group

4K9 890-609	Operating Expenses	\$	824,057	\$	0
TOTAL GSF General Services Fund Group					
		\$	824,057	\$	0
TOTAL ALL BUDGET FUND GROUPS					
		\$	824,057	\$	0

#### SECTION 209.27. OLA OHIOANA LIBRARY ASSOCIATION

##### General Revenue Fund

GRF 355-501	Library Subsidy	\$	200,000	\$	200,000
TOTAL GRF General Revenue Fund					
		\$	200,000	\$	200,000
TOTAL ALL BUDGET FUND GROUPS					
		\$	200,000	\$	200,000

#### SECTION 209.30. ODB OHIO OPTICAL DISPENSERS BOARD

##### General Services Fund Group

4K9 894-609	Operating Expenses	\$	316,517	\$	0
TOTAL GSF General Services					
Fund Group		\$	316,517	\$	0

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TOTAL ALL BUDGET FUND GROUPS	\$	316,517	\$	0
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#### SECTION 209.33. OPT STATE BOARD OF OPTOMETRY

##### General Services Fund Group

4K9 885-609 Operating Expenses	\$	336,771	\$	0
TOTAL GSF General Services				
Fund Group	\$	336,771	\$	0
TOTAL ALL BUDGET FUND GROUPS	\$	336,771	\$	0

#### SECTION 209.36. OPP STATE BOARD OF ORTHOTICS, PROSTHETICS, AND PEDORTHICS

##### General Services Fund Group

4K9973-609 Operating Expenses	\$	99,571	\$	0
TOTAL GSF General Services				
Fund Group	\$	99,571	\$	0
TOTAL ALL BUDGET FUND GROUPS	\$	99,571	\$	0

#### SECTION 209.39. PBR STATE PERSONNEL BOARD OF REVIEW

##### General Revenue Fund

GRF 124-321 Operating	\$	1,116,170	\$	1,148,000
TOTAL GRF General Revenue Fund	\$	1,116,170	\$	1,148,000

##### General Services Fund Group

636 124-601 Transcript and Other	\$	12,000	\$	15,000
TOTAL GSF General Services				
Fund Group	\$	12,000	\$	15,000
TOTAL ALL BUDGET FUND GROUPS	\$	1,128,170	\$	1,163,000

##### TRANSCRIPT AND OTHER

The foregoing appropriation item 124-601, Transcript and Other, may be used to defray the costs of producing an administrative record.

#### SECTION 209.42. PRX STATE BOARD OF PHARMACY

##### General Services Fund Group

4A5 887-605 Drug Law Enforcement	\$	75,550	\$	75,550
4K9 887-609 Operating Expenses	\$	5,650,537	\$	5,400,537
TOTAL GSF General Services				
Fund Group	\$	5,726,087	\$	5,476,087
TOTAL ALL BUDGET FUND GROUPS	\$	5,726,087	\$	5,476,087

#### SECTION 209.45. PSY STATE BOARD OF PSYCHOLOGY

##### General Services Fund Group

4K9 882-609	Operating Expenses	\$	566,112	\$	0
TOTAL GSF General Services					
Fund Group		\$	566,112	\$	0
TOTAL ALL BUDGET FUND GROUPS		\$	566,112	\$	0

**SECTION 209.48. PUB OHIO PUBLIC DEFENDER COMMISSION****General Revenue Fund**

GRF 019-321	Public Defender Administration	\$	1,295,570	\$	1,262,439
GRF 019-401	State Legal Defense Services	\$	5,744,601	\$	5,704,117
GRF 019-403	Multi-County: State Share	\$	823,620	\$	823,620
GRF 019-404	Trumbull County - State Share	\$	256,380	\$	256,380
GRF 019-405	Training Account	\$	31,324	\$	31,324
GRF 019-501	County Reimbursement	\$	30,000,000	\$	30,000,000
TOTAL GRF General Revenue Fund		\$	38,151,495	\$	38,077,880

**General Services Fund Group**

101 019-602	Inmate Legal Assistance	\$	53,086	\$	32,338
406 019-603	Training and Publications	\$	16,000	\$	16,000
407 019-604	County Representation	\$	186,146	\$	188,810
408 019-605	Client Payments	\$	614,027	\$	762,106
TOTAL GSF General Services Fund Group		\$	869,259	\$	999,254

**Federal Special Revenue Fund Group**

3S8 019-608	Federal Representation	\$	380,484	\$	315,287
TOTAL FED Federal Special Revenue Fund Group		\$	380,484	\$	315,287

**State Special Revenue Fund Group**

4C7 019-601	Multi-County: County Share	\$	2,028,309	\$	2,104,367
4X7 019-610	Trumbull County - County Share	\$	642,106	\$	665,860
574 019-606	Legal Services Corporation	\$	16,575,000	\$	21,300,000
5CX 019-617	Civil Case Filing Fee	\$	417,600	\$	556,800
TOTAL SSR State Special Revenue Fund Group		\$	19,663,015	\$	24,627,027
TOTAL ALL BUDGET FUND GROUPS		\$	59,064,253	\$	64,019,448

**INDIGENT DEFENSE OFFICE**

The foregoing appropriation items 019-404, Trumbull County - State Share, and 019-610, Trumbull County - County Share, shall be used to support an indigent defense office for Trumbull County.

**MULTI-COUNTY OFFICE**

The foregoing appropriation items 019-403, Multi-County: State Share, and 019-601, Multi-County: County Share, shall be used to support the Office of the Ohio Public Defender's Multi-County Branch Office Program.

**TRAINING ACCOUNT**

The foregoing appropriation item 019-405, Training Account, shall be used by the Ohio Public Defender to provide legal training programs at no cost for private appointed counsel who represent at least one indigent

defendant at no cost and for state and county public defenders and attorneys who contract with the Ohio Public Defender to provide indigent defense services.

#### FEDERAL REPRESENTATION

The foregoing appropriation item 019-608, Federal Representation, shall be used to receive reimbursements from the federal courts when the Ohio Public Defender provides representation in federal court cases and to support representation in such cases.

#### SECTION 209.51. DHS DEPARTMENT OF PUBLIC SAFETY

##### General Revenue Fund

GRF 763-403	Operating Expenses - EMA	\$	4,164,697	\$	4,164,697
GRF 763-507	Individual and Households Program - State	\$	650,000	\$	650,000
GRF 768-424	Operating Expenses - CJS	\$	965,899	\$	1,276,192
GRF 769-321	Food Stamp Trafficking Enforcement Operations	\$	752,000	\$	752,000
TOTAL GRF General Revenue Fund		\$	6,532,596	\$	6,842,889

##### General Services Fund Group

4P6 768-601	Justice Program Services	\$	100,000	\$	100,000
TOTAL GSF General Services Fund Group		\$	100,000	\$	100,000

##### Federal Special Revenue Fund Group

3AY 768-606	Federal Justice Grants	\$	11,200,000	\$	11,500,000
3L5 768-604	Justice Program	\$	31,019,750	\$	25,214,623
3V8 768-605	Federal Program Purposes FFY01	\$	50,000	\$	0
TOTAL FED Federal Special Revenue Fund Group		\$	42,269,750	\$	36,714,623

##### State Special Revenue Fund Group

5BK768-689	Family Violence Shelter Programs	\$	500,000	\$	650,000
5B9766-632	PI & Security Guard Provider	\$	1,188,716	\$	1,188,716
5CC768-607	Public Safety Services	\$	375,000	\$	325,000
TOTAL SSR State Special Revenue Fund Group		\$	2,063,716	\$	2,163,716

##### Fund Group

TOTAL ALL BUDGET FUND GROUPS		\$	50,966,062	\$	45,821,228
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#### OHIO TASK FORCE ONE - URBAN SEARCH AND RESCUE UNIT

Of the foregoing appropriation item 763-403, Operating Expenses - EMA, \$200,000 in each fiscal year shall be used to fund the Ohio Task Force One - Urban Search and Rescue Unit and other urban search and rescue programs around the state to create a stronger search and rescue capability statewide.

#### INDIVIDUAL AND HOUSEHOLDS GRANTS STATE MATCH



The foregoing appropriation item 763-507, Individual and Households Program - State, shall be used to fund the state share of costs to provide grants to individuals and households in cases of disaster.

**TRANSFER OF THE OFFICE OF CRIMINAL JUSTICE SERVICES  
TO THE DEPARTMENT OF PUBLIC SAFETY**

(A) On July 1, 2005:

(1) The Office of Criminal Justice Services shall cease to exist. Subject to the layoff provisions of sections 124.321 to 124.328 of the Revised Code, the employees of the Office of Criminal Justice Services who were employed by that Office on June 30, 2005, are transferred on that date to the Department of Public Safety. The vehicles and equipment assigned to those employees are transferred to the Department of Public Safety.

(2) The assets, liabilities, other equipment not provided for, and records, irrespective of form or medium, of the Office of Criminal Justice Services are transferred to the Division of Criminal Justice Services. The Division of Criminal Justice Services is the successor to, assumes the obligations of, and otherwise constitutes the continuation of the Office of Criminal Justice Services.

(3) Business commenced but not completed by the Office of Criminal Justice Services on July 1, 2005, shall be completed by the Division of Criminal Justice Services, in the same manner, and with the same effect, as if completed by the Office of Criminal Justice Services. No validation, cure, right, privilege, remedy, obligation, or liability is lost or impaired by reason of the transfer required by this section but shall be administered by the Division of Criminal Justice Services.

(4) The rules, orders, and determinations pertaining to the Office of Criminal Justice Services continue in effect as rules, orders, and determinations of the Division of Criminal Justice Services until modified or rescinded by that Division.

(5) No judicial or administrative action or proceeding pending on July 1, 2005, is affected by the transfer of functions from the Office of Criminal Justice Services to the Division of Criminal Justice Services and shall be prosecuted or defended in the name of the Executive Director or Division of Criminal Justice Services. On application to the court or other tribunal, the Executive Director or Division of Criminal Justice Services shall be substituted as a party in those actions and proceedings.

(6) When the Director or Office of Criminal Justice Services is referred to in any statute, rule, contract, grant, or other document, the reference is hereby deemed to refer to the Executive Director or Division of Criminal Justice Services.

(B) On and after July 1, 2005, if necessary to ensure the integrity of the numbering of the Administrative Code, the Director of the Legislative Service Commission shall renumber the rules of the Office of Criminal Justice Services to reflect their transfer to the Division of Criminal Justice Services in the Department of Public Safety.

(C) On and after July 1, 2005, notwithstanding any provision of law to the contrary, the Director of Budget and Management is authorized to take the actions described in this section with respect to budget changes made necessary by administrative reorganization, program transfers, the creation of new funds, and the consolidation of funds as authorized by this act. The Director may make any transfer of cash balances between funds. At the request of the Director of Budget and Management, the administering agency head shall certify to the Director an estimate of the amount of the cash balance to be transferred to the receiving fund. The Director may transfer the estimated amount when needed to make payments. Not more than thirty days after certifying the estimated amount, the administering agency head shall certify the final amount to the Director. The Director shall transfer the difference between any amount previously transferred and the certified final amount. The Director may cancel encumbrances and re-establish encumbrances or parts of encumbrances as needed in fiscal year 2006 in the appropriate fund and appropriation item for the same purpose and to the same vendor. As determined by the Director, the appropriation authority necessary to re-establish those encumbrances in fiscal year 2006 in a different fund or appropriation item within an agency or between agencies is hereby authorized. The Director shall reduce each year's appropriation balances by the amount of the encumbrances canceled in their respective funds and appropriation items. Any fiscal year 2005 unencumbered or unallocated appropriation balances may be transferred to the appropriate item to be used for the same purposes, as determined by the Director.

(D) Any advisory committees appointed by the Governor to assist the Office of Criminal Justice Services pursuant to section 181.53 and existing on June 30, 2005, shall continue to exist as advisory committees to the Division of Criminal Justice Services in the Department of Public Safety beginning on July 1, 2005, subject to section 121.13 of the Revised Code.

#### TRANSFER OF FAMILY VIOLENCE PREVENTION CENTER

The Family Violence Prevention Center is transferred from the Office of Criminal Justice Services to the Department of Public Safety. The Family Violence Prevention Center shall operate as part of the Division of Criminal Justice Services in the Department of Public Safety in the same manner as it operated under the Office of Criminal Justice Services.

# STATE FIRE MARSHAL'S FUND CASH TRANSFERS FOR PUBLIC SAFETY SERVICES

Notwithstanding section 3737.71 of the Revised Code, in fiscal year 2006, the Director of Budget and Management shall transfer \$375,000 in cash from the Department of Commerce's State Fire Marshal's Fund (Fund 546) to the Department of Public Safety's Public Safety Services Fund (Fund 5CC), which is hereby created in the state treasury, and in fiscal year 2007, the Director of Budget and Management shall transfer \$325,000 in cash from the Department of Commerce's State Fire Marshal's Fund (Fund 546) to the Department of Public Safety's Public Safety Services Fund (Fund 5CC).

Of the foregoing appropriation item 768-607, Public Safety Services, \$100,000 in fiscal year 2006 and \$200,000 in fiscal year 2007 shall be distributed by the Department of Public Safety's Division of Criminal Justice Services to the City of Warren to assist the city in providing essential public safety services to its citizens.

Of the foregoing appropriation item 768-607, Public Safety Services, \$125,000 in each fiscal year shall be distributed by the Department of Public Safety's Division of Criminal Justice Services directly to the Southern Ohio Drug Task Force.

Of the foregoing appropriation item 768-607, Public Safety Services, \$150,000 in fiscal year 2006 shall be distributed by the Department of Public Safety's Division of Criminal Justice Services to the City of Eastlake to assist the city in providing essential public safety services to its citizens.

## SECTION 209.54. PUC PUBLIC UTILITIES COMMISSION OF OHIO

### General Services Fund Group

5F6	870-622	Utility and Railroad Regulation	\$	31,272,222	\$	31,272,223
5F6	870-624	NARUC/NRRI Subsidy	\$	167,233	\$	167,233
5F6	870-625	Motor Transportation Regulation	\$	5,361,239	\$	5,361,238
TOTAL GSF General Services Fund Group			\$	36,800,694	\$	36,800,694

### Federal Special Revenue Fund Group

3V3	870-604	Commercial Vehicle Information Systems/Networks	\$	300,000	\$	300,000
333	870-601	Gas Pipeline Safety	\$	597,957	\$	597,957
350	870-608	Motor Carrier Safety	\$	7,027,712	\$	7,027,712
TOTAL FED Federal Special Revenue Fund Group			\$	7,925,669	\$	7,925,669

### State Special Revenue Fund Group

COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS PROJECT

The Commercial Vehicle Information Systems and Networks Fund is hereby created in the state treasury. The fund shall receive funding from the United States Department of Transportation's Commercial Vehicle Intelligent Transportation System Infrastructure Deployment Program and shall be used to deploy the Ohio Commercial Vehicle Information Systems and Networks Project and to expedite and improve the safety of motor carrier operations through electronic exchange of data by means of on-highway electronic systems.

## ENHANCED AND WIRELESS ENHANCED 9-1-1

The foregoing appropriation item 870-623, Wireless 911 Administration, shall be used pursuant to section 4931.63 of the Revised Code.

## SECTION 209.57. PWC PUBLIC WORKS COMMISSION

## General Revenue Fund

GRF 150-904	Conservation General Obligation Debt Service	\$	13,687,300	\$	17,168,800
GRF 150-907	State Capital Improvements General Obligation Debt Service	\$	160,731,400	\$	172,145,100
TOTAL GRF General Revenue Fund		\$	174,418,700	\$	189,313,900
<b>Clean Ohio Fund Group</b>					

056	150-403	Clean Ohio Operating Expenses	\$	298,245	\$	311,509
TOTAL 056 Clean Ohio Fund Group			\$	298,245	\$	311,509
TOTAL ALL BUDGET FUND GROUPS			\$	174,716,945	\$	189,625,409

**CONSERVATION GENERAL OBLIGATION DEBT SERVICE**

The foregoing appropriation item 150-904, Conservation General Obligation Debt Service, shall be used to pay all debt service and related financing costs at the times they are required to be made under sections 151.01 and 151.09 of the Revised Code during the period from July 1, 2005, to June 30, 2007. The Office of the Sinking Fund or the Director of Budget and Management shall effectuate the required payments by intrastate transfer voucher.

**STATE CAPITAL IMPROVEMENTS GENERAL OBLIGATION DEBT SERVICE**

The foregoing appropriation item 150-907, State Capital Improvements General Obligation Debt Service, shall be used to pay all debt service and related financing costs at the times they are required to be made under sections 151.01 and 151.08 of the Revised Code during the period from July 1, 2005, to June 30, 2007. The Office of the Sinking Fund or the Director of Budget and Management shall effectuate the required payments by intrastate transfer voucher.

**REIMBURSEMENT TO THE GENERAL REVENUE FUND**

(A) On or before June 1, 2007, the Director of the Public Works Commission shall certify to the Director of Budget and Management the following:

(1) The total amount disbursed from appropriation item 700-409, Farmland Preservation, during the 2005-2007 biennium; and

(2) The amount of interest earnings that have been credited to the Clean Ohio Conservation Fund (Fund 056) that are in excess of the amount needed for other purposes as calculated by the Director of the Public Works Commission.

(B) If the Director of Budget and Management determines under division (A)(2) of this section that there are excess interest earnings, the Director of Budget and Management shall, on or before June 1, 2007, transfer the excess interest earnings to the General Revenue Fund in an amount equal to the total amount disbursed under division (A)(1) of this section from the Clean Ohio Conservation Fund.

**CLEAN OHIO OPERATING EXPENSES**

The foregoing appropriation item 150-403, Clean Ohio Operating Expenses, shall be used by the Ohio Public Works Commission in administering sections 164.20 to 164.27 of the Revised Code.

## SECTION 209.60. RAC STATE RACING COMMISSION

## State Special Revenue Fund Group

5C4 875-607	Simulcast Horse Racing Purse	\$	17,061,489	\$	17,063,948
562 875-601	Thoroughbred Race Fund	\$	4,642,378	\$	4,642,378
563 875-602	Standardbred Development Fund	\$	3,161,675	\$	3,161,675
564 875-603	Quarterhorse Development Fund	\$	2,000	\$	2,000
565 875-604	Racing Commission Operating	\$	4,000,000	\$	4,000,000

TOTAL SSR State Special Revenue Fund Group \$ 28,867,542 \$ 28,870,001

## Holding Account Redistribution Fund Group

R21 875-605	Bond Reimbursements	\$	212,900	\$	212,900
TOTAL 090 Holding Account Redistribution Fund Group					
		\$	212,900	\$	212,900
TOTAL ALL BUDGET FUND GROUPS					
		\$	29,080,442	\$	29,082,901

## SECTION 209.63. BOR BOARD OF REGENTS

## General Revenue Fund

GRF 235-321	Operating Expenses	\$	2,897,659	\$	2,966,351
GRF 235-401	Lease Rental Payments	\$	200,619,200	\$	200,795,300
GRF 235-402	Sea Grants	\$	231,925	\$	231,925
GRF 235-406	Articulation and Transfer	\$	2,900,000	\$	2,900,000
GRF 235-408	Midwest Higher Education Compact	\$	90,000	\$	90,000
GRF 235-409	Information System	\$	1,146,510	\$	1,175,172
GRF 235-414	State Grants and Scholarship Administration	\$	1,352,811	\$	1,382,881
GRF 235-415	Jobs Challenge	\$	9,348,300	\$	9,348,300
GRF 235-417	Ohio Learning Network	\$	3,119,496	\$	3,119,496
GRF 235-418	Access Challenge	\$	73,513,302	\$	73,004,671
GRF 235-420	Success Challenge	\$	52,601,934	\$	52,601,934
GRF 235-428	Appalachian New Economy Partnership	\$	1,176,068	\$	1,176,068
GRF 235-433	Economic Growth Challenge	\$	20,343,097	\$	23,186,194
GRF 235-434	College Readiness and Access	\$	6,375,975	\$	7,655,425
GRF 235-435	Teacher Improvement Initiatives	\$	2,697,506	\$	2,697,506
GRF 235-451	Eminent Scholars	\$	0	\$	1,370,988
GRF 235-455	EnterpriseOhio Network	\$	1,373,941	\$	1,373,941
GRF 235-474	Area Health Education Centers Program Support	\$	1,571,756	\$	1,571,756
GRF 235-501	State Share of Instruction	\$	1,559,096,031	\$	1,589,096,031
GRF 235-502	Student Support Services	\$	795,790	\$	795,790
GRF 235-503	Ohio Instructional Grants	\$	121,151,870	\$	92,496,969
GRF 235-504	War Orphans Scholarships	\$	4,672,321	\$	4,672,321
GRF 235-507	OhioLINK	\$	6,887,824	\$	6,887,824
GRF 235-508	Air Force Institute of	\$	1,925,345	\$	1,925,345

	Technology				
GRF 235-510	Ohio Supercomputer Center	\$	4,271,195	\$	4,271,195
GRF 235-511	Cooperative Extension Service	\$	25,644,863	\$	25,644,863
GRF 235-513	Ohio University Voinovich Center	\$	336,082	\$	336,082
GRF 235-515	Case Western Reserve University School of Medicine	\$	3,011,271	\$	3,011,271
GRF 235-518	Capitol Scholarship Program	\$	125,000	\$	125,000
GRF 235-519	Family Practice	\$	4,548,470	\$	4,548,470
GRF 235-520	Shawnee State Supplement	\$	1,918,830	\$	1,822,889
GRF 235-521	The Ohio State University Glenn Institute	\$	286,082	\$	286,082
GRF 235-524	Police and Fire Protection	\$	171,959	\$	171,959
GRF 235-525	Geriatric Medicine	\$	750,110	\$	750,110
GRF 235-526	Primary Care Residencies	\$	2,245,688	\$	2,245,688
GRF 235-527	Ohio Aerospace Institute	\$	1,764,957	\$	1,764,957
GRF 235-530	Academic Scholarships	\$	7,800,000	\$	7,800,000
GRF 235-531	Student Choice Grants	\$	50,853,276	\$	52,985,376
GRF 235-534	Student Workforce Development Grants	\$	2,137,500	\$	2,137,500
GRF 235-535	Ohio Agricultural Research and Development Center	\$	35,955,188	\$	35,955,188
GRF 235-536	The Ohio State University Clinical Teaching	\$	13,565,885	\$	13,565,885
GRF 235-537	University of Cincinnati Clinical Teaching	\$	11,157,756	\$	11,157,756
GRF 235-538	Medical University of Ohio at Toledo Clinical Teaching	\$	8,696,866	\$	8,696,866
GRF 235-539	Wright State University Clinical Teaching	\$	4,225,107	\$	4,225,107
GRF 235-540	Ohio University Clinical Teaching	\$	4,084,540	\$	4,084,540
GRF 235-541	Northeastern Ohio Universities College of Medicine Clinical Teaching	\$	4,200,945	\$	4,200,945
GRF 235-543	Ohio College of Podiatric Medicine Clinic Subsidy	\$	250,000	\$	250,000
GRF 235-547	School of International Business	\$	450,000	\$	450,000
GRF 235-549	Part-time Student Instructional Grants	\$	14,457,721	\$	10,534,617
GRF 235-552	Capital Component	\$	19,058,863	\$	19,058,863
GRF 235-553	Dayton Area Graduate Studies Institute	\$	2,806,599	\$	2,806,599
GRF 235-554	Priorities in Collaborative Graduate Education	\$	2,355,548	\$	2,355,548
GRF 235-555	Library Depositories	\$	1,696,458	\$	1,696,458
GRF 235-556	Ohio Academic Resources Network	\$	3,727,223	\$	3,727,223
GRF 235-558	Long-term Care Research	\$	211,047	\$	211,047
GRF 235-561	Bowling Green State University Canadian Studies	\$	100,015	\$	100,015

GRF 235-563	Center Ohio College Opportunity Grant	\$	0	\$	58,144,139
GRF 235-572	The Ohio State University Clinic Support	\$	1,277,019	\$	1,277,019
GRF 235-583	Urban University Program	\$	4,992,937	\$	4,992,937
GRF 235-587	Rural University Projects	\$	1,147,889	\$	1,147,889
GRF 235-596	Hazardous Materials Program	\$	360,435	\$	360,435
GRF 235-599	National Guard Scholarship Program	\$	15,128,472	\$	16,611,063
GRF 235-909	Higher Education General Obligation Debt Service	\$	137,600,300	\$	152,114,100
TOTAL GRF General Revenue Fund		\$	2,469,260,757	\$	2,548,147,869
<b>General Services Fund Group</b>					
220 235-614	Program Approval and Reauthorization	\$	400,000	\$	400,000
456 235-603	Sales and Services	\$	700,000	\$	900,000
TOTAL GSF General Services Fund Group		\$	1,100,000	\$	1,300,000
<b>Federal Special Revenue Fund Group</b>					
3H2 235-608	Human Services Project	\$	1,500,000	\$	1,500,000
3H2 235-622	Medical Collaboration Network	\$	3,346,143	\$	3,346,143
3N6 235-605	State Student Incentive Grants	\$	2,196,680	\$	2,196,680
3T0 235-610	National Health Service Corps - Ohio Loan Repayment	\$	150,001	\$	150,001
312 235-609	Tech Prep	\$	183,850	\$	183,850
312 235-611	Gear-up Grant	\$	1,370,691	\$	1,370,691
312 235-612	Carl D. Perkins Grant/Plan Administration	\$	112,960	\$	112,960
312 235-615	Professional Development	\$	523,129	\$	523,129
312 235-617	Improving Teacher Quality Grant	\$	2,900,000	\$	2,900,000
312 235-619	Ohio Supercomputer Center	\$	6,000,000	\$	6,000,000
312 235-621	Science Education Network	\$	1,686,970	\$	1,686,970
312 235-631	Federal Grants	\$	250,590	\$	250,590
TOTAL FED Federal Special Revenue Fund Group		\$	20,221,014	\$	20,221,014
<b>State Special Revenue Fund Group</b>					
4E8 235-602	Higher Educational Facility Commission Administration	\$	55,000	\$	55,000
4P4 235-604	Physician Loan Repayment	\$	476,870	\$	476,870
649 235-607	The Ohio State University Highway/Transportation Research	\$	760,000	\$	760,000
682 235-606	Nursing Loan Program	\$	893,000	\$	893,000
TOTAL SSR State Special Revenue Fund Group		\$	2,184,870	\$	2,184,870
TOTAL ALL BUDGET FUND GROUPS		\$	2,492,766,641	\$	2,571,853,753

## SECTION 209.63.03. OPERATING EXPENSES



Of the foregoing appropriation item 235-321, Operating Expenses, up to \$150,000 in each fiscal year shall be used in conjunction with funding provided in the Department of Education budget under appropriation item 200-427, Academic Standards, to create Ohio's Partnership for Continued Learning, in consultation with the Governor's Office. The Partnership, which replaces and broadens the former Joint Council of the Department of Education and the Board of Regents, shall advise and make recommendations to promote collaboration among relevant state entities in an effort to help local communities develop coherent and successful "P-16" learning systems. The Director of Budget and Management may transfer any unencumbered fiscal year 2006 balance to fiscal year 2007 to support the activities of the Partnership.

#### SECTION 209.63.06. LEASE RENTAL PAYMENTS

The foregoing appropriation item 235-401, Lease Rental Payments, shall be used to meet all payments at the times they are required to be made during the period from July 1, 2005, to June 30, 2007, by the Board of Regents under leases and agreements made under section 154.21 of the Revised Code, but limited to the aggregate amount of \$401,414,500. Nothing in this act shall be deemed to contravene the obligation of the state to pay, without necessity for further appropriation, from the sources pledged thereto, the bond service charges on obligations issued pursuant to section 154.21 of the Revised Code.

#### SECTION 209.63.09. SEA GRANTS

The foregoing appropriation item 235-402, Sea Grants, shall be disbursed to the Ohio State University and shall be used to conduct research on fish in Lake Erie.

#### SECTION 209.63.12. ARTICULATION AND TRANSFER

The foregoing appropriation item 235-406, Articulation and Transfer, shall be used by the Board of Regents to maintain and expand the work of the Articulation and Transfer Council to develop a system of transfer policies to ensure that students at state institutions of higher education can transfer and have coursework apply to their majors and degrees at any other state institution of higher education without unnecessary duplication or institutional barriers under sections 3333.16, 3333.161, and 3333.162 of the Revised Code.

Of the foregoing appropriation item 235-406, Articulation and Transfer, \$200,000 in each fiscal year shall be used to support the work of the Articulation and Transfer Council under division (B) of section 3333.162 of the Revised Code.

**SECTION 209.63.15. MIDWEST HIGHER EDUCATION COMPACT**

The foregoing appropriation item 235-408, Midwest Higher Education Compact, shall be distributed by the Board of Regents under section 3333.40 of the Revised Code.

**SECTION 209.63.18. INFORMATION SYSTEM**

The foregoing appropriation item 235-409, Information System, shall be used by the Board of Regents to operate the higher education information data system known as the Higher Education Information System.

**SECTION 209.63.21. STATE GRANTS AND SCHOLARSHIP ADMINISTRATION**

The foregoing appropriation item 235-414, State Grants and Scholarship Administration, shall be used by the Board of Regents to administer the following student financial aid programs: Ohio Instructional Grant, Part-time Student Instructional Grant, Ohio College Opportunity Grant, Ohio Student Choice Grant, Ohio Academic Scholarship, Ohio War Orphans' Scholarship, Nurse Education Assistance Loan Program, Student Workforce Development Grant, Regents Graduate/Professional Fellowship, Ohio Safety Officers College Memorial Fund, Capitol Scholarship Program, and any other student financial aid programs created by the General Assembly. The appropriation item also shall be used to administer the federal Leveraging Educational Assistance Partnership (LEAP) and Special Leveraging Educational Assistance Partnership (SLEAP) programs and other student financial aid programs created by Congress and to provide fiscal services for the Ohio National Guard Scholarship Program and the Physician Loan Repayment Program.

**SECTION 209.63.24. JOBS CHALLENGE**

Funds appropriated to the foregoing appropriation item 235-415, Jobs Challenge, shall be distributed to state-assisted community and technical colleges, regional campuses of state-assisted universities, and other organizationally distinct and identifiable member campuses of the

EnterpriseOhio Network in support of noncredit job-related training. In each fiscal year, \$2,770,773 shall be distributed as performance grants to EnterpriseOhio Network campuses based upon each campus's documented performance according to criteria established by the Board of Regents for increasing training and related services to businesses, industries, and public sector organizations.

Of the foregoing appropriation item 235-415, Jobs Challenge, \$2,819,345 in each fiscal year shall be allocated to the Targeted Industries Training Grant Program to attract, develop, and retain business and industry strategically important to the state's economy.

Also, in each fiscal year, \$3,758,182 shall be allocated to the Higher Skills Incentives Program to promote and deliver coordinated, comprehensive training to local employers and to reward EnterpriseOhio Network campuses for increasing the amount of non-credit skill upgrading services provided to Ohio employers and employees. The funds shall be distributed to campuses in proportion to each campus's share of noncredit job-related training revenues received by all campuses for the previous fiscal year. It is the intent of the General Assembly that this Higher Skills Incentives component of the Jobs Challenge Program reward campus noncredit job-related training efforts in the same manner that the Research Incentive Program rewards campuses for their ability to obtain sponsored research revenues.

#### SECTION 209.63.27. OHIO LEARNING NETWORK

The foregoing appropriation item 235-417, Ohio Learning Network, shall be used by the Board of Regents to support the continued implementation of the Ohio Learning Network, a statewide electronic collaborative effort designed to promote degree completion of students, workforce training of employees, and professional development through the use of advanced telecommunications and distance education initiatives.

#### SECTION 209.63.30. ACCESS CHALLENGE

In each fiscal year, the foregoing appropriation item 235-418, Access Challenge, shall be distributed to Ohio's state-assisted access colleges and universities. For the purposes of this allocation, "access campuses" includes state-assisted community colleges, state community colleges, technical colleges, Shawnee State University, Central State University, Cleveland State University, the regional campuses of state-assisted universities, and, where they are organizationally distinct and identifiable, the

community-technical colleges located at the University of Cincinnati, Youngstown State University, and the University of Akron.

The purpose of Access Challenge is to reduce the student share of costs for resident undergraduates enrolled in lower division undergraduate courses at Ohio's access campuses. The long-term goal is to make the student share of costs for these students equivalent to the student share of costs for resident undergraduate students enrolled throughout Ohio's public colleges and universities. Access Challenge appropriations shall be used in both years of the biennium to sustain, as much as possible, the tuition restraint or tuition reduction that was achieved with Access Challenge allocations in prior years.

In fiscal year 2006, Access Challenge subsidies shall be distributed by the Board of Regents to eligible access campuses on the basis of the average of each campus's share of fiscal year 2003 and 2004 all-terms subsidy-eligible General Studies FTEs. In fiscal year 2007, Access Challenge subsidies shall be distributed by the Board of Regents to eligible access campuses on the basis of the average of each campus's share of fiscal year 2004 and 2005 all-terms subsidy-eligible General Studies FTEs.

For purposes of this calculation, Cleveland State University's enrollments shall be adjusted by the ratio of the sum of subsidy-eligible lower-division FTE student enrollments eligible for access funding to the sum of subsidy-eligible General Studies FTE student enrollments at Central State University and Shawnee State University, and for the following universities and their regional campuses: the Ohio State University, Ohio University, Kent State University, Bowling Green State University, Miami University, the University of Cincinnati, the University of Akron, and Wright State University.

Of the foregoing appropriation item 235-418, Access Challenge, \$10,172,626 in fiscal year 2006 and \$9,663,995 in fiscal year 2007 shall be used by Central State University to keep undergraduate fees below the statewide average, consistent with its mission of service to many first-generation college students from groups historically underrepresented in higher education and from families with limited incomes.

#### SECTION 209.63.33. SUCCESS CHALLENGE

The foregoing appropriation item 235-420, Success Challenge, shall be used by the Board of Regents to promote degree completion by students enrolled at a main campus of a state-assisted university.

Of the foregoing appropriation item 235-420, Success Challenge, 66.67 per cent of the appropriation in each fiscal year shall be distributed to

state-assisted university main campuses in proportion to each campus's share of the total statewide bachelor's degrees granted by university main campuses to "at-risk" students. In fiscal years 2006 and 2007, an "at-risk" student means any undergraduate student who was eligible to receive an Ohio need-based financial aid award during the past ten years. An eligible institution shall not receive its share of this distribution until it has submitted a plan that addresses how the subsidy will be used to better serve at-risk students and increase their likelihood of successful completion of a bachelor's degree program. The Board of Regents shall disseminate to all state-supported institutions of higher education all such plans submitted by institutions that received Success Challenge funds.

Of the foregoing appropriation item 235-420, Success Challenge, 33.33 per cent of the appropriation in each fiscal year shall be distributed to university main campuses in proportion to each campus's share of the total bachelor's degrees granted by university main campuses to undergraduate students who completed their bachelor's degrees in a "timely manner" in the previous fiscal year. For purposes of this section, "timely manner" means the normal time it would take for a full-time degree-seeking undergraduate student to complete the student's degree. Generally, for such students pursuing a bachelor's degree, "timely manner" means four years. Exceptions to this general rule shall be permitted for students enrolled in programs specifically designed to be completed in a longer time period. The Board of Regents shall collect data to assess the timely completion statistics by university main campuses.

#### SECTION 209.63.36. APPALACHIAN NEW ECONOMY PARTNERSHIP

The foregoing appropriation item 235-428, Appalachian New Economy Partnership, shall be distributed to Ohio University to continue a multi-campus and multi-agency coordinated effort to link Appalachia to the new economy. Ohio University shall use these funds to provide leadership in the development and implementation of initiatives in the areas of entrepreneurship, management, education, and technology.

#### SECTION 209.63.39. ECONOMIC GROWTH CHALLENGE

The foregoing appropriation item 235-433, Economic Growth Challenge, shall be used to enhance the basic research capabilities of Ohio's public and private institutions of higher education, support improved graduate programs throughout the state, and promote the transfer of

technology developed by colleges and universities to private industry to further the economic goals of the state.

Of the foregoing appropriation item 235-433, Economic Growth Challenge, \$18,000,000 in each fiscal year shall be used for the Research Incentive Program to enhance the basic research capabilities of public colleges and universities and accredited Ohio institutions of higher education holding certificates of authorization issued under section 1713.02 of the Revised Code, in order to strengthen academic research for pursuing Ohio's economic development goals. The Board of Regents, in consultation with the colleges and universities, shall administer the Research Incentive Program and utilize a means of matching, on a fractional basis, external funds attracted in the previous year by institutions for basic research. The program may include incentives for increasing the amount of external research funds coming to eligible institutions and for focusing research efforts upon critical state needs. Colleges and universities shall submit for review and approval to the Board of Regents plans for the institutional allocation of state dollars received through the program. The institutional plans shall provide the rationale for the allocation in terms of the strategic targeting of funds for academic and state purposes, for strengthening research programs, for increasing the amount of external research funds, and shall include an evaluation process to provide results of the increased support. Institutional plans for the use of Research Incentive funding must demonstrate a significant investment in Third Frontier activities funded at the institution. For a college or university with multiple Third Frontier grants, as much as ten per cent of that institution's Research Incentive funding may be invested in Third Frontier Project-related activities. Each institutional plan for the investment of Research Incentive moneys shall report on existing, planned, or possible relationships with other state science and technology programs and funding recipients in order to further ongoing statewide science and technology collaboration objectives. The Board of Regents shall submit a biennial report of progress to the General Assembly.

In fiscal year 2006, both those state-assisted doctoral degree-granting universities and those accredited Ohio institutions of higher education holding certificates of authorization under section 1713.02 of the Revised Code electing to participate in the Innovation Incentive Program shall initiate a comprehensive Innovation Incentive Plan designed to enhance doctoral programs and areas of research that have the greatest potential to attract preeminent researchers and build research capacity; enhance regional or state economic growth by creating new products and services to be commercialized; and complement Ohio's Third Frontier Project.

Funding for the Innovation Incentive Program shall be generated from those state-assisted universities electing to set aside a portion of their allocation of the current doctoral reserve as provided in appropriation item 235-501, State Share of Instruction, and state matching funds provided in appropriation item 235-433, Economic Growth Challenge. Additionally, those accredited Ohio institutions of higher education holding certificates of authorization under section 1713.02 of the Revised Code electing to participate in the Innovation Incentive Program shall be required to set aside an amount comparable to the state-assisted universities. The criteria for the determination of this amount shall be developed by the Board of Regents.

Of the foregoing appropriation item 235-433, Economic Growth Challenge, \$2,343,097 in fiscal year 2006 and \$4,686,194 in fiscal year 2007 shall match funds set aside by the state-assisted universities for the Innovation Incentive Program. The set aside begins in fiscal year 2006 and is intended to increase incrementally over a period of ten years with the goal of setting aside a total of fifteen per cent of the doctoral reserve from appropriation item 235-501, State Share of Instruction, by 2016.

The Board of Regents shall use the combined amount of each participating state-assisted university's set aside of the doctoral reserve that has been withheld, the state matching funds earmarked under appropriation item 235-433, Economic Growth Challenge, and the amount set aside by each accredited Ohio institution of higher education holding a certificate of authorization under section 1713.02 of the Revised Code electing to participate in the Innovation Incentive Program to make awards through a competitive process under the Innovation Incentive Program. Only universities electing to set aside the prescribed amount shall be eligible to compete for and receive Innovation Incentive awards. The participating universities shall use these awards to restructure their array of doctoral programs.

Of the foregoing appropriation item 235-433, Economic Growth Challenge, \$500,000 in fiscal year 2007 shall be distributed for the Technology Commercialization Incentive. The purpose of the Technology Commercialization Incentive is to reward public and private colleges and universities for successful technology transfer to Ohio-based business and industry resulting in the commercialization of new products, processes, and services and the establishment of new business start-ups within the state. The Third Frontier Commission, with counsel from the Third Frontier Advisory Board, shall establish the eligibility criteria for public and private colleges and universities interested in applying for Technology Commercialization Incentive funding. To qualify for the funds, public and

private colleges and universities must maintain a significant investment in their own technology-transfer and commercialization operation and capabilities, and possess a significant history of successful research partnerships with Ohio-based business and industry.

#### SECTION 209.63.42. COLLEGE READINESS AND ACCESS

Appropriation item 235-434, College Readiness and Access, shall be used by the Board of Regents to support programs designed to improve the academic preparation and increase the number of students that enroll and succeed in higher education such as the Ohio College Access Network, the state match for the federal Gaining Early Awareness and Readiness for Undergraduate Program, and early awareness initiatives. The appropriation item shall also be used to support innovative statewide strategies to increase student access and retention for specialized populations, and to provide for pilot projects that will contribute to improving access to higher education by specialized populations. The funds may be used for projects that improve access for nonpublic secondary students.

Of the foregoing appropriation item 235-434, College Readiness and Access, \$798,684 in fiscal year 2006 and \$822,645 in fiscal year 2007 shall be distributed to the Ohio Appalachian Center for Higher Education at Shawnee State University. The board of directors of the Center shall consist of the presidents of Shawnee State University, Ohio University, Belmont Technical College, Hocking College, Jefferson Community College, Zane State College, Rio Grande Community College, Southern State Community College, and Washington State Community College; the dean of one of the Salem, Tuscarawas, and East Liverpool regional campuses of Kent State University, as designated by the president of Kent State University; and a representative of the Board of Regents designated by the Chancellor.

Of the foregoing appropriation item 235-434, College Readiness and Access, \$169,553 in fiscal year 2006 and \$174,640 in fiscal year 2007 shall be distributed to Miami University for the Student Achievement in Research and Scholarship (STARS) Program.

Of the foregoing appropriation item 235-434, College Readiness and Access, \$1,574,535 in fiscal year 2006 and \$2,753,985 in fiscal year 2007 shall be used in conjunction with funding provided in the Ohio Department of Education budget under appropriation item 200-431, School Improvement Initiatives, to support the Early College High School Pilot Program.



**SECTION 209.63.45. TEACHER IMPROVEMENT INITIATIVES**

Appropriation item 235-435, Teacher Improvement Initiatives, shall be used by the Board of Regents to support programs such as OSI - Discovery and the Centers of Excellence in Mathematics and Science designed to raise the quality of mathematics and science teaching in primary and secondary education.

Of the foregoing appropriation item 235-435, Teacher Improvement Initiatives, \$204,049 in each fiscal year shall be distributed to the Mathematics and Science Center in Lake County.

Of the foregoing appropriation item 235-435, Teacher Improvement Initiatives, \$106,619 in each fiscal year shall be distributed to the Ohio Mathematics and Science Coalition.

Of the foregoing appropriation item 234-435, Teacher Improvement Initiatives, \$100,000 in each fiscal year shall be distributed to the Teacher Quality Partnerships study.

Of the foregoing appropriation item 235-435, Teacher Improvement Initiatives, \$874,871 in each fiscal year shall be distributed to the Ohio Resource Center for Mathematics, Science, and Reading. The funds shall be used to support a resource center for mathematics, science, and reading to be located at a state-assisted university for the purpose of identifying best educational practices in primary and secondary schools and establishing methods for communicating them to colleges of education and school districts. The Ohio Resource Center for Mathematics, Science, and Reading shall not make available resources that are inconsistent with the K-12 science standards and policies as adopted by the State Board of Education.

**SECTION 209.63.48. EMINENT SCHOLARS**

The foregoing appropriation item 235-451, Eminent Scholars, shall be used by the Ohio Board of Regents to continue the Ohio Eminent Scholars Program, the purpose of which is to invest educational resources to address problems that are of vital statewide significance while fostering the growth in eminence of Ohio's academic programs. Ohio Eminent Scholars endowed chairs shall allow Ohio universities to recruit senior faculty members from outside Ohio who are nationally and internationally recognized scholars in areas of science and technology that provide the basic research platforms on which the state's technology and commercialization efforts are built. Endowment grants of approximately \$685,494 to state colleges and universities and nonprofit Ohio institutions of higher education holding

certificates of authorization issued under section 1713.02 of the Revised Code to match endowment gifts from nonstate sources may be made in accordance with a plan established by the Ohio Board of Regents. Matching nonstate endowment gifts shall be equal to the state's endowment grant of approximately \$685,494. The grants shall have as their purpose attracting and sustaining in Ohio scholar-leaders of national or international prominence; each grant shall assist in accelerating state economic growth through research that provides an essential basic science platform for commercialization efforts. Such scholar-leaders shall, among their duties, share broadly the benefits and knowledge unique to their fields of scholarship to the betterment of Ohio and its people and collaborate with other state technology programs and program recipients.

All new Eminent Scholar awards made by the Board of Regents shall be associated with a Wright Center of Innovation, a Partnership Award from the Biomedical Research and Technology Transfer Trust Fund, or a Wright Capital Project.

#### SECTION 209.63.51. ENTERPRISEOHIO NETWORK

The foregoing appropriation item 235-455, EnterpriseOhio Network, shall be allocated by the Board of Regents to continue increasing the capabilities of the EnterpriseOhio Network to meet the ongoing training needs of Ohio employers. Funds shall support multicampus collaboration, best practice dissemination, and capacity building projects. The Regents Advisory Committee for Workforce Development, in its advisory role, shall advise in the development of plans and activities.

Of the foregoing appropriation item 235-455, EnterpriseOhio Network, \$165,300 in each fiscal year shall be used by the Dayton Business/Sinclair College Jobs Profiling Program.

#### SECTION 209.63.54. AREA HEALTH EDUCATION CENTERS

The foregoing appropriation item 235-474, Area Health Education Centers Program Support, shall be used by the Board of Regents to support the medical school regional area health education centers' educational programs for the continued support of medical and other health professions education and for support of the Area Health Education Center Program.

Of the foregoing appropriation item 235-474, Area Health Education Centers Program Support, \$159,158 in each fiscal year shall be disbursed to the Ohio University College of Osteopathic Medicine to operate a mobile health care unit to serve the southeastern area of the state.

Of the foregoing appropriation item 235-474, Area Health Education Centers Program Support, \$119,369 in each fiscal year shall be used to support the Ohio Valley Community Health Information Network (OVCHIN) project.

#### SECTION 209.63.57. STATE SHARE OF INSTRUCTION

As soon as practicable during each fiscal year of the biennium ending June 30, 2007, in accordance with instructions of the Board of Regents, each state-assisted institution of higher education shall report its actual enrollment to the Board of Regents.

The Board of Regents shall establish procedures required by the system of formulas set out below and for the assignment of individual institutions to categories described in the formulas. The system of formulas establishes the manner in which aggregate expenditure requirements shall be determined for each of the three components of institutional operations. In addition to other adjustments and calculations described below, the subsidy entitlement of an institution shall be determined by subtracting from the institution's aggregate expenditure requirements income to be derived from the local contributions assumed in calculating the subsidy entitlements. The local contributions for purposes of determining subsidy support shall not limit the authority of the individual boards of trustees to establish fee levels.

The General Studies and Technical models shall be adjusted by the Board of Regents so that the share of state subsidy earned by those models is not altered by changes in the overall local share. A lower-division fee differential shall be used to maintain the relationship that would have occurred between these models and the baccalaureate models had an assumed share of 37.5 per cent been funded.

In defining the number of full-time equivalent (FTE) students for state subsidy purposes, the Board of Regents shall exclude all undergraduate students who are not residents of Ohio, except those charged in-state fees in accordance with reciprocity agreements made under section 3333.17 of the Revised Code or employer contracts entered into under section 3333.32 of the Revised Code.

(A) AGGREGATE EXPENDITURE PER FULL-TIME  
EQUIVALENT STUDENT

#### (1) INSTRUCTION AND SUPPORT SERVICES

MODEL	FY 2006	FY 2007
General Studies I	\$ 4,655	\$ 4,655
General Studies II	\$ 5,135	\$ 5,135
General Studies III	\$ 6,365	\$ 6,365

Technical I	\$ 5,926	\$ 5,926
Technical III	\$ 9,107	\$ 9,107
Baccalaureate I	\$ 7,160	\$ 7,160
Baccalaureate II	\$ 8,235	\$ 8,235
Baccalaureate III	\$ 11,841	\$ 11,841
Masters and Professional I	\$ 19,088	\$ 19,088
Masters and Professional II	\$ 20,984	\$ 20,984
Masters and Professional III	\$ 27,234	\$ 27,234
Medical I	\$ 29,143	\$ 29,143
Medical II	\$ 37,172	\$ 37,172
MPD I	\$ 13,645	\$ 13,645

## (2) STUDENT SERVICES

For this purpose, FTE counts shall be weighted to reflect differences among institutions in the numbers of students enrolled on a part-time basis. The student services subsidy per FTE shall be \$890 in each fiscal year for all models.

## (B) PLANT OPERATION AND MAINTENANCE (POM)

## (1) DETERMINATION OF THE SQUARE-FOOT-BASED POM SUBSIDY

Space undergoing renovation shall be funded at the rate allowed for storage space.

In the calculation of square footage for each campus, square footage shall be weighted to reflect differences in space utilization.

The space inventories for each campus shall be those determined in the fiscal year 2003 state share of instruction calculation, adjusted for changes attributable to the construction or renovation of facilities for which state appropriations were made or local commitments were made prior to January 1, 1995.

Only 50 per cent of the space permanently taken out of operation in fiscal year 2006 or fiscal year 2007 that is not otherwise replaced by a campus shall be deleted from the plant operation and maintenance space inventory.

The square-foot-based plant operation and maintenance subsidy for each campus shall be determined as follows:

(a) For each standard room type category shown below, the subsidy-eligible net assignable square feet (NASF) for each campus shall be multiplied by the following rates, and the amounts summed for each campus to determine the total gross square-foot-based POM expenditure requirement:

FY 2006

FY 2007

Classrooms	\$5.86	\$5.86
Laboratories	\$7.31	\$7.31
Offices	\$5.86	\$5.86
Audio Visual Data Processing	\$7.31	\$7.31
Storage	\$2.59	\$2.59
Circulation	\$7.39	\$7.39
Other	\$5.86	\$5.86

(b) The total gross square-foot POM expenditure requirement shall be allocated to models in proportion to each campus's activity-based POM weight multiplied by the two- or five-year average subsidy-eligible FTEs for all models.

(c) The amounts allocated to models in division (B)(1)(b) of this section shall be multiplied by the ratio of subsidy-eligible FTE students to total FTE students reported in each model, and the amounts summed for all models. To this total amount shall be added an amount to support roads and grounds expenditures, which shall also be multiplied by the ratio of subsidy-eligible FTE students to total FTEs reported for each model. From this total amount, the amounts for Doctoral I and Doctoral II shall be subtracted to produce the square-foot-based POM subsidy.

(2) DETERMINATION OF THE ACTIVITY-BASED POM SUBSIDY

(a) The number of subsidy-eligible FTE students in each model shall be multiplied by the following rates for each campus for each fiscal year.

	FY 2006	FY 2007
General Studies I	\$ 512	\$ 512
General Studies II	\$ 662	\$ 662
General Studies III	\$1,464	\$1,464
Technical I	\$ 752	\$ 752
Technical III	\$1,343	\$1,343
Baccalaureate I	\$ 639	\$ 639
Baccalaureate II	\$1,149	\$1,149
Baccalaureate III	\$1,262	\$1,262
Masters and Professional I	\$1,258	\$1,258
Masters and Professional II	\$2,446	\$2,446
Masters and Professional III	\$3,276	\$3,276
Medical I	\$1,967	\$1,967
Medical II	\$3,908	\$3,908
MPD I	\$1,081	\$1,081

(b) The sum of the products for each campus determined in division (B)(2)(a) of this section for all models except Doctoral I and Doctoral II for each fiscal year shall be weighted by a factor to reflect sponsored research

activity and job training-related public services expenditures to determine the total activity-based POM subsidy.

**(C) CALCULATION OF CORE SUBSIDY ENTITLEMENTS AND ADJUSTMENTS**

**(1) CALCULATION OF CORE SUBSIDY ENTITLEMENTS**

The calculation of the core subsidy entitlement shall consist of the following components:

(a) For each campus in each fiscal year, the core subsidy entitlement shall be determined by multiplying the amounts listed above in divisions (A)(1) and (2) and (B)(2) of this section less assumed local contributions, by (i) average subsidy-eligible FTEs for the two-year period ending in the prior year for all models except Doctoral I and Doctoral II; and (ii) average subsidy-eligible FTEs for the five-year period ending in the prior year for all models except Doctoral I and Doctoral II.

(b) In calculating the core subsidy entitlements for Medical II models only, the Board of Regents shall use the following count of FTE students:

(i) For those medical schools whose current year enrollment, including students repeating terms, is below the base enrollment, the Medical II FTE enrollment shall equal: 65 per cent of the base enrollment plus 35 per cent of the current year enrollment including students repeating terms, where the base enrollment is:

The Ohio State University	1010
University of Cincinnati	833
Medical University of Ohio at Toledo	650
Wright State University	433
Ohio University	433
Northeastern Ohio Universities College of Medicine	433

(ii) For those medical schools whose current year enrollment, excluding students repeating terms, is equal to or greater than the base enrollment, the Medical II FTE enrollment shall equal the base enrollment plus the FTE for repeating students.

(iii) Students repeating terms may be no more than five per cent of current year enrollment.

(c) The Board of Regents shall compute the sum of the two calculations listed in division (C)(1)(a) of this section and use the greater sum as the core subsidy entitlement.

The POM subsidy for each campus shall equal the greater of the square-foot-based subsidy or the activity-based POM subsidy component of the core subsidy entitlement.

(d) The state share of instruction provided for doctoral students shall be based on a fixed percentage of the total appropriation. In each fiscal year of the biennium not more than 10.34 per cent of the total state share of instruction shall be reserved to implement the recommendations of the Graduate Funding Commission. It is the intent of the General Assembly that the doctoral reserve not exceed 10.34 per cent of the total state share of instruction to implement the recommendations of the Graduate Funding Commission. The Board of Regents may reallocate up to two per cent in each fiscal year of the reserve among the state-assisted universities on the basis of a quality review as specified in the recommendations of the Graduate Funding Commission. No such reallocation shall occur unless the Board of Regents, in consultation with representatives of state-assisted universities, determines that sufficient funds are available for this purpose.

The amount so reserved shall be allocated to universities in proportion to their share of the total number of Doctoral I equivalent FTEs as calculated on an institutional basis using the greater of the two-year or five-year FTEs for the period fiscal year 1994 through fiscal year 1998 with annualized FTEs for fiscal years 1994 through 1997 and all-term FTEs for fiscal year 1998 as adjusted to reflect the effects of doctoral review and subsequent changes in Doctoral I equivalent enrollments. For the purposes of this calculation, Doctoral I equivalent FTEs shall equal the sum of Doctoral I FTEs plus 1.5 times the sum of Doctoral II FTEs.

If a university participates in the Innovation Incentive Program outlined in appropriation item 235-433, Economic Growth Challenge, then the Board of Regents shall withhold 1.5 per cent in fiscal year 2006 and three per cent in fiscal year 2007 of the participating university's allocation of the doctoral reserve. This withholding is intended to increase incrementally with a goal of setting aside 15 per cent of the total doctoral reserve by fiscal year 2016.

The Board of Regents shall use the combined amount of each participating state-assisted university's set aside of the doctoral reserve that has been withheld, the state matching funds earmarked under appropriation item 235-433, Economic Growth Challenge, and the amount set aside by each accredited Ohio institution of higher education holding a certificate of authorization under section 1713.02 of the Revised Code electing to participate in the Innovation Incentive Program to make awards through a competitive process under the Innovation Incentive Program. Only universities electing to set aside the prescribed amount shall be eligible to compete for and receive Innovation Incentive awards. The participating universities shall use these awards to restructure their array of doctoral programs.

(2) ANNUAL STATE SHARE OF INSTRUCTION FUNDING STOP LOSS

In addition to and after the other adjustment noted above, in each fiscal year, no campus shall receive a state share of instruction allocation that is less than 97 per cent of the prior year's state share of instruction amount.

(3) REDUCTIONS IN EARNINGS

If the total state share of instruction earnings in any fiscal year exceeds the total appropriations available for such purposes, the Board of Regents shall proportionately reduce the state share of instruction earnings for all campuses by a uniform percentage so that the system wide sum equals available appropriations.

(4) CAPITAL COMPONENT DEDUCTION

After all other adjustments have been made, state share of instruction earnings shall be reduced for each campus by the amount, if any, by which debt service charged in Am. H.B. No. 748 of the 121st General Assembly, Am. Sub. H.B. No. 850 of the 122nd General Assembly, Am. Sub. H.B. No. 640 of the 123rd General Assembly, and H.B. No. 675 of the 124th General Assembly, and Am. Sub. H.B. 16 of the 126th General Assembly for that campus exceeds that campus's capital component earnings. The sum of the amounts deducted shall be transferred to appropriation item 235-552, Capital Component, in each fiscal year.

(D) EXCEPTIONAL CIRCUMSTANCES

Adjustments may be made to the state share of instruction payments and other subsidies distributed by the Board of Regents to state-assisted colleges and universities for exceptional circumstances. No adjustments for exceptional circumstances may be made without the recommendation of the Chancellor and the approval of the Controlling Board.

(E) MID-YEAR APPROPRIATION REDUCTIONS TO THE STATE SHARE OF INSTRUCTION

The standard provisions of the state share of instruction calculation as described in the preceding sections of temporary law shall apply to any reductions made to appropriation item 235-501, State Share of Instruction, before the Board of Regents has formally approved the final allocation of the state share of instruction funds for any fiscal year.

Any reductions made to appropriation item 235-501, State Share of Instruction, after the Board of Regents has formally approved the final allocation of the state share of instruction funds for any fiscal year, shall be uniformly applied to each campus in proportion to its share of the final allocation.

(F) DISTRIBUTION OF STATE SHARE OF INSTRUCTION



The state share of instruction payments to the institutions shall be in substantially equal monthly amounts during the fiscal year, unless otherwise determined by the Director of Budget and Management pursuant to section 126.09 of the Revised Code. Payments during the first six months of the fiscal year shall be based upon the state share of instruction appropriation estimates made for the various institutions of higher education according to Board of Regents enrollment estimates. Payments during the last six months of the fiscal year shall be distributed after approval of the Controlling Board upon the request of the Board of Regents.

(G) LAW SCHOOL SUBSIDY

The state share of instruction to state-supported universities for students enrolled in law schools in fiscal year 2006 and fiscal year 2007 shall be calculated by using the number of subsidy-eligible FTE law school students funded by state subsidy in fiscal year 1995 or the actual number of subsidy-eligible FTE law school students at the institution in the fiscal year, whichever is less.

(H) FUNDS REQUIRING CONTROLLING BOARD APPROVAL

Of the foregoing appropriation item 235-501, State Share of Instruction, \$30,000,000 in fiscal year 2007 shall not be disbursed without approval of the Controlling Board. Within ten days after the issuance of the report of the Higher Education Funding Study Council required by Section 209.63.58 of this act, the Board of Regents shall seek the Controlling Board's approval to disburse the \$30,000,000 appropriation.

SECTION 209.63.58. HIGHER EDUCATION FUNDING STUDY COUNCIL

(A) The Higher Education Funding Study Council is hereby created, consisting of the following members:

- (1) The Chancellor of the Ohio Board of Regents;
- (2) One member of the Ohio Board of Regents, appointed by the chairperson of the Board;
- (3) The Vice-Chancellor of Finance of the Ohio Board of Regents;
- (4) Three members of the House of Representatives, not more than two of whom are members of the same political party, appointed by the Speaker of the House of Representatives;
- (5) Three members of the Senate, not more than two of whom are members of the same political party, appointed by the President of the Senate;
- (6) A student attending a state institution of higher education as defined in section 3345.011 of the Revised Code, appointed by the Governor;

(7) An employee of the Governor's office, appointed by the Governor;

(8) One representative from each of the following organizations, appointed by their respective governing bodies:

(a) The Inter-University Council of Ohio;

(b) The Ohio Association of Community Colleges;

(c) The Ohio Council of Medical School Deans;

(d) The Association of Independent Colleges and Universities of Ohio.

(B) Initial appointment of members shall be made not later than thirty days after the effective date of this section. The Speaker of the House of Representatives and the President of the Senate shall jointly appoint the chairperson of the Council. Members of the Council shall serve without compensation. The Council's first meeting shall be not later than August 15, 2005. Subsequent meetings shall be conducted at the discretion of the chair.

(C) The Council shall review all aspects of higher education funding contained in this act, including all appropriation items, and shall recommend any changes it determines are necessary. The Council shall also review the instructional and general fees as well as the room and board charges at the thirteen state universities, with the intent of setting limits on future increases in these fees and charges. The Council shall issue a report of its activities, findings, and recommendations to the Governor, the Speaker of the House of Representatives, and the President of the Senate not later than May 31, 2006.

(D) The Council shall cease to exist January 1, 2007.

#### SECTION 209.63.60. HIGHER EDUCATION - BOARD OF TRUSTEES

Funds appropriated for instructional subsidies at colleges and universities may be used to provide such branch or other off-campus undergraduate courses of study and such master's degree courses of study as may be approved by the Board of Regents.

In providing instructional and other services to students, boards of trustees of state-assisted institutions of higher education shall supplement state subsidies by income from charges to students. Each board shall establish the fees to be charged to all students, including an instructional fee for educational and associated operational support of the institution and a general fee for noninstructional services, including locally financed student services facilities used for the benefit of enrolled students. The instructional fee and the general fee shall encompass all charges for services assessed uniformly to all enrolled students. Each board may also establish special purpose fees, service charges, and fines as required; such special purpose fees and service charges shall be for services or benefits furnished individual

students or specific categories of students and shall not be applied uniformly to all enrolled students. Except for the board of trustees of Miami University, in implementing the pilot tuition restructuring plan recognized in Section 89.05 of Am. Sub. H.B. 95 of the 125th General Assembly and again recognized by this act, a tuition surcharge shall be paid by all students who are not residents of Ohio.

The boards of trustees of each state institution of higher education as defined in section 3345.011 of the Revised Code shall limit in-state undergraduate instructional and general fee increases for an academic year over the amounts charged in the prior academic year to not more than the lesser of six per cent or, for a full-time student, five hundred dollars. A board of trustees shall not authorize combined instructional and general fee increases of more than six per cent in a single vote. The limitations on fee increases prescribed in this section apply to an academic year even if, prior to the effective date of this section, a board of trustees has voted to increase fees beyond the amount permitted under this section. In such case, the board shall reduce the fees in an amount that results in combined in-state undergraduate instructional and general fees that comply with this section. These limitations shall not apply to increases required to comply with institutional covenants related to their obligations or to meet unfunded legal mandates or legally binding obligations incurred or commitments made prior to the effective date of this section with respect to which the institution had identified such fee increases as the source of funds. Any increase required by such covenants and any such mandates, obligations, or commitments shall be reported by the Board of Regents to the Controlling Board. These limitations may also be modified by the Board of Regents, with the approval of the Controlling Board, to respond to exceptional circumstances as identified by the Board of Regents.

The board of trustees of a state-assisted institution of higher education shall not authorize a waiver or nonpayment of instructional fees or general fees for any particular student or any class of students other than waivers specifically authorized by law or approved by the Chancellor. This prohibition is not intended to limit the authority of boards of trustees to provide for payments to students for services rendered the institution, nor to prohibit the budgeting of income for staff benefits or for student assistance in the form of payment of such instructional and general fees. This prohibition is not intended to limit the authority of the board of trustees of Miami University in providing financial assistance to students in implementing the pilot tuition restructuring plan recognized in Section 89.05 of Am. Sub. H.B. 95 of the 125th General Assembly and again recognized

by this act.

Except for Miami University, in implementing the pilot tuition restructuring plan recognized in Section 89.05 of Am. Sub. H.B. 95 of the 125th General Assembly and again recognized by this act, each state-assisted institution of higher education in its statement of charges to students shall separately identify the instructional fee, the general fee, the tuition charge, and the tuition surcharge. Fee charges to students for instruction shall not be considered to be a price of service but shall be considered to be an integral part of the state government financing program in support of higher educational opportunity for students.

In providing the appropriations in support of instructional services at state-assisted institutions of higher education and the appropriations for other instruction it is the intent of the General Assembly that faculty members shall devote a proper and judicious part of their work week to the actual instruction of students. Total class credit hours of production per quarter per full-time faculty member is expected to meet the standards set forth in the budget data submitted by the Board of Regents.

The authority of government vested by law in the boards of trustees of state-assisted institutions of higher education shall in fact be exercised by those boards. Boards of trustees may consult extensively with appropriate student and faculty groups. Administrative decisions about the utilization of available resources, about organizational structure, about disciplinary procedure, about the operation and staffing of all auxiliary facilities, and about administrative personnel shall be the exclusive prerogative of boards of trustees. Any delegation of authority by a board of trustees in other areas of responsibility shall be accompanied by appropriate standards of guidance concerning expected objectives in the exercise of such delegated authority and shall be accompanied by periodic review of the exercise of this delegated authority to the end that the public interest, in contrast to any institutional or special interest, shall be served.

#### SECTION 209.63.63. STUDENT SUPPORT SERVICES

The foregoing appropriation item 235-502, Student Support Services, shall be distributed by the Board of Regents to Ohio's state-assisted colleges and universities that incur disproportionate costs in the provision of support services to disabled students.

#### SECTION 209.63.66. OHIO INSTRUCTIONAL GRANTS

In fiscal year 2006, instructional grants for all eligible full-time students

shall be made using the tables under section 3333.12 of the Revised Code. In fiscal year 2007, instructional grants for all eligible full-time students who have attended a college, university, or proprietary school and have completed coursework for college credit, excluding early college high school and post-secondary enrollment option students, prior to academic year 2006-2007, shall be made using the tables under section 3333.12 of the Revised Code.

Of the foregoing appropriation item 235-503, Ohio Instructional Grants, an amount in each fiscal year shall be used to make the payments authorized by division (C) of section 3333.26 of the Revised Code to the institutions described in that division. In addition, an amount in each fiscal year shall be used to reimburse the institutions described in division (B) of section 3333.26 of the Revised Code for the cost of the waivers required by that division.

The unencumbered balance of appropriation item 235-503, Ohio Instructional Grants, at the end of fiscal year 2006 shall be transferred to fiscal year 2007 for use under the same appropriation item. The amounts transferred are hereby appropriated.

#### SECTION 209.63.69. WAR ORPHANS SCHOLARSHIPS

The foregoing appropriation item 235-504, War Orphans Scholarships, shall be used to reimburse state-assisted institutions of higher education for waivers of instructional fees and general fees provided by them, to provide grants to institutions that have received a certificate of authorization from the Ohio Board of Regents under Chapter 1713. of the Revised Code, in accordance with the provisions of section 5910.04 of the Revised Code, and to fund additional scholarship benefits provided by section 5910.032 of the Revised Code.

#### SECTION 209.63.72. OHIOLINK

The foregoing appropriation item 235-507, OhioLINK, shall be used by the Board of Regents to support OhioLINK, the state's electronic library information and retrieval system, which provides access statewide to the library holdings of all of Ohio's public colleges and universities, 40 private colleges, and the State Library of Ohio.

#### SECTION 209.63.75. AIR FORCE INSTITUTE OF TECHNOLOGY

The foregoing appropriation item 235-508, Air Force Institute of

Technology, shall be used to strengthen the research and educational linkages between the Wright Patterson Air Force Base and institutions of higher education in Ohio. Of the foregoing appropriation item 235-508, Air Force Institute of Technology, \$1,233,588 in each fiscal year shall be used for research projects that connect the Air Force Research Laboratories with university partners. The institute shall provide annual reports to the Third Frontier Commission, that discuss existing, planned, or possible collaborations between programs and funding recipients related to technology, research development, commercialization, and support for Ohio's economic development.

Of the foregoing appropriation item 235-508, Air Force Institute of Technology, \$691,757 in each fiscal year shall be used to match federal dollars to support technology commercialization and job creation. The Development Research Corporation shall use the funds to create or expand Ohio-based technology and commercial development collaborations in areas that are a priority in Ohio's third frontier initiative between industry, academia, and government.

#### SECTION 209.63.78. OHIO SUPERCOMPUTER CENTER

The foregoing appropriation item 235-510, Ohio Supercomputer Center, shall be used by the Board of Regents to support the operation of the Ohio Super Computer Center, located at The Ohio State University, as a statewide resource available to Ohio research universities both public and private. It is also intended that the center be made accessible to private industry as appropriate. Policies of the center shall be established by a governance committee, representative of Ohio's research universities and private industry, to be appointed by the Chancellor of the Board of Regents and established for this purpose.

The Ohio Supercomputer Center shall report on expanding solutions-oriented, computational science services to industrial and other customers, including alignment programs and recipients, and develop a plan for a computational science initiative in collaboration with the Wright Centers of Innovation Program.

Of the foregoing appropriation item 235-510, Ohio Supercomputer Center, \$250,000 in each fiscal year shall be used to support the Super Computer Center in Beavercreek.

#### SECTION 209.63.81. COOPERATIVE EXTENSION SERVICE

The foregoing appropriation item 235-511, Cooperative Extension

Service, shall be disbursed through the Board of Regents to The Ohio State University in monthly payments, unless otherwise determined by the Director of Budget and Management under section 126.09 of the Revised Code.

Of the foregoing appropriation item 235-511, Cooperative Extension Service, \$178,271 in each fiscal year shall be used for additional staffing for county agents for expanded 4-H activities. Of the foregoing appropriation item 235-511, Cooperative Extension Service, \$178,271 in each fiscal year shall be used by the Cooperative Extension Service, through the Enterprise Center for Economic Development in cooperation with other agencies, for a public-private effort to create and operate a small business economic development program to enhance the development of alternatives to the growing of tobacco, and implement, through applied research and demonstration, the production and marketing of other high-value crops and value-added products. Of the foregoing appropriation item 235-511, Cooperative Extension Service, \$55,179 in each fiscal year shall be used for farm labor mediation and education programs, \$182,515 in each fiscal year shall be used to support the Ohio State University Marion Enterprise Center, and \$772,931 in each fiscal year shall be used to support the Ohio Watersheds Initiative.

#### SECTION 209.63.84. OHIO UNIVERSITY VOINOVICH CENTER

The foregoing appropriation item 235-513, Ohio University Voinovich Center, shall be used by the Board of Regents to support the operations of Ohio University's Voinovich Center.

#### SECTION 209.63.90. PERFORMANCE STANDARDS FOR MEDICAL EDUCATION

The Board of Regents, in consultation with the state-assisted medical colleges, shall develop performance standards for medical education. Special emphasis in the standards shall be placed on attempting to ensure that at least 50 per cent of the aggregate number of students enrolled in state-assisted medical colleges continue to enter residency as primary care physicians. Primary care physicians are general family practice physicians, general internal medicine practitioners, and general pediatric care physicians. The Board of Regents shall monitor medical school performance in relation to their plans for reaching the 50 per cent systemwide standard for primary care physicians.

SECTION 209.63.93. CASE WESTERN RESERVE UNIVERSITY SCHOOL OF MEDICINE

The foregoing appropriation item 235-515, Case Western Reserve University School of Medicine, shall be disbursed to Case Western Reserve University through the Board of Regents in accordance with agreements entered into under section 3333.10 of the Revised Code, provided that the state support per full-time medical student shall not exceed that provided to full-time medical students at state universities.

SECTION 209.63.94. CAPITOL SCHOLARSHIP PROGRAM

The foregoing appropriation item 235-518, Capitol Scholarship Program, shall be used by the Board of Regents to provide scholarships to undergraduates of Ohio's four-year public and private institutions of higher education participating in the Washington Center Internship Program. A scholarship of \$1,800 shall be awarded to students enrolled in an institution operating on a quarter system, and a scholarship of \$2,300 shall be awarded to students enrolled in an institution operating on a semester system. The number of scholarships awarded shall be limited by the amounts appropriated in fiscal years 2006 and 2007. The Washington Center shall match the scholarships awarded to students as follows: \$1,200 for students enrolled in an institution operating on a quarter system, and \$1,700 for students enrolled in an institution operating on a semester system.

SECTION 209.63.95. FAMILY PRACTICE

The Board of Regents shall develop plans consistent with existing criteria and guidelines as may be required for the distribution of appropriation item 235-519, Family Practice.

SECTION 209.63.96. SHAWNEE STATE SUPPLEMENT

The foregoing appropriation item 235-520, Shawnee State Supplement, shall be used by Shawnee State University as detailed by both of the following:

(A) To allow Shawnee State University to keep its undergraduate fees below the statewide average, consistent with its mission of service to an economically depressed Appalachian region;

(B) To allow Shawnee State University to employ new faculty to develop and teach in new degree programs that meet the needs of



Appalachians.

SECTION 209.63.99. OSU GLENN INSTITUTE

The foregoing appropriation item 235-521, The Ohio State University Glenn Institute, shall be used by the Board of Regents to support the operations of the Ohio State University's Glenn Institute.

SECTION 209.64.03. POLICE AND FIRE PROTECTION

The foregoing appropriation item 235-524, Police and Fire Protection, shall be used for police and fire services in the municipalities of Kent, Athens, Oxford, Fairborn, Bowling Green, Portsmouth, Xenia Township (Greene County), Rootstown Township, and the City of Nelsonville that may be used to assist these local governments in providing police and fire protection for the central campus of the state-affiliated university located therein. Each participating municipality and township shall receive at least \$5,000 in each fiscal year. Funds shall be distributed according to the method employed by the Board of Regents in the previous biennium.

SECTION 209.64.06. GERIATRIC MEDICINE

The Board of Regents shall develop plans consistent with existing criteria and guidelines as may be required for the distribution of appropriation item 235-525, Geriatric Medicine.

SECTION 209.64.07. PRIMARY CARE RESIDENCIES

The Board of Regents shall develop plans consistent with existing criteria and guidelines as may be required for the distribution of appropriation item 235-526, Primary Care Residencies.

The foregoing appropriation item 235-526, Primary Care Residencies, shall be distributed in each fiscal year of the biennium, based on whether or not the institution has submitted and gained approval for a plan. If the institution does not have an approved plan, it shall receive five per cent less funding per student than it would have received from its annual allocation. The remaining funding shall be distributed among those institutions that meet or exceed their targets.

SECTION 209.64.09. OHIO AEROSPACE INSTITUTE

The foregoing appropriation item 235-527, Ohio Aerospace Institute,

shall be distributed by the Board of Regents under section 3333.042 of the Revised Code.

The Board of Regents, in consultation with the Third Frontier Commission, shall develop a plan for providing for appropriate, value-added participation of the Ohio Aerospace Institute in Third Frontier Project proposals and grants.

#### SECTION 209.64.12. ACADEMIC SCHOLARSHIPS

The foregoing appropriation item 235-530, Academic Scholarships, shall be used to provide academic scholarships to students under section 3333.22 of the Revised Code.

#### SECTION 209.64.15. STUDENT CHOICE GRANTS

The foregoing appropriation item 235-531, Student Choice Grants, shall be used to support the Student Choice Grant Program created by section 3333.27 of the Revised Code. The unencumbered balance of appropriation item 235-531, Student Choice Grants, at the end of fiscal year 2006 shall be transferred to fiscal year 2007 for use under the same appropriation item to maintain grant award amounts in fiscal year 2007 equal to the awards provided in fiscal year 2006. The amounts transferred are hereby appropriated.

#### SECTION 209.64.18. STUDENT WORKFORCE DEVELOPMENT GRANTS

The foregoing appropriation item 235-534, Student Workforce Development Grants, shall be used to support the Student Workforce Development Grant Program. The Board of Regents shall distribute grants to each eligible student in an academic year. The size of each grant award shall be determined by the Board of Regents based on the amount of funds available for the program. The unencumbered balance of appropriation item 235-534, Student Workforce Development Grants, at the end of fiscal year 2006 shall be transferred to fiscal year 2007 for use under the same appropriation item. The amounts transferred are hereby appropriated.

#### SECTION 209.64.21. OHIO AGRICULTURAL RESEARCH AND DEVELOPMENT CENTER

The foregoing appropriation item 235-535, Ohio Agricultural Research and Development Center, shall be disbursed through the Board of Regents

to The Ohio State University in monthly payments, unless otherwise determined by the Director of Budget and Management under section 126.09 of the Revised Code. The Ohio Agricultural Research and Development Center shall not be required to remit payment to The Ohio State University during the biennium ending June 30, 2007, for cost reallocation assessments. The cost reallocation assessments include, but are not limited to, any assessment on state appropriations to the Center.

The Ohio Agricultural Research and Development Center, an entity of the College of Food, Agricultural, and Environmental Sciences of The Ohio State University, shall further its mission of enhancing Ohio's economic development and job creation by continuing to internally allocate on a competitive basis appropriated funding of programs based on demonstrated performance. Academic units, faculty, and faculty-driven programs shall be evaluated and rewarded consistent with agreed-upon performance expectations as called for in the College's Expectations and Criteria for Performance Assessment.

Of the foregoing appropriation item 235-535, Ohio Agricultural Research and Development Center, \$458,410 in each fiscal year shall be used to purchase equipment.

Of the foregoing appropriation item 235-535, Ohio Agricultural Research and Development Center, \$806,463 in each fiscal year shall be distributed to the Piketon Agricultural Research and Extension Center.

Of the foregoing appropriation item 235-535, Ohio Agricultural Research and Development Center, \$212,227 in each fiscal year shall be distributed to the Raspberry/Strawberry-Ellagic Acid Research program at The Ohio State University Medical College in cooperation with The Ohio State University College of Agriculture.

Of the foregoing appropriation item 235-535, Ohio Agricultural Research and Development Center, \$42,445 in each fiscal year shall be used to support the Ohio Berry Administrator.

Of the foregoing appropriation item 235-535, Ohio Agricultural Research and Development Center, \$84,890 in each fiscal year shall be used for the development of agricultural crops and products not currently in widespread production in Ohio, in order to increase the income and viability of family farmers.

Of the foregoing appropriation item 235-535, Ohio Agricultural Research and Development Center, \$125,000 in each fiscal year shall be distributed to Wilmington College for the commercialization of agricultural products.

## SECTION 209.64.22. STATE UNIVERSITY CLINICAL TEACHING

The foregoing appropriation items 235-536, The Ohio State University Clinical Teaching; 235-537, University of Cincinnati Clinical Teaching; 235-538, Medical University of Ohio at Toledo Clinical Teaching; 235-539, Wright State University Clinical Teaching; 235-540, Ohio University Clinical Teaching; and 235-541, Northeastern Ohio Universities College of Medicine Clinical Teaching, shall be distributed through the Board of Regents.

Of the foregoing appropriation item 235-539, Wright State University Clinical Teaching, \$124,644 in each fiscal year of the biennium shall be for the use of Wright State University's Ellis Institute for Clinical Teaching Studies to operate the clinical facility to serve the Greater Dayton area.

The Board of Regents, in consultation with representatives of each of the six state-assisted colleges of medicine, shall study and propose recommendations for a formula to allocate appropriations for clinical teaching support. The consultation shall consider factors that reward medical schools for serving Ohio's health care needs in an equitable and efficient manner. Recommendations shall be submitted to the Office of Budget and Management and the General Assembly for consideration by November 15, 2006. A new method, approved by the Office of Budget and Management and the General Assembly, shall be implemented in fiscal years 2008 and 2009 for distributing funds for clinical teaching support.

## SECTION 209.64.23. SCHOOL OF INTERNATIONAL BUSINESS

Of the foregoing appropriation item 235-547, School of International Business, \$250,000 in each fiscal year shall be used for the continued development and support of the School of International Business of the state universities of northeast Ohio. The money shall go to the University of Akron. These funds shall be used by the university to establish a School of International Business located at the University of Akron. It may confer with Kent State University, Youngstown State University, and Cleveland State University as to the curriculum and other matters regarding the school.

Of the foregoing appropriation item 235-547, School of International Business, \$100,000 in each fiscal year shall be used by the University of Toledo College of Business for expansion of its international business programs.

Of the foregoing appropriation item 235-547, School of International Business, \$100,000 in each fiscal year shall be used to support the Ohio

State University BioMEMS program.

SECTION 209.64.24. PART-TIME STUDENT INSTRUCTIONAL GRANTS

The foregoing appropriation item 235-549, Part-time Student Instructional Grants, shall be used to support a grant program for part-time undergraduate students who are Ohio residents and who were enrolled in degree granting programs prior to academic year 2006-2007.

Eligibility for participation in the program shall include degree granting educational institutions that hold a certificate of registration from the State Board of Career Colleges and Schools, and nonprofit institutions that have a certificate of authorization issued under Chapter 1713. of the Revised Code, as well as state-assisted colleges and universities. Grants shall be given to students on the basis of need, as determined by the college, which, in making these determinations, shall give special consideration to single-parent heads-of-household and displaced homemakers who enroll in an educational degree program that prepares the individual for a career. In determining need, the college also shall consider the availability of educational assistance from a student's employer. It is the intent of the General Assembly that these grants not supplant such assistance.

SECTION 209.64.27. CAPITAL COMPONENT

The foregoing appropriation item 235-552, Capital Component, shall be used by the Board of Regents to implement the capital funding policy for state-assisted colleges and universities established in Am. H.B. No. 748 of the 121st General Assembly. Appropriations from this item shall be distributed to all campuses for which the estimated campus debt service attributable to new qualifying capital projects is less than the campus's formula-determined capital component allocation. Campus allocations shall be determined by subtracting the estimated campus debt service attributable to new qualifying capital projects from the campus's formula-determined capital component allocation. Moneys distributed from this appropriation item shall be restricted to capital-related purposes.

Any campus for which the estimated campus debt service attributable to qualifying capital projects is greater than the campus's formula-determined capital component allocation shall have the difference subtracted from its State Share of Instruction allocation in each fiscal year. The sum of all such amounts shall be transferred from appropriation item 235-501, State Share of Instruction, to appropriation item 235-552, Capital Component.

SECTION 209.64.30. DAYTON AREA GRADUATE STUDIES INSTITUTE

The foregoing appropriation item 235-553, Dayton Area Graduate Studies Institute, shall be used by the Board of Regents to support the Dayton Area Graduate Studies Institute, an engineering graduate consortium of three universities in the Dayton area: Wright State University, the University of Dayton, and the Air Force Institute of Technology, with the participation of the University of Cincinnati and The Ohio State University.

Of the foregoing appropriation item 235-553, Dayton Area Graduate Studies Institute, \$350,000 in each fiscal year shall be used by the Development Research Corporation to support collaborative research and technology commercialization initiatives in Ohio.

SECTION 209.64.33. PRIORITIES IN COLLABORATIVE GRADUATE EDUCATION

The foregoing appropriation item 235-554, Priorities in Collaborative Graduate Education, shall be used by the Board of Regents to support improvements in graduate programs at state-assisted universities that the Board of Regents identifies as vital to the state's economic strategy. Up to \$169,782 in each fiscal year shall be used to support collaborative efforts in graduate education in this program area. The collaborative program shall be coordinated by the Board of Regents.

SECTION 209.64.36. OHIO ACADEMIC RESOURCES NETWORK (OARNET)

The foregoing appropriation item 235-556, Ohio Academic Resources Network, shall be used to support the operations of the Ohio Academic Resources Network, which shall include support for Ohio's state-assisted colleges and universities in maintaining and enhancing network connections. The network shall give priority to supporting the Third Frontier Network and allocating bandwidth to programs directly supporting Ohio's economic development.

SECTION 209.64.39. LONG-TERM CARE RESEARCH

The foregoing appropriation item 235-558, Long-term Care Research, shall be disbursed to Miami University for long-term care research.

SECTION 209.64.45. BOWLING GREEN STATE UNIVERSITY  
CANADIAN STUDIES CENTER

The foregoing appropriation item 235-561, Bowling Green State University Canadian Studies Center, shall be used by the Canadian Studies Center at Bowling Green State University to study opportunities for Ohio and Ohio businesses to benefit from the Free Trade Agreement between the United States and Canada.

SECTION 209.64.51. OHIO COLLEGE OPPORTUNITY GRANT  
PHASE-IN

The foregoing appropriation item 235-563, Ohio College Opportunity Grant, shall be used by the Board of Regents to begin to award needs-based financial aid to students based on the United States Department of Education's method of determining financial need. Beginning in fiscal year 2007, students who enrolled in a public, private, or proprietary post-secondary institution of higher education for the first time in academic year 2006-2007, excluding early college high school and post-secondary enrollment option participants, shall be eligible to receive aid based on their expected family contributions as calculated by the United State Department of Education, according to section 3333.122 of the Revised Code.

SECTION 209.64.54. THE OHIO STATE UNIVERSITY CLINIC  
SUPPORT

The foregoing appropriation item 235-572, The Ohio State University Clinic Support, shall be distributed through the Board of Regents to The Ohio State University for support of dental and veterinary medicine clinics.

SECTION 209.64.57. URBAN UNIVERSITY PROGRAM

Universities receiving funds from the foregoing appropriation item 235-583, Urban University Program, that are used to support an ongoing university unit shall certify periodically in a manner approved by the Board of Regents that program funds are being matched on a one-to-one basis with equivalent resources. Overhead support may not be used to meet this requirement. Where Urban University Program funds are being used to support an ongoing university unit, matching funds shall come from continuing rather than one-time sources. At each participating state-assisted institution of higher education, matching funds shall be within the

substantial control of the individual designated by the institution's president as the Urban University Program representative.

Of the foregoing appropriation item 235-583, Urban University Program, \$117,215 in each fiscal year shall be used to support the Center for the Interdisciplinary Study of Education and the Urban Child at Cleveland State University. These funds shall be distributed according to rules adopted by the Board of Regents and shall be used by the center for interdisciplinary activities targeted toward increasing the chance of lifetime success of the urban child, including interventions beginning with the prenatal period. The primary purpose of the center is to study issues in urban education and to systematically map directions for new approaches and new solutions by bringing together a cadre of researchers, scholars, and professionals representing the social, behavioral, education, and health disciplines.

Of the foregoing appropriation item 235-583, Urban University Program, \$1,433,037 in each fiscal year shall be distributed by the Board of Regents to Cleveland State University in support of the Maxine Goodman Levin College of Urban Affairs.

Of the foregoing appropriation item 235-583, Urban University Program, \$1,433,037 in each fiscal year shall be distributed to the Northeast Ohio Research Consortium, the Urban Linkages Program, and the Urban Research Technical Assistance Grant Program. The distribution among the three programs shall be determined by the chair of the Urban University Program.

Of the foregoing appropriation item 235-583, Urban University Program, \$247,453 in each fiscal year shall be used to support a public communication outreach program (WCPN). The primary purpose of the program shall be to develop a relationship between Cleveland State University and nonprofit communications entities.

Of the foregoing appropriation item 235-583, Urban University Program, \$169,310 in each fiscal year shall be used to support the Kent State University Learning and Technology Project. This project is a kindergarten through university collaboration between schools surrounding Kent State University's eight campuses in northeast Ohio and corporate partners who will assist in development and delivery.

The Kent State University Project shall provide a faculty member who has a full-time role in the development of collaborative activities and teacher instructional programming between Kent State University and the K-12th grade schools that surround its eight campuses; appropriate student support staff to facilitate these programs and joint activities; and hardware and software to schools that will make possible the delivery of instruction to



pre-service and in-service teachers, and their students, in their own classrooms or school buildings. This shall involve the delivery of low-bandwidth streaming video and web-based technologies in a distributed instructional model.

Of the foregoing appropriation item 235-583, Urban University Program, \$65,119 in each fiscal year shall be used to support the Ameritech Classroom/Center for Research at Kent State University.

Of the foregoing appropriation item 235-583, Urban University Program, \$723,547 in each fiscal year shall be used to support the Polymer Distance Learning Project at the University of Akron.

Of the foregoing appropriation item 235-583, Urban University Program, \$32,560 in each fiscal year shall be distributed to the Kent State University/Cleveland Design Center program.

Of the foregoing appropriation item 235-583, Urban University Program, \$180,886 in each fiscal year shall be used to support the Bliss Institute of Applied Politics at the University of Akron.

Of the foregoing appropriation item 235-583, Urban University Program, \$10,851 in each fiscal year shall be used for the Advancing-Up Program at the University of Akron.

Of the foregoing appropriation item 235-583, Urban University Program, \$139,777 in each fiscal year shall be used to support the Strategic Economic Research Collaborative at the University of Toledo Urban Affairs Center.

Of the foregoing appropriation item 235-583, Urban University Program, \$139,777 in each fiscal year shall be used to support the Institute for Collaborative Research and Public Humanities at The Ohio State University.

Of the foregoing appropriation item 235-583, Urban University Program, \$300,368 in each fiscal year shall be used to support the Medina County University Center.

#### SECTION 209.64.60. RURAL UNIVERSITY PROJECTS

Of the foregoing appropriation item 235-587, Rural University Projects, Bowling Green State University shall receive \$263,783 in each fiscal year, Miami University shall receive \$245,320 in each fiscal year, and Ohio University shall receive \$575,015 in each fiscal year. These funds shall be used to support the Institute for Local Government Administration and Rural Development at Ohio University, the Center for Public Management and Regional Affairs at Miami University, and the Center for Policy Analysis and Public Service at Bowling Green State University.

A small portion of the funds provided to Ohio University shall also be used for the Institute for Local Government Administration and Rural Development State and Rural Policy Partnership with the Governor's Office of Appalachia and the Appalachian delegation of the General Assembly.

Of the foregoing appropriation item 235-587, Rural University Projects, \$15,942 in each fiscal year shall be used to support the Washington State Community College day care center.

Of the foregoing appropriation item 235-587, Rural University Projects, \$47,829 in each fiscal year shall be used to support the COAD/ILGARD/GOA Appalachian Leadership Initiative.

#### SECTION 209.64.63. HAZARDOUS MATERIALS PROGRAM

The foregoing appropriation item 235-596, Hazardous Materials Program, shall be disbursed to Cleveland State University for the operation of a program to certify firefighters for the handling of hazardous materials. Training shall be available to all Ohio firefighters.

Of the foregoing appropriation item 235-596, Hazardous Materials Program, \$177,337 in each fiscal year shall be used to support the Center for the Interdisciplinary Study of Education and Leadership in Public Service at Cleveland State University. These funds shall be distributed by the Board of Regents and shall be used by the center targeted toward increasing the role of special populations in public service and not-for-profit organizations. The primary purpose of the center is to study issues in public service and to guide strategies for attracting new communities into public service occupations by bringing together a cadre of researchers, scholars, and professionals representing the public administration, social behavioral, and education disciplines.

#### SECTION 209.64.66. NATIONAL GUARD SCHOLARSHIP PROGRAM

The Board of Regents shall disburse funds from appropriation item 235-599, National Guard Scholarship Program, at the direction of the Adjutant General. During each fiscal year, the Board of Regents, within ten days of cancellation, may certify to the Director of Budget and Management the amount of canceled prior-year encumbrances in appropriation item 235-599, National Guard Scholarship Program. Upon receipt of the certification, the Director of Budget and Management may transfer an amount up to the certified amount from the General Revenue Fund to the National Guard Scholarship Reserve Fund (Fund 5BM). Upon the request of

the Adjutant General, the Board of Regents shall seek Controlling Board approval to establish appropriations in item 235-623, National Guard Scholarship Reserve Fund. The Board of Regents shall disburse funds from appropriation item 235-623, National Guard Scholarship Reserve Fund, at the direction of the Adjutant General.

**\* SECTION 209.64.69. PLEDGE OF FEES**

Any new pledge of fees, or new agreement for adjustment of fees, made in the biennium ending June 30, 2007, to secure bonds or notes of a state-assisted institution of higher education for a project for which bonds or notes were not outstanding on the effective date of this section shall be effective only after approval by the Board of Regents, unless approved in a previous biennium.

**SECTION 209.64.72. HIGHER EDUCATION GENERAL OBLIGATION DEBT SERVICE**

The foregoing appropriation item 235-909, Higher Education General Obligation Debt Service, shall be used to pay all debt service and related financing costs at the times they are required to be made under sections 151.01 and 151.04 of the Revised Code during the period from July 1, 2005, to June 30, 2007. The Office of the Sinking Fund or the Director of Budget and Management shall effectuate the required payments by intrastate transfer voucher.

**SECTION 209.64.75. SALES AND SERVICES**

The Board of Regents is authorized to charge and accept payment for the provision of goods and services. Such charges shall be reasonably related to the cost of producing the goods and services. No charges may be levied for goods or services that are produced as part of the routine responsibilities or duties of the Board. All revenues received by the Board of Regents shall be deposited into Fund 456, and may be used by the Board of Regents to pay for the costs of producing the goods and services.

**SECTION 209.64.76. OHIO HIGHER EDUCATIONAL FACILITY COMMISSION SUPPORT**

The foregoing appropriation item 235-602, Higher Educational Facility Commission Administration, shall be used by the Board of Regents for operating expenses related to the Board of Regents' support of the activities

of the Ohio Higher Educational Facility Commission. Upon the request of the chancellor, the Director of Budget and Management shall transfer up to \$55,000 cash from Fund 461 to Fund 4E8 in each fiscal year of the biennium.

#### SECTION 209.64.78. PHYSICIAN LOAN REPAYMENT

The foregoing appropriation item 235-604, Physician Loan Repayment, shall be used in accordance with sections 3702.71 to 3702.81 of the Revised Code.

#### SECTION 209.64.81. NURSING LOAN PROGRAM

The foregoing appropriation item 235-606, Nursing Loan Program, shall be used to administer the nurse education assistance program. Up to \$159,600 in fiscal year 2006 and \$167,580 in fiscal year 2007 may be used for operating expenses associated with the program. Any additional funds needed for the administration of the program are subject to Controlling Board approval.

#### SECTION 209.64.84. SCIENCE AND TECHNOLOGY COLLABORATION

The Board of Regents shall work in close collaboration with the Department of Development, the Air Quality Development Authority, and the Third Frontier Commission in relation to appropriation items and programs referred to as Alignment Programs in the following paragraph, and other technology-related appropriations and programs in the Department of Development, Air Quality Development Authority, and the Board of Regents as these agencies may designate, to ensure implementation of a coherent state strategy with respect to science and technology.

"Alignment Programs" means: appropriation items 195-401, Thomas Edison Program; 898-402, Coal Development Office; 195-422, Third Frontier Action Fund; 898-604, Coal Research and Development Fund; 235-433, Economic Growth Challenge; 235-451, Eminent Scholars; 235-508, Air Force Institute of Technology; 235-510, Ohio Supercomputer Center; 235-527, Ohio Aerospace Institute; 235-535, Ohio Agricultural Research and Development Center; 235-553, Dayton Area Graduate Studies Institute; 235-554, Priorities in Collaborative Graduate Education; 235-556, Ohio Academic Resources Network; and 195-435, Biomedical Research and Technology Transfer Trust.

Consistent with the recommendations of the Governor's Commission on Higher Education and the Economy, Alignment Programs shall be managed and administered (1) to build on existing competitive research strengths; (2) to encourage new and emerging discoveries and commercialization of products and ideas that will benefit the Ohio economy; and (3) to assure improved collaboration among Alignment Programs, with programs administered by the Third Frontier Commission, and with other state programs that are intended to improve economic growth and job creation.

If requested by the Third Frontier Commission, Alignment Programs managers shall report to the Commission or the Third Frontier Advisory Board, as directed by the Commission, on the contributions of their programs to achieving the objectives stated in the preceding paragraph of this section.

Each alignment program shall be reviewed annually by the Third Frontier Commission with respect to its development of complementary relationships within a combined state science and technology investment portfolio and its overall contribution to the state's science and technology strategy, including the adoption of appropriately consistent criteria for: (1) the scientific merit of activities supported by the program; (2) the relevance of the program's activities to commercial opportunities in the private sector; (3) the private sector's involvement in a process that continually evaluates commercial opportunities to use the work supported by the program; and (4) the ability of the program and recipients of grant funding from the program to engage in activities that are collaborative, complementary, and efficient with respect to the expenditure of state funds. All programs listed above shall provide annual reports to the Third Frontier Commission discussing existing, planned, or possible collaborations between programs and recipients of grant funding related to technology, development, commercialization, and supporting Ohio's economic development. The annual review by the Third Frontier Commission shall be a comprehensive review of the entire state science and technology program portfolio rather than a review of individual programs.

Applicants for Third Frontier and Alignment Programs funding shall identify their requirements for high-performance computing facilities and services, including both hardware and software, in the proposals. If an applicant's requirements exceed approximately \$100,000 for a proposal, the Ohio Supercomputer Center shall convene a panel of experts. The panel shall review the proposal to determine whether the proposal's requirements can be met through Ohio Supercomputer Center facilities or through other means and report such information to the Third Frontier Commission.

To ensure that the state receives the maximum benefit from its investment in the Third Frontier Project and the Third Frontier Network, organizations receiving Third Frontier awards and Alignment Programs awards shall, as appropriate, be expected to have a connection to the Third Frontier Network that enables them and their collaborators to achieve award objectives through the Third Frontier Network.

**SECTION 209.64.87. REPAYMENT OF RESEARCH FACILITY INVESTMENT FUND MONEYS**

Notwithstanding any provision of law to the contrary, all repayments of Research Facility Investment Fund loans shall be made to the Bond Service Trust Fund. All Research Facility Investment Fund loan repayments made prior to the effective date of this section shall be transferred by the Director of Budget and Management to the Bond Service Trust Fund within sixty days after the effective date of this section.

Campuses shall make timely repayments of Research Facility Investment Fund loans, according to the schedule established by the Board of Regents. In the case of late payments, the Board of Regents may deduct from an institution's periodic subsidy distribution an amount equal to the amount of the overdue payment for that institution, transfer such amount to the Bond Service Trust Fund, and credit the appropriate institution for the repayment.

**SECTION 209.64.90. VETERANS' PREFERENCES**

The Board of Regents shall work with the Governor's Office of Veterans' Affairs to develop specific veterans' preference guidelines for higher education institutions. These guidelines shall ensure that the institutions' hiring practices are in accordance with the intent of Ohio's veterans' preference laws.

**SECTION 209.64.93. STATE NEED-BASED FINANCIAL AID RECONCILIATION**

By the first day of August in each fiscal year, or as soon thereafter as possible, the Ohio Board of Regents shall certify to the Director of Budget and Management the amount necessary to pay any outstanding prior year obligations to higher education institutions for the state's need-based financial aid programs. The amounts certified are hereby appropriated to appropriation item 235-618, State Need-based Financial Aid Reconciliation,

from revenues received in the State Need-based Financial Aid Reconciliation Fund (Fund 5Y5).

**SECTION 209.64.96. STUDY ON DISTRIBUTING STATE SHARE OF INSTRUCTION FUNDS BASED ON CAMPUS ADMINISTRATIVE AND OPERATIONAL EFFICIENCY**

The Board of Regents, in consultation with representatives of the higher education community, shall conduct a study on the feasibility of distributing a portion of GRF appropriation item 235-501, State Share of Instruction, based on campus administrative and operational efficiency. The Board of Regents shall consider what statistic or statistics would be appropriate to measure administrative and operational efficiency and also shall consider what an adequate level of administrative support should be. The Board of Regents shall submit the results of the study to the Higher Education Funding Study Council not later than April 15, 2006.

**SECTION 209.64.99. STUDY ON DISTRIBUTING STATE SHARE OF INSTRUCTION FUNDS BASED ON THE NUMBER OF DEGREES AND CERTIFICATES AWARDED**

The Board of Regents, in consultation with representatives from the higher education community, shall conduct a study on the feasibility of distributing a portion of GRF appropriation item 235-501, State Share of Instruction, based on the number of Ohioans who are awarded certificates or associate's, baccalaureate, master's, or doctoral degrees. The study shall examine whether it is feasible to retain a portion of the State Share of Instruction distributed to the campuses until such times as the certificates or degrees are conferred, whether the existing appropriation is sufficient to fund such an initiative, and how much in additional funds might be necessary to significantly increase the number of certificates and degrees earned by Ohioans each year. The Board of Regents shall submit the results of the study to the Higher Education Funding Study Council not later than April 15, 2006.

**SECTION 209.65.03. STUDY ON PROVIDING INCENTIVES FOR CERTIFICATE AND ASSOCIATE DEGREES**

The Board of Regents, in consultation with representatives from the higher education community, shall conduct a study on the feasibility of devising a performance-based grant to provide incentives to university

branch campuses, community colleges, state community colleges, technical colleges, and the community and technical colleges at Youngstown State University, the University of Cincinnati, and The University of Akron to increase the number and proportion of Ohio students who receive a certificate or an associate degree, or who transfer to a four-year institution of higher education. In consultation with representatives from the higher education community, the Board of Regents shall develop measures of certification and degree completion, as well as transfer to a four-year institution of higher education. The Board of Regents shall recommend a formula, using the Success Challenge formula as a model, that will reward the public two-year campuses for the academic success of their undergraduate students. The Board of Regents shall submit the results of the study to the Higher Education Funding Study Council not later than April 15, 2006.

#### SECTION 209.69. DRC DEPARTMENT OF REHABILITATION AND CORRECTION

##### General Revenue Fund

GRF 501-321	Institutional Operations	\$	857,371,490	\$	873,888,880
GRF 501-403	Prisoner Compensation	\$	8,599,255	\$	8,599,255
GRF 501-405	Halfway House	\$	38,104,924	\$	38,105,128
GRF 501-406	Lease Rental Payments	\$	132,370,500	\$	120,600,600
GRF 501-407	Community Nonresidential Programs	\$	15,383,471	\$	15,404,522
GRF 501-408	Community Misdemeanor Programs	\$	8,041,489	\$	8,041,489
GRF 501-501	Community Residential Programs - CBCF	\$	55,054,445	\$	55,054,445
GRF 502-321	Mental Health Services	\$	64,897,564	\$	66,055,754
GRF 503-321	Parole and Community Operations	\$	78,887,219	\$	80,708,911
GRF 504-321	Administrative Operations	\$	27,559,389	\$	28,147,730
GRF 505-321	Institution Medical Services	\$	159,926,575	\$	176,500,628
GRF 506-321	Institution Education Services	\$	22,727,366	\$	23,114,615
GRF 507-321	Institution Recovery Services	\$	6,946,286	\$	7,090,212
TOTAL GRF General Revenue Fund		\$	1,475,869,973	\$	1,501,312,169

##### General Services Fund Group

148 501-602	Services and Agricultural	\$	95,207,653	\$	95,207,653
200 501-607	Ohio Penal Industries	\$	38,000,000	\$	38,000,000
4B0 501-601	Penitentiary Sewer Treatment Facility Services	\$	1,758,177	\$	1,758,177
4D4 501-603	Prisoner Programs	\$	20,967,703	\$	20,967,703
4L4 501-604	Transitional Control	\$	1,593,794	\$	1,593,794
4S5 501-608	Education Services	\$	4,564,072	\$	4,564,072
483 501-605	Property Receipts	\$	393,491	\$	393,491
5AF 501-609	State and Non-Federal Awards	\$	262,718	\$	262,718



5H8	501-617	Offender Financial Responsibility	\$	2,000,000	\$	2,000,000
5L6	501-611	Information Technology Services	\$	3,741,980	\$	3,741,980
571	501-606	Training Academy Receipts	\$	75,190	\$	75,190
593	501-618	Laboratory Services	\$	5,799,999	\$	5,799,999
TOTAL GSF General Services Fund Group			\$	174,364,777	\$	174,364,777
<b>Federal Special Revenue Fund Group</b>						
3S1	501-615	Truth-In-Sentencing Grants	\$	26,127,427	\$	26,127,427
323	501-619	Federal Grants	\$	12,198,353	\$	12,198,353
TOTAL FED Federal Special Revenue Fund Group			\$	38,325,780	\$	38,325,780
<b>State Special Revenue Fund Group</b>						
5CL	501-616	Sex Offender Supervision	\$	100,000	\$	75,000
Total SSR State Special Revenue Fund Group			\$	100,000	\$	75,000
TOTAL ALL BUDGET FUND GROUPS			\$	1,688,660,530	\$	1,714,077,726

**HALFWAY HOUSE TRANSFERS**

The Department of Rehabilitation and Correction shall seek the approval of the Controlling Board to transfer in each of fiscal years 2006 and 2007 from the unexpended, unobligated GRF appropriations made to the Department for fiscal years 2006 and 2007 at least \$500,000 per fiscal year in appropriation authority to appropriation item 501-405, Halfway House.

**OHIO BUILDING AUTHORITY LEASE PAYMENTS**

The foregoing appropriation item 501-406, Lease Rental Payments, shall be used for payments to the Ohio Building Authority for the period July 1, 2005, to June 30, 2007, under the primary leases and agreements for those buildings made under Chapter 152. of the Revised Code but limited to the aggregate amount of \$252,971,100. This appropriation amount is the source of funds pledged for bond service charges on related obligations issued under Chapter 152. of the Revised Code.

**PRISONER COMPENSATION**

Money from the foregoing appropriation item 501-403, Prisoner Compensation, shall be transferred on a quarterly basis by intrastate transfer voucher to the Services and Agricultural Fund (Fund 148) for the purposes of paying prisoner compensation.

**SEX OFFENDER SUPERVISION**

On July 1, 2005, or as soon as practicable thereafter, the Director of Budget and Management shall transfer \$100,000 in cash from the Reparations Fund (Fund 402) to the Sex Offender Supervision Fund (Fund 5CL). On July 1, 2006, or as soon as practicable thereafter, the Director of Budget and Management shall transfer \$75,000 in cash from the Reparations Fund (Fund 402) to the Sex Offender Supervision Fund (Fund 5CL).

The foregoing appropriation item 501-616, Sex Offender Supervision,

shall be used by the Department of Rehabilitation and Correction solely to pay for the costs incurred by the Adult Parole Authority in supervising sexually violent predators released from prison as required by section 2971.05 of the Revised Code. At the end of each fiscal year, or as soon as possible thereafter, the Director of Budget and Management shall transfer back to the Reparations Fund any unexpended, unencumbered cash in the Sex Offender Supervision Fund not needed in that fiscal year for the sole purpose of paying for the costs of supervising sexually violent predators released from prison.

#### SECTION 209.72. RSC REHABILITATION SERVICES COMMISSION

##### General Revenue Fund

GRF 415-100	Personal Services	\$	8,851,468	\$	8,851,468
GRF 415-402	Independent Living Council	\$	12,280	\$	12,280
GRF 415-403	Mental Health Services	\$	717,221	\$	717,221
GRF 415-404	MR/DD Services	\$	1,260,816	\$	1,260,816
GRF 415-405	Vocational Rehabilitation/Job and Family Services	\$	536,912	\$	536,912
GRF 415-406	Assistive Technology	\$	47,531	\$	47,531
GRF 415-431	Office for People with Brain Injury	\$	226,012	\$	226,012
GRF 415-506	Services for People with Disabilities	\$	12,185,215	\$	12,185,215
GRF 415-508	Services for the Deaf	\$	50,000	\$	50,000
GRF 415-509	Services for the Elderly	\$	359,377	\$	359,377
GRF 415-520	Independent Living Services	\$	50,000	\$	50,000
TOTAL GRF	General Revenue Fund	\$	24,296,832	\$	24,296,832

##### General Services Fund Group

4W5 415-606	Program Management Expenses	\$	18,557,040	\$	18,557,040
467 415-609	Business Enterprise Operating Expenses	\$	1,632,082	\$	1,632,082

TOTAL GSF General Services

Fund Group	\$	20,189,122	\$	20,189,122
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##### Federal Special Revenue Fund Group

3L1 415-601	Social Security Personal Care Assistance	\$	3,743,740	\$	3,743,740
3L1 415-605	Social Security Community Centers for the Deaf	\$	1,100,488	\$	1,100,488
3L1 415-607	Social Security Administration Cost	\$	175,860	\$	175,860
3L1 415-608	Social Security Special Programs/Assistance	\$	2,246,991	\$	131,716
3L1 415-610	Social Security Vocational Rehabilitation	\$	1,336,324	\$	1,338,324
3L1 415-614	Social Security Independent Living	\$	154,942	\$	0
3L4 415-612	Federal Independent Living	\$	894,662	\$	686,520

		Centers or Services			
3L4	415-615	Federal - Supported Employment	\$	1,338,191	\$ 1,338,191
3L4	415-617	Independent Living/Vocational Rehabilitation Programs	\$	1,508,885	\$ 1,608,885
317	415-620	Disability Determination	\$	82,870,347	\$ 87,999,369
379	415-616	Federal - Vocational Rehabilitation	\$	123,565,158	\$ 119,998,470
TOTAL FED Federal Special Revenue Fund Group			\$	218,935,588	\$ 218,121,563
<b>State Special Revenue Fund Group</b>					
4L1	415-619	Services for Rehabilitation	\$	4,500,000	\$ 4,500,000
468	415-618	Third Party Funding	\$	1,055,407	\$ 1,105,407
TOTAL SSR State Special Revenue Fund Group			\$	5,555,407	\$ 5,605,407
TOTAL ALL BUDGET FUND GROUPS			\$	268,976,949	\$ 268,212,924

**INDEPENDENT LIVING COUNCIL**

The foregoing appropriation item 415-402, Independent Living Council, shall be used to fund the operations of the State Independent Living Council.

**MENTAL HEALTH SERVICES**

The foregoing appropriation item 415-403, Mental Health Services, shall be used for the provision of vocational rehabilitation services to mutually eligible consumers of the Rehabilitation Services Commission and the Department of Mental Health.

The Rehabilitation Services Commission shall provide the Department of Mental Health a quarterly report stating the numbers served, numbers placed in employment, average hourly wage, and average hours worked.

**MR/DD SERVICES**

The foregoing appropriation item 415-404, MR/DD Services, shall be used as state matching funds to provide vocational rehabilitation services to mutually eligible clients between the Rehabilitation Services Commission and the Department of Mental Retardation and Developmental Disabilities. The Rehabilitation Services Commission shall report to the Department of Mental Retardation and Developmental Disabilities, as outlined in an interagency agreement, on the number and status of mutually eligible clients and the status of the funds and expenditures for these clients.

**VOCATIONAL REHABILITATION/JOB AND FAMILY SERVICES**

The foregoing appropriation item 415-405, Vocational Rehabilitation/Job and Family Services, shall be used as state matching funds to provide vocational rehabilitation services to mutually eligible clients between the Rehabilitation Services Commission and the Department of Job and Family Services. The Rehabilitation Services Commission shall report to the Department of Job and Family Services, as outlined in an

interagency agreement, on the number and status of mutually eligible clients and the status of the funds and expenditures for these clients.

#### ASSISTIVE TECHNOLOGY

The foregoing appropriation item 415-406, Assistive Technology, shall be provided to Assistive Technology of Ohio and shall be used only to provide grants under that program. No amount of the appropriation may be used for administrative costs.

#### OFFICE FOR PEOPLE WITH BRAIN INJURY

Of the foregoing appropriation item 415-431, Office for People with Brain Injury, up to \$50,000 in each fiscal year shall be used for the state match for a federal grant awarded through the Traumatic Brain Injury Act, Pub. L. No. 104-166, and up to \$50,000 in each fiscal year shall be provided to the Brain Injury Trust Fund. The remaining appropriation shall be used to plan and coordinate head-injury-related services provided by state agencies and other government or private entities, to assess the needs for such services, and to set priorities in this area.

#### SERVICES FOR THE DEAF

The foregoing appropriation item 415-508, Services for the Deaf, shall be used to supplement Social Security reimbursement funds used to provide grants to community centers for the deaf. These funds shall not be used in lieu of Social Security reimbursement funds.

#### SERVICES FOR THE ELDERLY

The foregoing appropriation item 415-509, Services for the Elderly, shall be used as matching funds for vocational rehabilitation services for eligible elderly citizens with a disability.

#### INDEPENDENT LIVING SERVICES

The foregoing appropriation items 415-520, Independent Living Services, and 415-612, Federal - Independent Living Centers or Services, shall be used to support state independent living centers or independent living services under Title VII of the Independent Living Services and Centers for Independent Living of the Rehabilitation Act Amendments of 1992, 106 Stat. 4344, 29 U.S.C. 796d.

#### PROGRAM MANAGEMENT EXPENSES

The foregoing appropriation item 415-606, Program Management Expenses, shall be used to support the administrative functions of the commission related to the provision of vocational rehabilitation, disability determination services, and ancillary programs.

#### INDEPENDENT LIVING/VOCATIONAL REHABILITATION PROGRAMS

The foregoing appropriation item 415-617, Independent

Living/Vocational Rehabilitation Programs, shall be used to support vocational rehabilitation programs, including, but not limited to, high tech high schools, training, and brain injury grants.

#### **SOCIAL SECURITY REIMBURSEMENT FUNDS**

Reimbursement funds received from the Social Security Administration, United States Department of Health and Human Services, for the costs of providing services and training to return disability recipients to gainful employment shall be used in the Social Security Reimbursement Fund (Fund 3L1), as follows:

(A) Appropriation item 415-601, Social Security Personal Care Assistance, to provide personal care services in accordance with section 3304.41 of the Revised Code;

(B) Appropriation item 415-605, Social Security Community Centers for the Deaf, to provide grants to community centers for the deaf in Ohio for services to individuals with hearing impairments;

(C) Appropriation item 415-607, Social Security Administration Cost, to provide administrative services needed to administer the Social Security reimbursement program;

(D) Appropriation item 415-608, Social Security Special Programs/Assistance, to provide vocational rehabilitation services to individuals with severe disabilities who are Social Security beneficiaries, to enable them to achieve competitive employment. This appropriation item also includes funds to assist the Personal Care Assistance, Community Centers for the Deaf, and Independent Living Programs to pay their share of indirect costs as mandated by federal OMB Circular A-87.

(E) Appropriation item 415-610, Social Security Vocational Rehabilitation, to provide vocational rehabilitation services to older blind individuals with severe disabilities to enable them to achieve a noncompetitive employment goal.

#### **PILOT PROGRAM FOR VOCATIONAL REHABILITATION**

During fiscal years 2006 and 2007, the Rehabilitation Services Commission may conduct a pilot program to provide vocational rehabilitation and related services to entities, employers, or individuals that are not eligible for state- or federally-supported services through the commission. The commission shall propose fees to be collected from the entities, employers, or individuals served by the pilot program to support the costs for vocational rehabilitation and related services provided under the pilot program. Fee revenues collected under the program shall be credited to Fund 468 (Third Party Funding). During implementation of the pilot program, the Rehabilitation Services Commission shall investigate and

determine the possibility of utilizing this source of revenue to match federal funds. The Rehabilitation Services Commission shall evaluate the progress of the pilot program and issue a report of its findings to the Governor not later than December 15, 2007. The report shall include a recommendation to either continue or discontinue the pilot program in the next biennium.

#### SECTION 209.75. RCB RESPIRATORY CARE BOARD

##### General Services Fund Group

4K9 872-609	Operating Expenses	\$	441,987	\$	0
TOTAL GSF General Services					
Fund Group					
		\$	441,987	\$	0
TOTAL ALL BUDGET FUND GROUPS					
		\$	441,987	\$	0

#### SECTION 209.78. REVENUE DISTRIBUTION FUNDS

##### Volunteer Firefighters' Dependents Fund

085 800-900	Volunteer Firefighters'	\$	280,000	\$	280,000
	Dependents Fund				

TOTAL 085 Volunteer Firefighters'					
Dependents Fund					
		\$	280,000	\$	280,000

##### Agency Fund Group

062 110-900	Resort Area Excise Tax	\$	1,000,000	\$	1,075,000
063 110-900	Permissive Tax Distribution	\$	1,627,628,631	\$	1,706,969,960
067 110-900	School District Income Tax	\$	185,000,000	\$	195,000,000
4P8 001-698	Cash Management	\$	2,500,000	\$	3,000,000
	Improvement Fund				
608 001-699	Investment Earnings	\$	85,000,000	\$	85,000,000
TOTAL AGY Agency Fund Group					
		\$	1,901,128,631	\$	1,991,044,960

##### Holding Account Redistribution

R45 110-617	International Fuel Tax	\$	6,292,029	\$	0
	Distribution				

TOTAL 090 Holding Account Redistribution					
Fund					
		\$	6,292,029	\$	0

##### Revenue Distribution Fund Group

049 038-900	Indigent Drivers Alcohol	\$	1,865,000	\$	1,865,000
	Treatment				
050 762-900	International Registration Plan	\$	55,000,000	\$	55,000,000
	Distribution				
051 762-901	Auto Registration Distribution	\$	475,000,000	\$	475,000,000
054 110-900	Local Government Property	\$	90,000,000	\$	90,000,000
	Tax Replacement - Utility				
060 110-900	Gasoline Excise Tax Fund	\$	325,000,000	\$	349,000,000
064 110-900	Local Government Revenue	\$	94,605,130	\$	94,605,130
	Assistance				
065 110-900	Library/Local Government	\$	458,510,155	\$	458,510,155
	Support Fund				
066 800-900	Undivided Liquor Permits	\$	14,300,000	\$	14,300,000
068 110-900	State and Local Government	\$	231,076,000	\$	235,542,000
	Highway Distribution				

069	110-900	Local Government Fund	\$	662,137,898	\$	662,137,898
081	110-900	Local Government Property Tax Replacement-Business	\$	21,150,000	\$	158,166,000
082	110-900	Horse Racing Tax	\$	130,000	\$	130,000
083	700-900	Ohio Fairs Fund	\$	2,450,000	\$	2,450,000
TOTAL RDF Revenue Distribution						
Fund Group			\$	2,431,224,183	\$	2,596,706,183
TOTAL ALL BUDGET FUND GROUPS			\$	4,338,924,843	\$	4,588,031,143

**ADDITIONAL APPROPRIATIONS**

Appropriation items in this section shall be used for the purpose of administering and distributing the designated revenue distribution funds according to the Revised Code. If it is determined that additional appropriations are necessary for this purpose, such amounts are appropriated.

**SECTION 209.78.03. GENERAL REVENUE FUND TRANSFERS TO LOCAL GOVERNMENT PROPERTY TAX REPLACEMENT – BUSINESS (FUND 081)**

Notwithstanding any provision of law to the contrary, the Director of Budget and Management shall transfer \$4,290,000 in fiscal year 2006 and \$30,090,000 in fiscal year 2007 from the General Revenue Fund to appropriation item 110-900, Local Government Property Tax Replacement – Business (Fund 081) in the Revenue Distribution Fund. The funds shall be used to reimburse local taxing units under section 5751.22 of the Revised Code.

**SECTION 209.81. SAN BOARD OF SANITARIAN REGISTRATION****General Services Fund Group**

4K9	893-609	Operating Expenses	\$	134,279	\$	0
TOTAL GSF General Services						
Fund Group			\$	134,279	\$	0
TOTAL ALL BUDGET FUND GROUPS			\$	134,279	\$	0

**SECTION 209.84. OSB OHIO STATE SCHOOL FOR THE BLIND****General Revenue Fund**

GRF	226-100	Personal Services	\$	6,469,841	\$	6,594,261
GRF	226-200	Maintenance	\$	704,162	\$	704,162
GRF	226-300	Equipment	\$	113,289	\$	113,289
TOTAL GRF General Revenue Fund			\$	7,287,292	\$	7,411,712

**General Services Fund Group**

4H8	226-602	Education Reform Grants	\$	21,620	\$	21,620
TOTAL GSF General Services						
Fund Group			\$	21,620	\$	21,620

**Federal Special Revenue Fund Group**

3P5	226-643	Medicaid Professional	\$	180,000	\$	210,000
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		Services Reimbursement			
310	226-626	Coordinating Unit	\$	1,639,000	\$ 1,639,000
TOTAL FED Federal Special Revenue Fund Group			\$	1,819,000	\$ 1,849,000
<b>State Special Revenue Fund Group</b>					
4M5	226-601	Student Activity and Work Study	\$	217,397	\$ 217,397
TOTAL SSR State Special Revenue Fund Group			\$	217,397	\$ 217,397
TOTAL ALL BUDGET FUND GROUPS			\$	9,345,309	\$ 9,499,729

**SECTION 209.87. OSD OHIO STATE SCHOOL FOR THE DEAF****General Revenue Fund**

GRF	221-100	Personal Services	\$	8,401,704	\$ 8,401,704
GRF	221-200	Maintenance	\$	1,032,751	\$ 1,032,751
GRF	221-300	Equipment	\$	222,500	\$ 222,500
TOTAL GRF General Revenue Fund			\$	9,656,955	\$ 9,656,955

**General Services Fund Group**

4M1	221-602	Education Reform Grants	\$	27,575	\$ 27,575
TOTAL GSF General Services Fund Group			\$	27,575	\$ 27,575

**Federal Special Revenue Fund Group**

3AD	221-604	VREAL Ohio	\$	1,000,000	\$ 1,000,000
3R0	221-684	Medicaid Professional Services Reimbursement	\$	35,000	\$ 35,000
3Y1	221-686	Early Childhood Grant	\$	250,000	\$ 250,000
311	221-625	Coordinating Unit	\$	1,062,426	\$ 1,062,426
TOTAL FED Federal Special Revenue Fund Group			\$	2,347,426	\$ 2,347,426

**State Special Revenue Fund Group**

4M0	221-601	Educational Program Expenses	\$	32,688	\$ 32,688
5H6	221-609	Even Start Fees & Gifts	\$	59,800	\$ 59,800
TOTAL SSR State Special Revenue Fund Group			\$	92,488	\$ 92,488
TOTAL ALL BUDGET FUND GROUPS			\$	12,124,444	\$ 12,124,444

**EQUIPMENT**

Of the foregoing appropriation item 221-300, Equipment, up to \$15,000 in fiscal year 2006 may be used by the Ohio School for the Deaf to purchase software for the documentation and tracking of students for increased accountability and data analysis for quality instruction.

**SECTION 209.90. SFC SCHOOL FACILITIES COMMISSION****General Revenue Fund**

GRF	230-428	Lease Rental Payments	\$	31,691,700	\$ 31,603,200
GRF	230-908	Common Schools General Obligation Debt Service	\$	188,724,700	\$ 224,911,500



TOTAL GRF General Revenue Fund	\$	220,416,400	\$	256,514,700
<b>State Special Revenue Fund Group</b>				
5E3 230-644 Operating Expenses	\$	7,319,617	\$	7,691,485
TOTAL SSR State Special Revenue Fund Group	\$	7,319,617	\$	7,691,485
<b>Lottery Profits Education Fund Group</b>				
020 230-620 Career-Tech School Building Assistance	\$	2,000,000	\$	2,000,000
TOTAL LPE Lottery Profits Education Fund Group	\$	2,000,000	\$	2,000,000
<b>TOTAL ALL BUDGET FUND GROUPS</b>	\$	229,736,017	\$	266,206,185

#### SECTION 209.90.03. LEASE RENTAL PAYMENTS

The foregoing appropriation item 230-428, Lease Rental Payments, shall be used to meet all payments at the times they are required to be made during the period from July 1, 2005, to June 30, 2007, by the School Facilities Commission under leases and agreements made under section 3318.26 of the Revised Code, but limited to the aggregate amount of \$63,294,900. Nothing in this act shall be deemed to contravene the obligation of the state to pay, without necessity for further appropriation, from the sources pledged thereto, the bond service charges on obligations issued under Chapter 3318. of the Revised Code.

#### COMMON SCHOOLS GENERAL OBLIGATION DEBT SERVICE

The foregoing appropriation item 230-908, Common Schools General Obligation Debt Service, shall be used to pay all debt service and related financing costs at the times they are required to be made under sections 151.01 and 151.03 of the Revised Code during the period from July 1, 2005, to June 30, 2007. The Office of the Sinking Fund or the Director of Budget and Management shall effectuate the required payments by an intrastate transfer voucher.

#### OPERATING EXPENSES

The foregoing appropriation item 230-644, Operating Expenses, shall be used by the Ohio School Facilities Commission to carry out its responsibilities under this section and Chapter 3318. of the Revised Code.

In both fiscal years 2006 and 2007, the Executive Director of the Ohio School Facilities Commission shall certify on a quarterly basis to the Director of Budget and Management the amount of cash from interest earnings to be transferred from the School Building Assistance Fund (Fund 032), the Public School Building Fund (Fund 021), and the Educational Facilities Trust Fund (Fund N87) to the Ohio School Facilities Commission Fund (Fund 5E3). The amount transferred may not exceed investment earnings credited to the School Building Assistance Fund (Fund 032), less

any amount required to be paid for federal arbitrage rebate purposes.

SCHOOL FACILITIES ENCUMBRANCES AND  
REAPPROPRIATION

At the request of the Executive Director of the Ohio School Facilities Commission, the Director of Budget and Management may cancel encumbrances for school district projects from a previous biennium if the district has not raised its local share of project costs within one year of receiving Controlling Board approval under section 3318.05 of the Revised Code. The Executive Director of the Ohio School Facilities Commission shall certify the amounts of the canceled encumbrances to the Director of Budget and Management on a quarterly basis. The amounts of the canceled encumbrances are hereby appropriated.

SECTION 209.90.06. EXTREME ENVIRONMENTAL  
CONTAMINATION OF SCHOOL FACILITIES

Notwithstanding any other provision of law to the contrary, the School Facilities Commission may provide assistance under the Exceptional Needs School Facilities Program established in section 3318.37 of the Revised Code to any school district, and not exclusively to a school district in the lowest fifty per cent of adjusted valuation per pupil on the current ranking of school districts established under section 3317.02 of the Revised Code, for the purpose of the relocation or replacement of school facilities required as a result of extreme environmental contamination.

The School Facilities Commission shall contract with an independent environmental consultant to conduct a study and to report to the commission as to the seriousness of the environmental contamination, whether the contamination violates applicable state and federal standards, and whether the facilities are no longer suitable for use as school facilities. The commission then shall make a determination regarding funding for the relocation or replacement of the school facilities. If the federal government or other public or private entity provides funds for restitution of costs incurred by the state or school district in the relocation or replacement of the school facilities, the school district shall use such funds in excess of the school district's share to refund the state for the state's contribution to the environmental contamination portion of the project. The school district may apply an amount of such restitution funds up to an amount equal to the school district's portion of the project, as defined by the commission, toward paying its portion of that project to reduce the amount of bonds the school district otherwise must issue to receive state assistance under sections 3318.01 to 3318.20 of the Revised Code.

## SECTION 209.90.09. CANTON CITY SCHOOL DISTRICT PROJECT

(A) The Ohio School Facilities Commission may commit up to thirty-five million dollars to the Canton City School District for construction of a facility described in this section, in lieu of a high school that would otherwise be authorized under Chapter 3318. of the Revised Code. The Commission shall not commit funds under this section unless all of the following conditions are met:

(1) The District has entered into a cooperative agreement with a state-assisted technical college.

(2) The District has received an irrevocable commitment of additional funding from nonpublic sources.

(3) The facility is intended to serve both secondary and postsecondary instructional purposes.

(B) The Commission shall enter into an agreement with the District for the construction of the facility authorized under this section that is separate from and in addition to the agreement required for the District's participation in the Classroom Facilities Assistance Program under section 3318.08 of the Revised Code. Notwithstanding that section and sections 3318.03, 3318.04, and 3318.083 of the Revised Code, the additional agreement shall provide, but not be limited to, the following:

(1) The Commission shall not have any oversight responsibilities over the construction of the facility.

(2) The facility need not comply with the specifications for plans and materials for high schools adopted by the Commission.

(3) The Commission may decrease the basic project cost that would otherwise be calculated for a high school under Chapter 3318. of the Revised Code.

(4) The state shall not share in any increases in the basic project cost for the facility above the amount authorized under this section.

All other provisions of Chapter 3318. of the Revised Code apply to the approval and construction of a facility authorized under this section.

The state funds committed to the facility authorized by this section shall be part of the total amount the state commits to the Canton City School District under Chapter 3318. of the Revised Code. All additional state funds committed to the Canton City School District for classroom facilities assistance shall be subject to all provisions of Chapter 3318. of the Revised Code.

**SECTION 209.93. SOS SECRETARY OF STATE****General Revenue Fund**

GRF 050-321	Operating Expenses	\$	2,585,000	\$	2,585,000
GRF 050-403	Election Statistics	\$	103,936	\$	103,936
GRF 050-407	Pollworkers Training	\$	277,997	\$	277,997
GRF 050-409	Litigation Expenditures	\$	4,652	\$	4,652
TOTAL GRF General Revenue Fund		\$	2,971,585	\$	2,971,585

**General Services Fund Group**

4S8 050-610	Board of Voting Machine Examiners	\$	7,200	\$	7,200
412 050-609	Notary Commission	\$	685,250	\$	685,249
413 050-601	Information Systems	\$	169,955	\$	169,955
414 050-602	Citizen Education Fund	\$	75,700	\$	55,712
TOTAL General Services Fund Group		\$	938,105	\$	918,116

**Federal Special Revenue Fund Group**

3AS 050-616	2005 HAVA Voting Machines	\$	37,436,203	\$	0
3X4 050-612	Ohio Center/Law Related Educational Grant	\$	41,000	\$	41,000
TOTAL FED Federal Special Revenue Fund Group		\$	37,477,203	\$	41,000

**State Special Revenue Fund Group**

5N9 050-607	Technology Improvements	\$	129,565	\$	129,565
599 050-603	Business Services Operating Expenses	\$	13,741,745	\$	13,761,734
TOTAL SSR State Special Revenue Fund Group		\$	13,871,310	\$	13,891,299

**Holding Account Redistribution Fund Group**

R01 050-605	Uniform Commercial Code Refunds	\$	65,000	\$	65,000
R02 050-606	Corporate/Business Filing Refunds	\$	100,000	\$	100,000
TOTAL 090 Holding Account Redistribution Fund Group		\$	165,000	\$	165,000
TOTAL ALL BUDGET FUND GROUPS		\$	55,423,203	\$	17,987,000

**BOARD OF VOTING MACHINE EXAMINERS**

The foregoing appropriation item 050-610, Board of Voting Machine Examiners, shall be used to pay for the services and expenses of the members of the Board of Voting Machine Examiners, and for other expenses that are authorized to be paid from the Board of Voting Machine Examiners Fund, which is created in section 3506.05 of the Revised Code. Moneys not used shall be returned to the person or entity submitting the equipment for examination. If it is determined that additional appropriations are necessary, such amounts are appropriated.

**2005 HAVA VOTING MACHINES**

On July 1, 2005, or as soon as possible thereafter, the Secretary of State shall certify to the Director of Budget and Management the cash balance in

Fund 3AR, appropriation item 050-615, 2004 HAVA Voting Machines. The Director of Budget and Management shall transfer the certified amount of cash to Fund 3AS, 050-616, 2005 HAVA Voting Machines, for use in fiscal year 2006. The transferred amount is hereby appropriated.

On July 1, 2006, or as soon as possible thereafter, the Director of Budget and Management shall transfer any remaining unexpended, unencumbered appropriations in Fund 3AS, appropriation item 050-616, 2005 HAVA Voting Machines, at the end of fiscal year 2006 to fiscal year 2007 for use under the same appropriation item.

#### HOLDING ACCOUNT REDISTRIBUTION GROUP

The foregoing appropriation items 050-605 and 050-606, Holding Account Redistribution Fund Group, shall be used to hold revenues until they are directed to the appropriate accounts or until they are refunded. If it is determined that additional appropriations are necessary, such amounts are appropriated.

#### SECTION 209.96. SEN THE OHIO SENATE

##### General Revenue Fund

GRF 020-321	Operating Expenses	\$	11,546,357	\$	11,661,821
TOTAL GRF General Revenue Fund		\$	11,546,357	\$	11,661,821

##### General Services Fund Group

102 020-602	Senate Reimbursement	\$	444,025	\$	444,025
409 020-601	Miscellaneous Sales	\$	34,155	\$	34,155
TOTAL GSF General Services Fund Group		\$	478,180	\$	478,180
TOTAL ALL BUDGET FUND GROUPS		\$	12,024,537	\$	12,140,001

#### OPERATING EXPENSES

On July 1, 2005, or as soon as possible thereafter, the Clerk of the Senate shall certify to the Director of Budget and Management the total fiscal year 2005 unencumbered appropriations in appropriation item 020-321, Operating Expenses. The Clerk may direct the Director of Budget and Management to transfer an amount not to exceed the total fiscal year 2005 unencumbered appropriations to fiscal year 2006 for use within appropriation item 020-321, Operating Expenses. Additional appropriation authority equal to the amount certified by the Clerk is hereby appropriated to appropriation item 020-321, Operating Expenses, in fiscal year 2006.

On July 1, 2006, or as soon as possible thereafter, the Clerk of the Senate shall certify to the Director of Budget and Management the total fiscal year 2006 unencumbered appropriations in appropriation item 020-321, Operating Expenses. The Clerk may direct the Director of Budget and Management to transfer an amount not to exceed the total fiscal year

2006 unencumbered appropriations to fiscal year 2007 for use within appropriation item 020-321, Operating Expenses. Additional appropriation authority equal to the amount certified by the Clerk is hereby appropriated to appropriation item 020-321, Operating Expenses, in fiscal year 2007.

#### SECTION 209.99. CSF COMMISSIONERS OF THE SINKING FUND

##### Debt Service Fund Group

072	155-902	Highway Capital Improvements Bond Retirement Fund	\$	180,620,600	\$	196,464,900
073	155-903	Natural Resources Bond Retirement Fund	\$	26,166,000	\$	24,659,100
074	155-904	Conservation Projects Bond Service Fund	\$	14,687,300	\$	17,668,800
076	155-906	Coal Research and Development Bond Retirement Fund	\$	7,071,100	\$	8,980,800
077	155-907	State Capital Improvements Bond Retirement Fund	\$	163,131,400	\$	174,545,100
078	155-908	Common Schools Bond Retirement Fund	\$	200,724,700	\$	236,911,500
079	155-909	Higher Education Bond Retirement Fund	\$	140,600,300	\$	158,114,100
TOTAL DSF Debt Service Fund Group			\$	733,001,400	\$	817,344,300
TOTAL ALL BUDGET FUND GROUPS			\$	733,001,400	\$	817,344,300

#### ADDITIONAL APPROPRIATIONS

Appropriation items in this section are for the purpose of paying debt service and financing costs on bonds or notes of the state issued under the Ohio Constitution and acts of the General Assembly. If it is determined that additional appropriations are necessary for this purpose, such amounts are appropriated.

#### COMMISSIONER OF THE SINKING FUND HIGHWAY BOND TRANSFER AUTHORIZATION

Notwithstanding any other provision of law to the contrary, the Commissioners of the Sinking Fund shall certify to the Director of Budget and Management, and the director shall then transfer, the cash balance remaining after provision for the payment of all outstanding bonds, notes, coupons, and charges from the Highway Obligation Bond Retirement Fund (Fund 071) to the Highway Capital Improvements Bond Service Fund (Fund 072), created by section 151.06 of the Revised Code, as expeditiously as possible after the effective date of this section.

#### SECTION 212.03. SPE BOARD OF SPEECH-LANGUAGE

**PATHOLOGY & AUDIOLOGY****General Services Fund Group**

4K9 886-609	Operating Expenses	\$	408,864	\$	0
TOTAL GSF General Services					
Fund Group		\$	408,864	\$	0
TOTAL ALL BUDGET FUND GROUPS					
		\$	408,864	\$	0

**SECTION 212.06. BTA BOARD OF TAX APPEALS****General Revenue Fund**

GRF 116-321	Operating Expenses	\$	2,155,055	\$	2,211,035
TOTAL GRF General Revenue Fund					
		\$	2,155,055	\$	2,211,035
TOTAL ALL BUDGET FUND GROUPS					
		\$	2,155,055	\$	2,211,035

**SECTION 212.09. TAX DEPARTMENT OF TAXATION****General Revenue Fund**

GRF 110-321	Operating Expenses	\$	91,439,754	\$	91,439,754
GRF 110-412	Child Support Administration	\$	71,988	\$	71,988
GRF 110-901	Property Tax Allocation - Taxation	\$	430,102,680	\$	409,946,241
GRF 110-906	Tangible Tax Exemption - Taxation	\$	18,355,923	\$	13,766,942
TOTAL GRF General Revenue Fund					
		\$	539,970,345	\$	515,224,925

**General Services Fund Group**

228 110-628	Tax Reform System Implementation	\$	7,000,000	\$	7,000,000
433 110-602	Tape File Account	\$	96,165	\$	96,165
5BW 110-630	Tax Amnesty Promotion and Administration	\$	2,000,000	\$	0
5W4 110-625	Centralized Tax Filing and Payment	\$	2,500,000	\$	2,000,000
5W7 110-627	Exempt Facility Administration	\$	36,000	\$	36,000
TOTAL GSF General Services					
Fund Group		\$	11,632,165	\$	9,132,165

**Federal Special Revenue Fund Group**

3J6 110-601	Motor Fuel Compliance	\$	25,000	\$	25,000
TOTAL FED Federal Special Revenue					
Fund Group		\$	25,000	\$	25,000

**State Special Revenue Fund Group**

4C6 110-616	International Registration Plan	\$	706,855	\$	706,855
4R6 110-610	Tire Tax Administration	\$	65,000	\$	65,000
435 110-607	Local Tax Administration	\$	15,880,987	\$	16,394,879
436 110-608	Motor Vehicle Audit	\$	1,350,000	\$	1,350,000
437 110-606	Litter Tax and Natural Resource Tax Administration	\$	625,232	\$	625,232
438 110-609	School District Income Tax	\$	2,599,999	\$	2,599,999

5BQ	110-629	Commercial Activity Tax Administration	\$	6,000,000	\$	500,000
5N5	110-605	Municipal Income Tax Administration	\$	265,000	\$	265,000
5N6	110-618	Kilowatt Hour Tax Administration	\$	85,000	\$	85,000
5V7	110-622	Motor Fuel Tax Administration	\$	4,268,345	\$	4,397,263
5V8	110-623	Property Tax Administration	\$	12,758,643	\$	12,967,102
639	110-614	Cigarette Tax Enforcement	\$	168,925	\$	168,925
642	110-613	Ohio Political Party Distributions	\$	600,000	\$	600,000
688	110-615	Local Excise Tax Administration	\$	300,000	\$	300,000
TOTAL SSR State Special Revenue Fund Group			\$	45,673,986	\$	41,025,255
<b>Agency Fund Group</b>						
095	110-901	Municipal Income Tax	\$	21,000,000	\$	21,000,000
425	110-635	Tax Refunds	\$	1,483,900,000	\$	1,582,700,000
TOTAL AGY Agency Fund Group			\$	1,504,900,000	\$	1,603,700,000
<b>Holding Account Redistribution Fund Group</b>						
R10	110-611	Tax Distributions	\$	50,000	\$	50,000
R11	110-612	Miscellaneous Income Tax Receipts	\$	50,000	\$	50,000
TOTAL 090 Holding Account Redistribution Fund Group			\$	100,000	\$	100,000
TOTAL ALL BUDGET FUND GROUPS			\$	2,102,301,496	\$	2,169,207,345

#### **HOMESTEAD EXEMPTION, PROPERTY TAX ROLLBACK, AND TANGIBLE TAX EXEMPTION**

The foregoing appropriation item 110-901, Property Tax Allocation - Taxation, is hereby appropriated to pay for the state's costs incurred because of the Homestead Exemption, the Manufactured Home Property Tax Rollback, and the Property Tax Rollback. The Tax Commissioner shall distribute these funds directly to the appropriate local taxing districts, except for school districts, notwithstanding the provisions in sections 321.24 and 323.156 of the Revised Code, which provide for payment of the Homestead Exemption, the Manufactured Home Property Tax Rollback, and Property Tax Rollback by the Tax Commissioner to the appropriate county treasurer and the subsequent redistribution of these funds to the appropriate local taxing districts by the county auditor.

The foregoing appropriation item 110-906, Tangible Tax Exemption - Taxation, is hereby appropriated to pay for the state's costs incurred because of the tangible personal property tax exemption required by division (C)(3) of section 5709.01 of the Revised Code. The Tax Commissioner shall distribute to each county treasurer the total amount appearing in the notification from the county treasurer under division (G) of section 321.24 of the Revised Code for all local taxing districts located in the county except



for school districts, notwithstanding the provision in section 321.24 of the Revised Code which provides for payment of the \$10,000 tangible personal property tax exemption by the Tax Commissioner to the appropriate county treasurer for all local taxing districts located in the county including school districts. The county auditor shall distribute the amount paid by the Tax Commissioner among the appropriate local taxing districts except for school districts under division (G) of section 321.24 of the Revised Code.

Upon receipt of these amounts, each local taxing district shall distribute the amount among the proper funds as if it had been paid as real or tangible personal property taxes. Payments for the costs of administration shall continue to be paid to the county treasurer and county auditor as provided for in sections 319.54, 321.26, and 323.156 of the Revised Code.

Any sums, in addition to the amounts specifically appropriated in appropriation items 110-901, Property Tax Allocation - Taxation, for the Homestead Exemption, the Manufactured Home Property Tax Rollback, and the Property Tax Rollback payments, and 110-906, Tangible Tax Exemption - Taxation, for the \$10,000 tangible personal property tax exemption payments, which are determined to be necessary for these purposes, are hereby appropriated.

#### MUNICIPAL INCOME TAX

The foregoing appropriation item 110-901, Municipal Income Tax, shall be used to make payments to municipal corporations under section 5745.05 of the Revised Code. If it is determined that additional appropriations are necessary to make these payments, such amounts are hereby appropriated.

#### TAX REFUNDS

The foregoing appropriation item 110-635, Tax Refunds, shall be used to pay refunds under section 5703.052 of the Revised Code. If it is determined that additional appropriations are necessary for this purpose, such amounts are hereby appropriated.

#### TAX REFORM SYSTEM IMPLEMENTATION FUND

Notwithstanding section 3734.9010, division (B)(2)(c) of section 4505.09, division (B) of section 5703.12, section 5703.80, division (C)(6) of section 5727.81, sections 5733.122 and 5735.053, division (C) of section 5739.21, section 5745.03, division (C) of section 5747.03, and section 5747.113 of the Revised Code and any other statutory provision to the contrary, any residual cash balances determined and certified by the Tax Commissioner to the Director of Budget and Management shall be transferred on July 1, 2005, or as soon as possible thereafter, to the Tax Reform System Implementation Fund (Fund 228), which is hereby created in the State Treasury. The fund shall be used to pay expenses incurred by the

Department of Taxation in providing an integrated tax system that will accommodate the needs of tax reform and allow for improved customer service, processing efficiency, compliance enforcement, and reporting.

#### INTERNATIONAL REGISTRATION PLAN AUDIT

The foregoing appropriation item 110-616, International Registration Plan, shall be used under section 5703.12 of the Revised Code for audits of persons with vehicles registered under the International Registration Plan.

#### TRAVEL EXPENSES FOR THE STREAMLINED SALES TAX PROJECT

Of the foregoing appropriation item 110-607, Local Tax Administration, the Tax Commissioner may disburse funds, if available, for the purposes of paying travel expenses incurred by members of Ohio's delegation to the Streamlined Sales Tax Project, as appointed under section 5740.02 of the Revised Code. Any travel expense reimbursement paid for by the Department of Taxation shall be done in accordance with applicable state laws and guidelines.

#### LITTER CONTROL TAX ADMINISTRATION FUND

Notwithstanding section 5733.12 of the Revised Code, during the period from July 1, 2005, to June 30, 2006, the amount of \$625,232, and during the period from July 1, 2006, to June 30, 2007, the amount of \$625,232, received by the Tax Commissioner under Chapter 5733. of the Revised Code, shall be credited to the Litter Control Tax Administration Fund (Fund 437).

#### TAX AMNESTY PROMOTION AND ADMINISTRATION

The foregoing appropriation item 110-630, Tax Amnesty Promotion and Administration, shall be used to pay expenses incurred to promote and administer the tax amnesty program run from January 1, 2006, through February 15, 2006, by the Department of Taxation. The Department of Taxation and Attorney General's Office shall work in close collaboration on promotion activities in relation to the Tax Amnesty Promotion and Administration program.

#### CENTRALIZED TAX FILING AND PAYMENT FUND

The Director of Budget and Management, under a plan submitted by the Tax Commissioner, or as otherwise determined by the Director of Budget and Management, shall set a schedule to transfer cash from the General Revenue Fund to the credit of the Centralized Tax Filing and Payment Fund (Fund 5W4). The transfers of cash shall not exceed \$4,500,000 in the biennium.

#### COMMERCIAL ACTIVITY TAX ADMINISTRATION

The foregoing appropriation item 110-629, Commercial Activity Tax

Administration, shall be used to pay expenses incurred by the Department of Taxation to implement and administer the Commercial Activity Tax under Chapter 5751. of the Revised Code.

**SECTION 212.12. DOT DEPARTMENT OF TRANSPORTATION**  
**Transportation Modes**

**General Revenue Fund**

GRF 775-451	Public Transportation - State	\$	16,300,000	\$	16,300,000
GRF 776-465	Ohio Rail Development Commission	\$	2,700,000	\$	2,700,000
GRF 776-466	Railroad Crossing/Grade Separation	\$	789,600	\$	789,600
GRF 777-471	Airport Improvements - State	\$	1,793,985	\$	1,793,985
GRF 777-473	Rickenbacker Lease Payments - State	\$	594,500	\$	320,300
TOTAL GRF General Revenue Fund		\$	22,178,085	\$	21,903,885

**Federal Special Revenue Fund Group**

3B9 776-662	Rail Transportation - Federal	\$	10,000	\$	10,000
TOTAL FED Federal Special Revenue Fund Group		\$	10,000	\$	10,000

**State Special Revenue Fund Group**

4N4 776-663	Panhandle Lease Reserve Payments	\$	764,400	\$	764,400
4N4 776-664	Rail Transportation - Other	\$	2,111,500	\$	2,111,500
5CF 776-667	Rail Transload Facilities	\$	500,000	\$	0
5W9 777-615	Airport Assistance	\$	570,000	\$	570,000
TOTAL SSR State Special Revenue Fund Group		\$	3,945,900	\$	3,445,900
TOTAL ALL BUDGET FUND GROUPS		\$	26,133,985	\$	25,359,785

**ELDERLY AND DISABLED FARE ASSISTANCE**

Of the foregoing appropriation item 775-451, Public Transportation - State, up to \$6,000,000 in fiscal year 2006 and \$7,000,000 in fiscal year 2007 may be used to make grants to county transit boards, regional transit authorities, regional transit commissions, counties, municipal corporations, and private nonprofit organizations that operate or will operate public transportation systems, for the purpose of reducing the transit fares of elderly or disabled persons. The Director of Transportation shall establish criteria for the distribution of these grants under division (B) of section 5501.07 of the Revised Code.

**AVIATION LEASE PAYMENTS**

The foregoing appropriation item 777-473, Rickenbacker Lease Payments - State, shall be used to meet scheduled payments for the Rickenbacker Port Authority. The Director of Transportation shall certify to the Director of Budget and Management any appropriations in appropriation item 777-473, Rickenbacker Lease Payments - State, that are not needed to

make lease payments for the Rickenbacker Port Authority. Notwithstanding section 127.14 of the Revised Code, the amount certified may be transferred by the Director of Budget and Management to appropriation item 777-471, Airport Improvements - State.

#### RAIL TRANSLOAD FACILITIES

The foregoing appropriation item 776-667, Rail Transload Facilities, shall be used to fund the Rail Transload Initiative, a statewide pilot program administered by the Ohio Rail Development Commission, to provide grants to assist communities and railroads and other businesses to develop facilities that will enhance the ability of railroads to work with other transport modes to move bulk commodities more efficiently and safely.

#### SECTION 212.15. TOS TREASURER OF STATE

##### General Revenue Fund

GRF 090-321	Operating Expenses	\$	9,041,937	\$	9,041,937
GRF 090-401	Office of the Sinking Fund	\$	521,576	\$	521,576
GRF 090-402	Continuing Education	\$	435,770	\$	435,770
GRF 090-524	Police and Fire Disability Pension Fund	\$	25,000	\$	20,000
GRF 090-534	Police & Fire Ad Hoc Cost of Living	\$	180,000	\$	150,000
GRF 090-554	Police and Fire Survivor Benefits	\$	1,100,000	\$	1,000,000
GRF 090-575	Police and Fire Death Benefits	\$	20,000,000	\$	20,000,000
TOTAL GRF General Revenue Fund		\$	31,304,283	\$	31,169,283

##### General Services Fund Group

4E9 090-603	Securities Lending Income	\$	2,721,800	\$	2,814,000
577 090-605	Investment Pool Reimbursement	\$	550,000	\$	550,000
605 090-609	Treasurer of State Administrative Fund	\$	700,000	\$	700,000

##### TOTAL GSF General Services

Fund Group	\$	3,971,800	\$	4,064,000
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##### State Special Revenue Fund Group

5C5 090-602	County Treasurer Education	\$	135,000	\$	135,000
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##### TOTAL SSR State Special Revenue

Fund Group	\$	135,000	\$	135,000
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##### Agency Fund Group

425 090-635	Tax Refunds	\$	31,000,000	\$	31,000,000
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TOTAL Agency Fund Group	\$	31,000,000	\$	31,000,000
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TOTAL ALL BUDGET FUND GROUPS	\$	66,411,083	\$	66,368,283
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#### SECTION 212.15.03. OFFICE OF THE SINKING FUND

The foregoing appropriation item 090-401, Office of the Sinking Fund, shall be used for financing and other costs incurred by or on behalf of the Commissioners of the Sinking Fund, the Ohio Public Facilities Commission or its secretary, or the Treasurer of State, with respect to State of Ohio general obligation bonds or notes, including, but not limited to, printing, advertising, delivery, rating fees and the procurement of ratings, professional publications, membership in professional organizations, and services referred to in division (D) of section 151.01 of the Revised Code. The General Revenue Fund shall be reimbursed for such costs by intrastate transfer voucher pursuant to a certification by the Office of the Sinking Fund of the actual amounts used. The amounts necessary to make such reimbursements are appropriated from the general obligation bond retirement funds created by the Constitution and laws to the extent such costs are incurred.

#### POLICE AND FIRE DEATH BENEFIT FUND

The foregoing appropriation item 090-575, Police and Fire Death Benefits, shall be disbursed quarterly by the Treasurer of State at the beginning of each quarter of each fiscal year to the Board of Trustees of the Ohio Police and Fire Pension Fund. The Treasurer of State shall certify such amounts quarterly to the Director of Budget and Management. By the twentieth day of June of each fiscal year, the Board of Trustees of the Ohio Police and Fire Pension Fund shall certify to the Treasurer of State the amount disbursed in the current fiscal year to make the payments required by section 742.63 of the Revised Code and shall return to the Treasurer of State moneys received from this appropriation item but not disbursed.

#### TAX REFUNDS

The foregoing appropriation item 090-635, Tax Refunds, shall be used to pay refunds under section 5703.052 of the Revised Code. If the Director of Budget and Management determines that additional amounts are necessary for this purpose, such amounts are hereby appropriated.

#### SECTION 212.18. UST PETROLEUM UNDERGROUND STORAGE TANK

##### Agency Fund Group

691 810-632 PUSTRCB Staff	\$	1,075,158	\$	1,116,658
TOTAL AGY Agency Fund Group	\$	1,075,158	\$	1,116,658
TOTAL ALL BUDGET FUND GROUPS	\$	1,075,158	\$	1,116,658

#### SECTION 212.21. TTA OHIO TUITION TRUST AUTHORITY State Special Revenue Fund Group

5AM 095-603	Index Savings Plan	\$	2,866,240	\$	3,104,865
5P3 095-602	Variable College Savings Fund	\$	2,042,486	\$	2,118,568
645 095-601	Operating Expenses	\$	807,260	\$	891,173
TOTAL SSR State Special Revenue Fund Group					
		\$	5,715,986	\$	6,114,606
TOTAL ALL BUDGET FUND GROUPS					
		\$	5,715,986	\$	6,114,606

## SECTION 212.24. OVH OHIO VETERANS' HOME

## General Revenue Fund

GRF 430-100	Personal Services	\$	20,629,914	\$	21,030,031
GRF 430-200	Maintenance	\$	6,396,200	\$	6,396,200
TOTAL GRF General Revenue Fund					
		\$	27,026,114	\$	27,426,231

## General Services Fund Group

484 430-603	Rental and Service Revenue	\$	882,737	\$	882,737
TOTAL GSF General Services Fund Group					
		\$	882,737	\$	882,737

## Federal Special Revenue Fund Group

3L2 430-601	Federal VA Per Diem Grant	\$	14,990,510	\$	15,290,320
TOTAL FED Federal Special Revenue Fund Group					
		\$	14,990,510	\$	15,290,320

## State Special Revenue Fund Group

4E2 430-602	Veterans Home Operating	\$	8,322,731	\$	8,530,800
604 430-604	Veterans Home Improvement	\$	770,096	\$	770,096
TOTAL SSR State Special Revenue Fund Group					
		\$	9,092,827	\$	9,300,896
TOTAL ALL BUDGET FUND GROUPS					
		\$	51,992,188	\$	52,900,184

## SECTION 212.27. VET VETERANS' ORGANIZATIONS

## General Revenue Fund

## VAP AMERICAN EX-PRISONERS OF WAR

GRF 743-501	State Support	\$	25,030	\$	25,030
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## VAN ARMY AND NAVY UNION, USA, INC.

GRF 746-501	State Support	\$	55,012	\$	55,012
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## VKW KOREAN WAR VETERANS

GRF 747-501	State Support	\$	49,453	\$	49,453
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## VJW JEWISH WAR VETERANS

GRF 748-501	State Support	\$	29,715	\$	29,715
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## VCW CATHOLIC WAR VETERANS

GRF 749-501	State Support	\$	57,990	\$	57,990
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## VPH MILITARY ORDER OF THE PURPLE HEART

GRF 750-501	State Support	\$	56,377	\$	56,377
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## VVV VIETNAM VETERANS OF AMERICA

GRF 751-501	State Support	\$	185,954	\$	185,954
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## VAL AMERICAN LEGION OF OHIO

GRF 752-501	State Support	\$	302,328	\$	302,328
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## VII AMVETS

GRF 753-501	State Support	\$	287,919	\$	287,919
<b>VAV DISABLED AMERICAN VETERANS</b>					
GRF 754-501	State Support	\$	216,308	\$	216,308
<b>VMC MARINE CORPS LEAGUE</b>					
GRF 756-501	State Support	\$	115,972	\$	115,972
<b>V37 37TH DIVISION AEF VETERANS' ASSOCIATION</b>					
GRF 757-501	State Support	\$	5,946	\$	5,946
<b>VFW VETERANS OF FOREIGN WARS</b>					
GRF 758-501	State Support	\$	246,615	\$	246,615
TOTAL GRF General Revenue Fund		\$	1,634,619	\$	1,634,619
TOTAL ALL BUDGET FUND GROUPS		\$	1,634,619	\$	1,634,619

**RELEASE OF FUNDS**

The foregoing appropriation items 743-501, 746-501, 747-501, 748-501, 749-501, 750-501, 751-501, 752-501, 753-501, 754-501, 756-501, 757-501, and 758-501, State Support, shall be released upon approval by the Director of Budget and Management.

**CENTRAL OHIO UNITED SERVICES ORGANIZATION**

Of the foregoing appropriation item 751-501, State Support, Vietnam Veterans of America, \$50,000 in each fiscal year shall be used to support the activities of the Central Ohio USO.

**VAL AMERICAN LEGION OF OHIO**

Of the foregoing appropriation item 752-501, State Support, VAL American Legion, at least \$50,000 in each fiscal year shall be used to fund service officer expenses.

**VETERANS SERVICE COMMISSION EDUCATION**

Of the foregoing appropriation item 753-501, State Support, AMVETS, up to \$20,000 in each fiscal year may be used to provide moneys to the Association of County Veterans Service Commissioners to reimburse its member county veterans service commissions for costs incurred in carrying out educational and outreach duties required under divisions (E) and (F) of section 5901.03 of the Revised Code. Additionally, at least \$50,000 shall be used in each fiscal year to fund service officer expenses. The Director of Budget and Management shall release these funds upon the presentation of an itemized receipt, approved by the Governor's Office of Veterans Affairs, from the association for reasonable and appropriate expenses incurred while performing these duties. The association shall establish uniform procedures for reimbursing member commissions.

**VAV DISABLED AMERICAN VETERANS**

Of the foregoing appropriation item 754-501, State Support, VAV Disabled American Veterans, at least \$50,000 in each fiscal year shall be used to fund service officer expenses.

**VMC MARINE CORPS LEAGUE**

Of the foregoing appropriation item 756-501, State Support, VMC Marine Corps League, at least \$30,000 in each fiscal year shall be used to fund service officer expenses.

#### VFW VETERANS OF FOREIGN WARS

Of the foregoing appropriation item 758-501, State Support, VFW Veterans of Foreign Wars, at least \$50,000 in each fiscal year shall be used to fund service officer expenses.

#### SECTION 212.30. DVM STATE VETERINARY MEDICAL BOARD

##### General Services Fund Group

4K9 888-609	Operating Expenses	\$	293,691	\$	0
5BU 888-602	Veterinary Student Loan Program	\$	60,000	\$	0
TOTAL GSF General Services Fund Group		\$	353,691	\$	0
TOTAL ALL BUDGET FUND GROUPS		\$	353,691	\$	0

#### CASH TRANSFER TO VETERINARY STUDENT LOAN PROGRAM FUND (FUND 5BU)

On July 1, 2005, or as soon as possible thereafter, the Director of Budget and Management shall transfer \$60,000 in cash from the Occupational Licensing and Regulatory Fund (Fund 4K9) to the Veterinary Student Loan Program Fund (Fund 5BU), which is hereby created. The amount of the transfer is hereby appropriated.

#### VETERINARY STUDENT LOAN PROGRAM

The foregoing appropriation item 888-602, Veterinary Student Loan Program, shall be used by the Veterinary Medical Licensing Board to implement a student loan repayment program for veterinary students focusing on large animal populations, public health, or regulatory veterinary medicine.

#### SECTION 212.33. DYS DEPARTMENT OF YOUTH SERVICES

##### General Revenue Fund

GRF 470-401	RECLAIM Ohio	\$	177,016,683	\$	182,084,588
GRF 470-412	Lease Rental Payments	\$	20,267,500	\$	21,882,700
GRF 470-510	Youth Services	\$	18,608,587	\$	18,608,587
GRF 472-321	Parole Operations	\$	14,358,995	\$	14,962,871
GRF 477-321	Administrative Operations	\$	14,239,494	\$	14,754,420
TOTAL GRF General Revenue Fund		\$	244,491,259	\$	252,293,166

##### General Services Fund Group

175 470-613	Education Reimbursement	\$	10,112,529	\$	9,450,598
4A2 470-602	Child Support	\$	320,641	\$	328,657
4G6 470-605	General Operational Funds	\$	10,000	\$	10,000
479 470-609	Employee Food Service	\$	141,466	\$	137,666



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523	470-621	Wellness Program	\$	46,937	\$	0
6A5	470-616	Building Demolition	\$	31,100	\$	0
TOTAL GSF General Services						
Fund Group			\$	10,662,673	\$	9,926,921
<b>Federal Special Revenue Fund Group</b>						
3V5	470-604	Juvenile Justice/Delinquency Prevention	\$	4,254,745	\$	4,254,746
3W0	470-611	Federal Juvenile Programs FFY 02	\$	222,507	\$	0
3Z8	470-625	Federal Juvenile Programs FFY 04	\$	1,500,001	\$	773,812
3Z9	470-626	Federal Juvenile Programs FFY 05	\$	465,000	\$	0
321	470-601	Education	\$	1,422,580	\$	1,465,399
321	470-603	Juvenile Justice Prevention	\$	1,981,169	\$	2,006,505
321	470-606	Nutrition	\$	2,471,550	\$	2,470,655
321	470-614	Title IV-E Reimbursements	\$	4,960,589	\$	6,012,361
321	470-617	Americorps Programs	\$	456,000	\$	463,700
TOTAL FED Federal Special Revenue						
Fund Group			\$	17,734,141	\$	17,447,178
<b>State Special Revenue Fund Group</b>						
147	470-612	Vocational Education	\$	1,937,784	\$	2,009,866
4W3	470-618	Help Me Grow	\$	11,000	\$	11,000
5BH	470-628	Partnerships for Success	\$	1,500,000	\$	1,500,000
TOTAL SSR State Special Revenue						
Fund Group			\$	3,448,784	\$	3,520,866
TOTAL ALL BUDGET FUND GROUPS			\$	276,336,857	\$	283,188,131

**RECLAIM OHIO**

Of the foregoing appropriation item 470-401, RECLAIM Ohio, \$25,000 in each fiscal year shall be distributed directly to the Lighthouse Youth Services Wrap-Around Program.

**OHIO BUILDING AUTHORITY LEASE PAYMENTS**

The foregoing appropriation item 470-412, Lease Rental Payments, in the Department of Youth Services, shall be used for payments to the Ohio Building Authority for the period from July 1, 2005, to June 30, 2007, under the primary leases and agreements for facilities made under Chapter 152. of the Revised Code, but limited to the aggregate amount of \$42,150,200. This appropriation is the source of funds pledged for bond service charges on related obligations issued pursuant to Chapter 152. of the Revised Code.

**EDUCATION REIMBURSEMENT**

The foregoing appropriation item 470-613, Education Reimbursement, shall be used to fund the operating expenses of providing educational services to youth supervised by the Department of Youth Services. Operating expenses include, but are not limited to, teachers' salaries, maintenance costs, and educational equipment. This appropriation item may be used for capital expenses related to the education program.

**EMPLOYEE FOOD SERVICE AND EQUIPMENT**

Notwithstanding section 125.14 of the Revised Code, the foregoing appropriation item 470-609, Employee Food Service, may be used to purchase any food operational items with funds received into the fund from reimbursement for state surplus property.

#### **PARTNERSHIPS FOR SUCCESS**

In fiscal year 2006, the foregoing appropriation item 470-628, Partnerships for Success, shall be used to support the Partnerships for Success Project. On or before January 1, 2007, the Director of Budget and Management shall transfer any amount of cash that remains unspent in the Partnerships for Success Fund (Fund 5BH) to the Children's Trust Fund (Fund 198).

#### **FEDERAL JUVENILE JUSTICE PROGRAM TRANSFER FROM THE OFFICE OF CRIMINAL JUSTICE SERVICES TO THE DEPARTMENT OF YOUTH SERVICES**

Any business relating to the funds associated with the Office of Criminal Justice Services' appropriation item 196-602, Criminal Justice Federal Programs, commenced but not completed by the Office of Criminal Justice Services or its director shall be completed by the Department of Youth Services or its director in the same manner, and with the same effect, as if completed by the Office of Criminal Justice Services or its director. No validation, cure, right, privilege, remedy, obligation, or liability is lost or impaired by reason of the transfer and shall be administered by the Department of Youth Services.

Any action or proceeding against the Office of Criminal Justice Services pending on the effective date of this section shall not be affected by the transfer of responsibility to the Department of Youth Services, and shall be prosecuted or defended in the name of the Department of Youth Services or its director. In all such actions and proceedings, the Department of Youth Services or its director upon application of the court shall be substituted as party.

#### **SECTION 303.03. EXPENDITURES AND APPROPRIATION INCREASES APPROVED BY THE CONTROLLING BOARD**

Any money that the Controlling Board approves for expenditure or any increase in appropriation authority that the Controlling Board approves under sections 127.14, 131.35, and 131.39 of the Revised Code or any other provision of law is hereby appropriated for the period ending June 30, 2007.

#### **SECTION 303.06. PERSONAL SERVICE EXPENSES**

Unless otherwise prohibited by law, any appropriation from which personal service expenses are paid shall bear the employer's share of public employees' retirement, workers' compensation, disabled workers' relief, and all group insurance programs; the costs of centralized accounting, centralized payroll processing, and related personnel reports and services; the cost of the Office of Collective Bargaining; the cost of the Personnel Board of Review; the cost of the Employee Assistance Program; the cost of the affirmative action and equal employment opportunity programs administered by the Department of Administrative Services; the costs of interagency information management infrastructure; and the cost of administering the state employee merit system as required by section 124.07 of the Revised Code. These costs shall be determined in conformity with the appropriate sections of law and paid in accordance with procedures specified by the Office of Budget and Management. Expenditures from appropriation item 070-601, Public Audit Expense - Local Government, in Fund 422 may be exempted from the requirements of this section.

#### SECTION 303.09. RE-ISSUANCE OF VOIDED WARRANTS

In order to provide funds for the reissuance of voided warrants under section 117.47 of the Revised Code, there is hereby appropriated, out of moneys in the state treasury from the fund credited as provided in section 117.47 of the Revised Code, that amount sufficient to pay such warrants when approved by the Office of Budget and Management.

#### SECTION 303.12. SATISFACTION OF JUDGMENTS AND SETTLEMENTS AGAINST THE STATE

Except as otherwise provided in this section, an appropriation in this act or any other act may be used for the purpose of satisfying judgments, settlements, or administrative awards ordered or approved by the Court of Claims or by any other court of competent jurisdiction in connection with civil actions against the state. This authorization does not apply to appropriations to be applied to or used for payment of guarantees by or on behalf of the state, or for payments under lease agreements relating to, or debt service on, bonds, notes, or other obligations of the state. Notwithstanding any other statute to the contrary, this authorization includes appropriations from funds into which proceeds of direct obligations of the state are deposited only to the extent that the judgment, settlement, or administrative award is for, or represents, capital costs for which the appropriation may otherwise be used and is consistent with the purpose for

which any related obligations were issued or entered into. Nothing contained in this section is intended to subject the state to suit in any forum in which it is not otherwise subject to suit, and is not intended to waive or compromise any defense or right available to the state in any suit against it.

#### SECTION 303.13. CAPITAL PROJECT SETTLEMENTS

This section specifies an additional and supplemental procedure to provide for payments of judgments and settlements if the Director of Budget and Management determines, pursuant to division (C)(4) of section 2743.19 of the Revised Code, that sufficient unencumbered moneys do not exist in the particular appropriation to pay the amount of a final judgment rendered against the state or a state agency, including the settlement of a claim approved by a court, in an action upon and arising out of a contractual obligation for the construction or improvement of a capital facility if the costs under the contract were payable in whole or in part from a state capital projects appropriation. In such a case, the director may either proceed pursuant to division (C)(4) of section 2743.19 of the Revised Code or apply to the Controlling Board to increase an appropriation or create an appropriation out of any unencumbered moneys in the state treasury to the credit of the capital projects fund from which the initial state appropriation was made. The Controlling Board may approve or disapprove the application as submitted or modified. The amount of an increase in appropriation or new appropriation specified in an application approved by the Controlling Board is hereby appropriated from the applicable capital projects fund and made available for the payment of the judgment or settlement.

If the director does not make the application authorized by this section or the Controlling Board disapproves the application, and the director does not make application under division (C)(4) of section 2743.19 of the Revised Code, the director shall for the purpose of making that payment make a request to the General Assembly as provided for in division (C)(5) of that section.

#### SECTION 303.18. INCOME TAX DISTRIBUTION TO COUNTIES

There are hereby appropriated out of any moneys in the state treasury to the credit of the General Revenue Fund, which are not otherwise appropriated, funds sufficient to make any payment required by division (B)(2) of section 5747.03 of the Revised Code.

SECTION 303.21. REAPPROPRIATION OF UNEXPENDED ENCUMBERED BALANCES OF OPERATING APPROPRIATIONS

An unexpended balance of an operating appropriation or reappropriation that a state agency lawfully encumbered prior to the close of a fiscal year is reappropriated on the first day of July of the following fiscal year from the fund from which it was originally appropriated or reappropriated for the following period and shall remain available only for the purpose of discharging the encumbrance:

(A) For an encumbrance for personal services, maintenance, equipment, or items for resale, other than an encumbrance for an item of special order manufacture not available on term contract or in the open market or for reclamation of land or oil and gas wells for a period of not more than five months from the end of the fiscal year;

(B) For an encumbrance for an item of special order manufacture not available on term contract or in the open market, for a period of not more than five months from the end of the fiscal year or, with the written approval of the Director of Budget and Management, for a period of not more than twelve months from the end of the fiscal year;

(C) For an encumbrance for reclamation of land or oil and gas wells, for a period ending when the encumbered appropriation is expended or for a period of two years, whichever is less;

(D) For an encumbrance for any other expense, for such period as the director approves, provided such period does not exceed two years.

Any operating appropriations for which unexpended balances are reappropriated beyond a five-month period from the end of the fiscal year by division (B) of this section shall be reported to the Controlling Board by the Director of Budget and Management by the thirty-first day of December of each year. The report on each such item shall include the item, the cost of the item, and the name of the vendor. The report shall be updated on a quarterly basis for encumbrances remaining open.

Upon the expiration of the reappropriation period set out in divisions (A), (B), (C), or (D) of this section, a reappropriation made by this section lapses, and the Director of Budget and Management shall cancel the encumbrance of the unexpended reappropriation not later than the end of the weekend following the expiration of the reappropriation period.

Notwithstanding the preceding paragraph, with the approval of the Director of Budget and Management, an unexpended balance of an encumbrance that was reappropriated on the first day of July by this section for a period specified in division (C) or (D) of this section and that remains

encumbered at the close of the fiscal biennium is hereby reappropriated on the first day of July of the following fiscal biennium from the fund from which it was originally appropriated or reappropriated for the applicable period specified in division (C) or (D) of this section and shall remain available only for the purpose of discharging the encumbrance.

The Director of Budget and Management may correct accounting errors committed by the staff of the Office of Budget and Management, such as re-establishing encumbrances or appropriations cancelled in error, during the cancellation of operating encumbrances in November and of non-operating encumbrances in December.

If the Controlling Board approved a purchase, that approval remains in effect so long as the appropriation used to make that purchase remains encumbered.

#### SECTION 306.03. UTILITY RADIOLOGICAL SAFETY BOARD ASSESSMENTS

The maximum amounts that may be assessed against nuclear electric utilities under division (B)(2) of section 4937.05 of the Revised Code are as follows:

	FY 2006	FY 2007
Department of Agriculture		
Fund 4E4 Utility Radiological Safety	\$73,059	\$73,059
Department of Health		
Fund 610 Radiation Emergency Response	\$850,000	\$850,000
Environmental Protection Agency		
Fund 644 ER Radiological Safety	\$286,114	\$286,114
Emergency Management Agency		
Fund 657 Utility Radiological Safety	\$1,260,000	\$1,260,000

#### SECTION 312.01. TRANSFERS OF FISCAL YEAR 2005 GENERAL REVENUE FUND ENDING BALANCES

Notwithstanding divisions (B)(1)(b), (B)(2), and (C) of section 131.44 of the Revised Code, fiscal year 2005 surplus revenue shall be distributed as follows:

(A) The first \$60,000,000 of such surplus revenue shall be transferred to Fund 5AX, Public Assistance Reconciliation Fund, to pay a portion of the remaining state TANF liability to the federal government.

(B) The next \$40,000,000 of such surplus revenue shall be transferred to the Disaster Services Fund (5E2), which is hereby created in the state treasury.

(C) The next \$50,000,000 of such surplus revenue shall be transferred to Fund 021, the Public School Building Fund.

(D) Any surplus revenue in excess of the amounts distributed under divisions (A) to (C) of this section shall be transferred to the Budget Stabilization Fund.

#### SECTION 312.03. TRANSFERS TO THE GENERAL REVENUE FUND FROM NON-FEDERAL NON-GRF FUNDS

Notwithstanding any other provision of law to the contrary, during fiscal years 2006 and 2007, the Director of Budget and Management is hereby authorized to transfer cash from non-federal, non-General Revenue Fund funds that are not constitutionally restricted to the General Revenue Fund. The total amount of cash transfers made pursuant to this section to the General Revenue Fund during fiscal years 2006 and 2007 shall not exceed \$60,000,000.

#### SECTION 312.06. TRANSFERS TO THE GENERAL REVENUE FUND OF INTEREST EARNED

Notwithstanding any provision of Ohio law to the contrary, the Director of Budget and Management, through June 30, 2007, may transfer interest earned by any fund in the Central Accounting System to the General Revenue Fund. This section does not apply to funds whose source of revenue is restricted or protected by the Constitution of this state, federal tax law, or the "Cash Management Improvement Act of 1990" 104 Stat. 1058 (1990), 31 U.S.C. 6501, et. seq., as amended.

#### SECTION 312.09. BUDGET STABILIZATION FUND TRANSFERS

(A) Notwithstanding any provision of law to the contrary, through June 30, 2006, if the Director of Budget and Management determines that the estimated ending fund balance of the General Revenue Fund will be greater than the amounts assumed in this act for fiscal year 2006, the Director shall transfer at least \$50,000,000 at the end of fiscal year 2006 to the Budget Stabilization Fund, if available unobligated balances exist. This division does not apply to division (A) of Section 206.66.21, TANF TRANSFERS, of this act.

(B) Notwithstanding any provision of law to the contrary, through June 30, 2007, if the Director of Budget and Management determines that the estimated ending fund balance of the General Revenue Fund will be greater than the amounts assumed in this act for fiscal year 2007, the Director may transfer up to the excess balance to the Budget Stabilization Fund. This division does not apply to division (A) of Section 206.66.21, TANF TRANSFERS, of this act.

(C) Notwithstanding any provision of law to the contrary, through June 30, 2007, if the Director of Budget and Management determines that state revenue receipts and available fund balances in any fund other than the General Revenue Fund exceed estimated state expenditures, the Director may transfer up to the excess revenue to the Budget Stabilization Fund. This division does not apply to revenue restricted or protected by the Ohio Constitution, federal tax law or grant requirements, or the "Cash Management Improvement Act of 1990," 104 Stat. 1058 (1990), 31 U.S.C. 6501, et seq., as amended.

(D) In executing division (A) of this section and divisions (A) and (B) of Section 206.66.21, TANF TRANSFERS, it is intended that these divisions be applied and construed so that both of the transfers authorized under these divisions may be made through June 30, 2007.

(E) After making the transfers described in divisions (A) to (C) of this section, the Director of Budget and Management shall submit a report to the President of the Senate and the Speaker of the House of Representatives.

#### SECTION 312.10. TAX REFORM SYSTEM IMPLEMENTATION FUND TRANSFERS TO TAX AMNESTY PROGRAM

Notwithstanding any provision of law to the contrary, prior to June 30, 2006, the Director of Budget and Management shall transfer \$2,000,000 in cash from the Tax Reform System Implementation Fund (Fund 228) to the Tax Amnesty Promotion and Administration Fund (Fund 5BW), which is hereby created in the State Treasury. The funds shall be used to pay expenses incurred in promoting and administering the tax amnesty program run by the Department of Taxation.

After receiving the revenue receipts from the tax amnesty program, the Director of Budget and Management shall transfer the first \$2,000,000 to the Tax Reform System Implementation Fund, the next \$10,000,000 to the General Revenue Fund, and the remaining excess fund balance to the Budget Stabilization Fund.



SECTION 312.12. GRF TRANSFER TO FUND 5N4, OAKS PROJECT IMPLEMENTATION

On July 1, 2005, or as soon thereafter as possible, the Director of Budget and Management shall transfer an amount not to exceed \$675,000 in cash from the General Revenue Fund to Fund 5N4, OAKS Project Implementation. On July 1, 2006, or as soon thereafter as possible, the Director of Budget and Management shall transfer an amount not to exceed \$675,000 in cash from the General Revenue Fund to Fund 5N4, OAKS Project Implementation.

SECTION 312.15. CORPORATE AND UCC FILING FUND TRANSFER TO GRF

Not later than the first day of June in each year of the biennium, the Director of Budget and Management shall transfer \$1,000,000 from the Corporate and Uniform Commercial Code Filing Fund to the General Revenue Fund.

SECTION 312.18. GRF TRANSFER TO THE NATIONAL GUARD SCHOLARSHIP RESERVE FUND

On July 1, 2005, or as soon as possible thereafter, the Director of Budget and Management shall transfer up to \$592,000 cash from the General Revenue Fund to the National Guard Scholarship Reserve Fund (Fund 5BM).

SECTION 312.19. GRF TRANSFER TO THE PUBLIC SCHOOL BUILDING FUND

In fiscal year 2006, the Director of Budget and Management shall transfer \$30,000,000 in cash from the General Revenue Fund to Fund 021, the Public School Building Fund.

SECTION 312.21. APPROPRIATIONS RELATED TO CASH TRANSFERS AND RE-ESTABLISHMENT OF ENCUMBRANCES

Any cash transferred by the Director of Budget and Management under section 126.15 of the Revised Code is hereby appropriated. Any amounts necessary to re-establish appropriations or encumbrances under section 126.15 of the Revised Code are hereby appropriated.

SECTION 312.24. TRANSFERS FROM THE TOBACCO MASTER SETTLEMENT AGREEMENT FUND

(A) Notwithstanding section 183.02 of the Revised Code, on July 1, 2005, or as soon as possible thereafter, the Director of Budget and Management shall transfer from the Tobacco Master Settlement Agreement Fund (Fund 087) \$5,000,000 cash to the General Revenue Fund, up to \$5,000,000 cash to the Healthy Ohioans Initiative Fund (Fund 5BL in the Department of Health), \$6,000,000 cash to the Children's Hospitals Fund (Fund 5CR in the Department of Job and Family Services), and \$10,000,000 cash to the Lung Cancer and Lung Disease Research Fund (Fund 5CY in the Department of Development). Of the tobacco revenue that is credited to the Tobacco Master Settlement Agreement Fund (Fund 087) in fiscal year 2005, the share that is determined pursuant to section 183.02 of the Revised Code to be the amount transferred by the Director of Budget and Management from the Tobacco Master Settlement Agreement Fund (Fund 087) to the Tobacco Use Prevention and Cessation Trust Fund (Fund H87) shall be reduced by the amount that is transferred from the Tobacco Master Settlement Agreement Fund (Fund 087) to various funds pursuant to this division.

(B) Notwithstanding section 183.02 of the Revised Code, on July 1, 2006, or as soon as possible thereafter, the Director of Budget and Management shall transfer from the Tobacco Master Settlement Agreement Fund (Fund 087) \$6,000,000 cash to the Children's Hospitals Fund (Fund 5CR in the Department of Job and Family Services). Of the tobacco revenue that is credited to the Tobacco Master Settlement Agreement Fund (Fund 087) in fiscal year 2006, the share that is determined pursuant to section 183.02 of the Revised Code to be the amount transferred by the Director of Budget and Management from the Tobacco Master Settlement Agreement Fund (Fund 087) to the Tobacco Use Prevention and Cessation Trust Fund (Fund H87) shall be reduced by the amount that is transferred from the Tobacco Master Settlement Agreement Fund (Fund 087) pursuant to this division.

(C) Notwithstanding section 183.02 of the Revised Code, on July 1, 2006, or as soon as possible thereafter, the Director of Budget and Management shall transfer \$800,000 cash from the Tobacco Master Settlement Agreement Fund (Fund 087) to the General Revenue Fund. Of the tobacco revenue that is credited to the Tobacco Master Settlement Agreement Fund (Fund 087) in fiscal year 2006, the share that is determined pursuant to section 183.02 of the Revised Code to be the amount transferred

by the Director of Budget and Management from the Tobacco Master Settlement Agreement Fund (Fund 087) to the Ohio's Public Health Priorities Trust Fund (Fund L87) shall be reduced by the amount that is transferred from the Tobacco Master Settlement Agreement Fund (Fund 087) to the General Revenue Fund under this division.

#### SECTION 312.27. TRANSFERS TO THE EDUCATION FACILITIES TRUST FUND

Notwithstanding section 183.02 of the Revised Code, after all transfers from the Tobacco Master Settlement Agreement Fund (Fund 087) to various other funds of cash that would have otherwise been transferred to the Tobacco Use Prevention and Cessation Trust Fund (Fund H87) in fiscal year 2006 have been made, the Director of Budget and Management shall transfer the remaining balance of the funds that would otherwise be transferred to the Tobacco Use Prevention and Cessation Trust Fund in fiscal year 2006 to the Education Facilities Trust Fund (Fund N87).

Notwithstanding section 183.02 of the Revised Code, after all transfers from the Tobacco Master Settlement Agreement Fund (Fund 087) to various other funds of cash that would have otherwise been transferred to the Tobacco Use Prevention and Cessation Trust Fund (Fund H87) in fiscal year 2007 have been made, the Director of Budget and Management shall transfer the remaining balance of the funds that would otherwise be transferred to the Tobacco Use Prevention and Cessation Trust Fund in fiscal year 2007 to the Education Facilities Trust Fund (Fund N87).

#### SECTION 315.03. CONSOLIDATION OF REGULATORY BOARDS

(A) It is the intent of the General Assembly to consolidate the following health-related regulatory boards within the Department of Health not later than July 1, 2006:

- (1) The Chemical Dependency Professionals Board;
- (2) The Board of Chiropractic Examiners;
- (3) The Counselor, Social Worker, and Marriage and Family Therapist Board;
- (4) The Ohio Board of Dietetics;
- (5) The Ohio Occupational Therapy, Physical Therapy, and Athletic Trainers Board;
- (6) The Ohio Optical Dispensers Board;
- (7) The State Board of Optometry;
- (8) The State Board of Orthotics, Prosthetics, and Pedorthics;

- (9) The State Board of Psychology;
- (10) The Ohio Respiratory Care Board;
- (11) The Board of Speech-Language Pathology and Audiology;
- (12) The State Veterinary Medical Licensing Board.

(B) It is the intent of the General Assembly to consolidate the following regulatory boards and commissions within the Department of Commerce not later than July 1, 2006:

- (1) The Ohio Athletic Commission;
- (2) The Barber Board;
- (3) The State Board of Cosmetology;
- (4) The Board of Embalmers and Funeral Directors;
- (5) The Manufactured Homes Commission;
- (6) The Board of Motor Vehicle Collision Repair Registration;
- (7) The State Board of Sanitarian Registration.

(C) It is the intent of the General Assembly to consolidate the Ohio Medical Transportation Board within the Department of Public Safety not later than July 1, 2006.

(D) The Director of Budget and Management and the Directors of Administrative Services, Commerce, Health, and Public Safety shall appoint representatives to a transition team. In addition, the transition team shall include a total of three members representing the affected regulatory boards, to be selected by the executive directors of those boards.

The transition team shall develop a plan to ensure the smooth and timely consolidation of the boards into the respective departments. The transition team shall address the details of the consolidations, identifying necessary statutory changes and working with the Office of Budget and Management to develop budgets for the respective departments and the consolidated boards and commissions. The transition team may recommend additional regulatory boards or commissions to be consolidated and may recommend modifications to the planned consolidations.

The transition team shall submit a report containing recommendations and the details for the consolidations not later than December 31, 2005, to the Governor, the Speaker of the House of Representatives, and the President of the Senate. The report and recommendations shall address the following issues, and may address additional issues:

- (1) The necessary levels of funding;
- (2) The savings projected as a result of the consolidations;
- (3) The consolidation of activities between each board or commission and the department providing centralized services, including the role of the members of the board or commission and the role of the department;

(4) The staffing levels needed, whether employees must be retained, and whether any employees retained have civil service status;

(5) The continuation of the standards and procedures of the board or commission;

(6) The continuation of rules and whether any rules need to be amended as a result of the consolidations;

(7) The transfer of assets, liabilities, and contractual obligations;

(8) The transfer of records and other materials pertaining to the board or commission.

(E) It is the intent of the General Assembly to introduce a bill in fiscal year 2006 that will include the necessary statutory changes to effect the consolidations and that will include revised appropriations for the departments and the consolidated boards and commissions for fiscal year 2007.

#### SECTION 315.04. RECOMMENDATIONS FOR A STATE GOVERNMENT REORGANIZATION PLAN

Within thirty days after the effective date of this section, the Department of Administrative Services shall begin developing recommendations for a state government reorganization plan focused on increased efficiencies in the operation of state government and a reduced number of state agencies. The Department shall present its recommendations to the Speaker of the House of Representatives, the President of the Senate, the Minority Leader of the House of Representatives, and the Minority Leader of the Senate by not later than January 1, 2007.

#### SECTION 315.06. CAREER-TECHNICAL SCHOOL BUILDING ASSISTANCE PROGRAM

All materials, assets, liabilities, and records of the Department of Education, irrespective of form or medium, deemed necessary by the Ohio School Facilities Commission to implement sections 3318.47, 3318.48, and 3318.49 of the Revised Code shall be transferred to the Commission not later than one hundred twenty days after the effective date of this section, in accordance with a transition plan which shall be developed and approved by the Commission in consultation with the Department.

All current and pending loans and appropriations, encumbrances, and funds related to the Career-Technical School Building Assistance Fund (Fund 020), deemed necessary by the Commission to implement section 3318.48 of the Revised Code, shall be transferred to the Commission not

later than one hundred twenty days after the effective date of this section in accordance with the transition plan.

Any business commenced but not completed by the Department on the effective date of this section relating to the implementation of section 3318.48 of the Revised Code and the functions transferred by this section shall continue to be administered by the Department for a period of one hundred twenty days after the effective date of this section or until the transition plan described in this section is approved by the Commission, whichever occurs first. The Department shall provide the Commission whatever administrative assistance the Commission requires during the period of transition, which assistance shall be specified in the transition plan described in this section.

Wherever any law, contract, or other document refers to the Department, the State Board of Education, or the Superintendent of Public Instruction in regard to the implementation or administration of section 3318.48 of the Revised Code, the references shall be deemed to refer to the Commission or the Director of the Commission. No action or proceeding pending on the effective date of this section relating to the implementation or administration of Chapter 3318. of the Revised Code is affected by the transfer. In all such actions and proceedings, the Commission or the Director shall be substituted as a party upon application by the receiving entity to the court or other appropriate tribunal.

#### SECTION 315.09. ELIMINATION OF THE OHIO EDUCATIONAL TELECOMMUNICATIONS NETWORK COMMISSION

(A) Effective July 1, 2005, the Ohio Educational Telecommunications Network Commission is abolished and its functions, assets, and liabilities, including but not limited to vehicles and equipment assigned to employees of the Commission and records of the Commission regardless of form or medium, are transferred to the eTech Ohio Commission. The eTech Ohio Commission is thereupon and thereafter successor to, assumes the obligations of, and otherwise constitutes the continuation of the Ohio Educational Telecommunications Network Commission. The functions of the Executive Director of the Ohio Educational Telecommunications Network Commission are thereupon and thereafter transferred to the Executive Director of the eTech Ohio Commission.

Any business commenced but not completed by the Ohio Educational Telecommunications Network Commission or the Executive Director of the Ohio Educational Telecommunications Network Commission on July 1, 2005, shall be completed by the eTech Ohio Commission or the Executive

Director of the eTech Ohio Commission, respectively, in the same manner, and with the same effect, as if completed by the Ohio Educational Telecommunications Network Commission or the Executive Director of the Ohio Educational Telecommunications Network Commission. No validation, cure, right, privilege, remedy, obligation, or liability is lost or impaired by reason of the transfer required under this section and shall be administered by the eTech Ohio Commission. All of the Ohio Educational Telecommunications Network Commission's rules, orders, and determinations continue in effect as rules, orders, and determinations of the eTech Ohio Commission, until modified or rescinded by the eTech Ohio Commission. If necessary to ensure the integrity of the Administrative Code, the Director of the Legislative Service Commission shall renumber the Ohio Educational Telecommunications Network Commission's rules to reflect their transfer to the eTech Ohio Commission.

(B) Employees of the Ohio Educational Telecommunications Network Commission shall be transferred to the eTech Ohio Commission or dismissed. Employees of the Ohio Educational Telecommunications Network Commission so dismissed cease to hold their positions of employment on July 1, 2005.

(C) No judicial or administrative action or proceeding in which the Ohio Educational Telecommunications Network Commission or the Executive Director of the Commission is a party that is pending on July 1, 2005, is affected by the transfer of functions under division (A) of this section. Such action or proceeding shall be prosecuted or defended in the name of the eTech Ohio Commission. On application to the court or other tribunal, the eTech Ohio Commission shall be substituted for the Executive Director of the Ohio Educational Telecommunications Network or the Commission as a party to such action or proceeding.

(D) On and after July 1, 2005, when the Ohio Educational Telecommunications Network Commission or the Executive Director of the Ohio Educational Telecommunications Network Commission is referred to in any statute, rule, contract, grant, or other document, the reference is hereby deemed to refer to the eTech Ohio Commission or the Executive Director of the eTech Ohio Commission, respectively.

#### SECTION 315.10. ELIMINATION OF THE OHIO SCHOOLNET COMMISSION

(A) Effective July 1, 2005, the Ohio SchoolNet Commission is abolished and its functions, assets, and liabilities, including, but not limited to, vehicles and equipment assigned to employees of the Commission and

records of the Commission regardless of form or medium, are transferred to the eTech Ohio Commission. The eTech Ohio Commission is thereupon and thereafter successor to, assumes the obligations of, and otherwise constitutes the continuation of the Ohio SchoolNet Commission. The functions of the Executive Director of the Ohio SchoolNet Commission are thereupon and thereafter transferred to the Executive Director of the eTech Ohio Commission.

Any business commenced but not completed by the Ohio SchoolNet Commission or the Executive Director of the Ohio SchoolNet Commission on July 1, 2005, shall be completed by the eTech Ohio Commission or the Executive Director of the eTech Ohio Commission, respectively, in the same manner, and with the same effect, as if completed by the Ohio SchoolNet Commission or the Executive Director of the Ohio SchoolNet Commission. No validation, cure, right, privilege, remedy, obligation, or liability is lost or impaired by reason of the transfer required under this section and shall be administered by the eTech Ohio Commission. All of the Ohio SchoolNet Commission's rules, orders, and determinations continue in effect as rules, orders, and determinations of the eTech Ohio Commission, until modified or rescinded by the eTech Ohio Commission. If necessary to ensure the integrity of the Administrative Code, the Director of the Legislative Service Commission shall renumber the Ohio SchoolNet Commission's rules to reflect their transfer to the eTech Ohio Commission.

(B) Employees of the Ohio SchoolNet Commission shall be transferred to the eTech Ohio Commission or dismissed. Employees of the Ohio SchoolNet Commission so dismissed cease to hold their positions of employment on July 1, 2005.

(C) No judicial or administrative action or proceeding in which the Ohio SchoolNet Commission or the Executive Director of the Commission is a party that is pending on July 1, 2005, is affected by the transfer of functions under division (A) of this section. Such action or proceeding shall be prosecuted or defended in the eTech Ohio Commission. On application to the court or other tribunal, the eTech Ohio Commission shall be substituted for the Executive Director of the Ohio SchoolNet Commission as a party to such action or proceeding.

(D) On and after July 1, 2005, when the Ohio SchoolNet Commission or the Executive Director of the Ohio SchoolNet Commission is referred to in any statute, rule, contract, grant, or other document, the reference is hereby deemed to refer to the eTech Ohio Commission or the Executive Director of the eTech Ohio Commission, respectively.

(E) If the Department of Education receives any expenditure and



program reports for fiscal year 2005 for programs that were administered by the Ohio SchoolNet Commission during that fiscal year, the Department shall forward those reports to the eTech Ohio Commission by September 30, 2005.

#### SECTION 315.11. TRANSFER OF FUNDS TO THE AGENCIES

On and after July 1, 2005, notwithstanding any provision of law to the contrary, the Director of Budget and Management is authorized to take the actions described in this section with respect to budget changes made necessary by administrative reorganization, program transfers, the creation of new funds, and the consolidation of funds as authorized by this act. The Director may make any transfer of cash balances between funds. At the request of the Director, the Ohio Educational Telecommunications Network Commission and the Ohio SchoolNet Commission shall certify to the Director an estimate of the amount of the cash balance to be transferred to the receiving funds. The Director may transfer the estimated amount when needed to make payments. Not more than thirty days after certifying the estimated amount, the Commissions shall certify the final amount to the Director. The Director shall transfer the difference between any amount previously transferred and the certified final amount. The Director may cancel encumbrances and re-establish encumbrances or parts of encumbrances as needed in fiscal year 2006 in the appropriate funds and appropriation items for the same purposes. The appropriation authority necessary to re-establish such encumbrances in fiscal year 2006 as determined by the Director, in a different fund or appropriation item, within an agency or between agencies, is hereby appropriated. When re-established encumbrances or parts of re-established encumbrances are cancelled, the Director shall reduce the appropriations for these respective funds and appropriation items by the amount of the encumbrances cancelled. The amounts cancelled are hereby authorized. Any fiscal year 2005 unencumbered or unallotted appropriation balances may be transferred to the appropriate funds and appropriation items to be used for the same purposes, as determined by the Director. The amounts transferred are hereby appropriated.

SECTION 316.03. (A) On July 1, 2005, or as soon as possible thereafter, the Speaker of the House of Representatives, the President of the Senate, and the Governor, with the advice and consent of the Senate, shall appoint members to the eTech Ohio Commission as required by section 3353.02 of

the Revised Code, as enacted by this act. On July 1, 2005, or as soon as possible thereafter, the Governor shall appoint a chairperson of the Commission as required by section 3353.02 of the Revised Code. Notwithstanding division (F) of that section, the initial chairperson appointed by the Governor shall serve until July 1, 2006, at which time the Governor shall appoint a chairperson in accordance with that section.

(B) Notwithstanding section 3353.03 of the Revised Code, as enacted by this act, the Governor, with the advice and consent of the Senate, shall appoint an interim executive director of the Commission on July 1, 2005, or as soon as possible thereafter. The interim executive director shall serve for one year or until the Commission appoints an executive director pursuant to that section, whichever is earlier. The Governor shall fix the compensation of the interim executive director. The interim executive director shall exercise any authority provided by law to the executive director of the Commission or delegated to the interim executive director by the Commission.

(C) Notwithstanding any provision of law to the contrary, the Director of Budget and Management, or the Director's designee, may do both of the following:

(1) Exercise any authority provided by law to the eTech Ohio Commission until Commission members hold their first meeting following their appointment under this section;

(2) Exercise any authority provided by law to the executive director of the Commission, or delegated to the Director of Budget and Management, or the Director's designee, by the Commission, until an interim executive director of the Commission is appointed under this section.

#### SECTION 318.03. GENERAL OBLIGATION DEBT SERVICE PAYMENTS

Certain appropriations are in this act for the purpose of paying debt service and financing costs on general obligation bonds or notes of the state issued pursuant to the Ohio Constitution and acts of the General Assembly. If it is determined that additional appropriations are necessary for this purpose, such amounts are hereby appropriated.

#### SECTION 318.06. LEASE PAYMENTS TO OPFC, OBA, AND TREASURER OF STATE

Certain appropriations are in this act for the purpose of making lease payments pursuant to leases and agreements relating to bonds or notes issued by the Ohio Building Authority or the Treasurer of State or, previously, by the Ohio Public Facilities Commission, pursuant to the Ohio Constitution and acts of the General Assembly. If it is determined that additional appropriations are necessary for this purpose, such amounts are hereby appropriated.

**SECTION 318.09. AUTHORIZATION FOR TREASURER OF STATE AND OBM TO EFFECTUATE CERTAIN DEBT SERVICE PAYMENTS**

The Office of Budget and Management shall initiate and process disbursements from general obligation and lease rental payment appropriation items during the period from July 1, 2005, to June 30, 2007, relating to bonds or notes issued under Sections 2i, 2k, 2l, 2m, 2n, 2o, and 15 of Article VIII, Ohio Constitution, and Chapters 151. and 154. of the Revised Code. Disbursements shall be made upon certification by the Treasurer of State of the dates and the amounts due on those dates.

**SECTION 318.12. ISSUANCE OF OBLIGATIONS BY THE OHIO COAL DEVELOPMENT OFFICE**

The Ohio Public Facilities Commission, upon the request of the Director of the Ohio Coal Development Office of the Ohio Air Quality Development Authority with the advice of the Technical Advisory Committee created in section 1551.35 of the Revised Code and the approval of the Executive Director of the Ohio Air Quality Development Authority, is hereby authorized to issue and sell, in accordance with Section 15 of Article VIII, Ohio Constitution, and Chapter 151. and particularly sections 151.01 and 151.07 of the Revised Code, bonds and other obligations of the State of Ohio in an aggregate principal amount not to exceed \$15,000,000 in addition to the issuance of obligations heretofore authorized by prior acts of the General Assembly. The obligations shall be dated, issued, and sold from time to time in such amounts as may be necessary to provide sufficient moneys to the credit of the Coal Research and Development Fund created in section 1555.15 of the Revised Code to pay costs charged to the fund when due.

**SECTION 321.03. STATE AND LOCAL REBATE AUTHORIZATION**

There is hereby appropriated, from those funds designated by or

pursuant to the applicable proceedings authorizing the issuance of state obligations, amounts computed at the time to represent the portion of investment income to be rebated or amounts in lieu of or in addition to any rebate amount to be paid to the federal government in order to maintain the exclusion from gross income for federal income tax purposes of interest on those state obligations under section 148(f) of the Internal Revenue Code.

Rebate payments shall be approved and vouchered by the Office of Budget and Management.

#### SECTION 321.06. FEDERAL CASH MANAGEMENT IMPROVEMENT ACT

Pursuant to the plan for compliance with the Federal Cash Management Improvement Act required by section 131.36 of the Revised Code, the Director of Budget and Management may cancel and re-establish all or part of encumbrances in like amounts within the funds identified by the plan. The amounts necessary to re-establish all or part of encumbrances are hereby appropriated.

#### SECTION 321.09. STATEWIDE INDIRECT COST RECOVERY

Whenever the Director of Budget and Management determines that an appropriation made to a state agency from a fund of the state is insufficient to provide for the recovery of statewide indirect costs under section 126.12 of the Revised Code, the amount required for such purpose is hereby appropriated from the available receipts of such fund.

#### SECTION 321.10. GRF TRANSFERS ON BEHALF OF THE STATEWIDE INDIRECT COST ALLOCATION PLAN

The total transfers made from the General Revenue Fund by the Director of Budget and Management under this section shall not exceed the amounts transferred into the General Revenue Fund under division (B) of section 126.12 of the Revised Code.

The director of an agency may certify to the Director of Budget and Management the amount of expenses not allowed to be included in the Statewide Indirect Cost Allocation Plan under federal regulations, from any fund included in the Statewide Indirect Cost Allocation Plan, prepared as required by section 126.12 of the Revised Code.

Upon determining that no alternative source of funding is available to pay for such expenses, the Director of Budget and Management may

transfer from the General Revenue Fund into the fund for which the certification is made, up to the amount of the certification. The director of the agency receiving such funds shall include, as part of the next budget submission prepared under section 126.02 of the Revised Code, a request for funding for such activities from an alternative source such that further federal disallowances would not be required.

#### SECTION 321.11. FEDERAL GOVERNMENT INTEREST REQUIREMENTS

Notwithstanding any provision of law to the contrary, on or before the first day of September of each fiscal year, the Director of Budget and Management, in order to reduce the payment of adjustments to the federal government, as determined by the plan prepared under division (A) of section 126.12 of the Revised Code, may designate such funds as the director considers necessary to retain their own interest earnings.

SECTION 401.05. That Sections 16.09, 19.01, 20.01, 22.03, 22.04, 23.02, 23.12, 23.13, 23.19, 23.26, 23.45, and 24.01 of Am. Sub. H.B. 16 of the 126th General Assembly be amended to read as follows:

		Appropriations
Sec. 16.09. OSB SCHOOL FOR THE BLIND		
CAP-774 Glass Windows/E Wall of Natatorium	\$	63,726
CAP-775 Renovation of Science Lab Greenhouse	\$	58,850
CAP-776 Renovating Recreation Area	\$	213,900
CAP-777 New Classrooms for Secondary MH Program	\$	880,407
CAP-778 Renovation of Student Health Service Area	\$	144,375
CAP-779 Replacement of Cottage Windows	\$	208,725
CAP-780 New School Lighting	\$	184,500
<u>782</u>		
CAP-781 Food Prep. Area Air Conditioning	\$	67,250
Total School for the Blind	\$	1,821,733

Sec. 19.01. All items set forth in this section are hereby appropriated out of any moneys in the state treasury to the credit of the Cultural and Sports Facilities Building Fund (Fund 030) that are not otherwise appropriated.

		Appropriations
AFC CULTURAL FACILITIES COMMISSION		
CAP-010 Sandusky State Theatre Improvements	\$	325,000
CAP-013 Stambaugh Hall Improvements	\$	250,000

CAP-033	Woodward Opera House Renovation	\$	100,000
CAP-038	Center Exhibit Replacement	\$	816,000
CAP-043	Statewide Site Repairs	\$	100,000
CAP-044	National Underground Railroad Freedom Center	\$	4,150,000
CAP-046	Cincinnati Museum Center Improvements	\$	250,000
CAP-052	Akron Art Museum	\$	1,012,500
CAP-053	Powers Auditorium Improvements - Eleanor Beecher Flad Pavilion	\$	250,000
CAP-065	Beck Center for the Cultural Arts	\$	100,000
CAP-069	Cleveland Institute of Art	\$	250,000
CAP-071	Cleveland Institute of Music	\$	750,000
CAP-073	Marina District/Ice Arena Development	\$	3,500,000
CAP-074	Stan Hywet Hall & Gardens - West Vista Restoration	\$	750,000
CAP-745	Emergency Repairs	\$	838,560
CAP-769	Rankin House State Memorial	\$	192,000
CAP-781	Archives and Library Automation	\$	624,000
CAP-784	Center Rehabilitation	\$	960,000
CAP-806	Grant Boyhood Home Improvements	\$	480,000
CAP-812	Schuster Arts Center	\$	5,500,000
CAP-823	Marion Palace Theatre	\$	750,000
CAP-826	Renaissance Theatre	\$	750,000
CAP-834	Galion Historic Big Four Depot Restoration	\$	170,000
CAP-835	Jamestown Opera House	\$	125,000
CAP-844	Charles A. Eulett Education Center/Edge of Appalachia Museum Center	\$	1,850,000
CAP-845	Lima Historic Athletic Field	\$	100,000
CAP-846	Butler Palace Theatre	\$	<del>100,000</del> 200,000
CAP-847	Voice of America Museum	\$	275,000
CAP-848	Oxford Arts Center ADA Project	\$	72,000
CAP-849	Clark County Community Arts Expansion Project	\$	500,000
CAP-850	Westcott House Historic Site	\$	75,000
CAP-851	General Lytle Homestead - Harmony Hill	\$	50,000
CAP-852	Miami Township Community Amphitheatre	\$	50,000
CAP-853	Western Reserve Historical Society	\$	1,000,000
CAP-854	Steamship Mather Museum	\$	100,000
CAP-855	Rock and Roll Hall of Fame	\$	250,000
CAP-856	Friendly Inn Settlement House Historic Site	\$	250,000
CAP-857	Merrick House Historic Site	\$	250,000
CAP-858	Strongsville Historic Building	\$	100,000
CAP-859	Arts Castle	\$	100,000
CAP-860	Great Lakes Historical Society	\$	325,000
CAP-861	Ohio Glass Museum	\$	250,000
CAP-862	Goll Wood Homestead	\$	50,000
CAP-863	Ariel Theatre	\$	100,000
CAP-864	Bellbrook/Sugarcreek Historical Society	\$	10,000
<del>CAP-865</del>	<del>Kennedy Stone House</del>	\$	<del>15,000</del>
CAP-866	Sports Facilities Improvements - Cincinnati	\$	4,350,000
CAP-867	Ensemble Theatre	\$	450,000
CAP-868	Taft Museum	\$	500,000
CAP-869	Art Academy of Cincinnati	\$	100,000
CAP-870	Riverbend Pavilion Improvements	\$	250,000
CAP-871	Cincinnati Art & Technology Academy - Longworth Hall	\$	100,000
CAP-872	Music Hall: Over-The-Rhine	\$	750,000

CAP-873	John Bloomfield Home Restoration	\$	115,000
CAP-874	Malinta Historical Society Caboose Exhibit	\$	6,000
CAP-875	Hocking County Historical Society - Schempp House	\$	10,000
CAP-876	Art Deco Markay Theater	\$	200,000
CAP-877	Harvey Wells House	\$	100,000
CAP-878	Bryn Du	\$	250,000
CAP-879	Broad Street Historical Renovation	\$	300,000
CAP-880	Amherst Historical Society	\$	35,000
CAP-881	COSI - Toledo	\$	1,900,000
CAP-882	Ohio Theatre - Toledo	\$	100,000
CAP-883	Chester Academy Historic Site Renovations	\$	25,000
CAP-884	Bradford Ohio Railroad Museum	\$	100,000
CAP-885	Montgomery County Historical Society Archives	\$	100,000
CAP-886	Nelson T. Gant Historic Homestead	\$	25,000
CAP-887	Aurora Outdoor Sports Complex	\$	50,000
CAP-888	Preble County Historical Society	\$	100,000
CAP-889	Tecumseh Sugarloaf Mountain Amphitheatre	\$	120,000
CAP-890	Pro Football Hall of Fame	\$	400,000
CAP-891	MAPS Air Museum	\$	15,000
CAP-892	Foundation Community Theatre Theatre	\$	50,000
CAP-893	William McKinley Library Restoration	\$	250,000
CAP-894	Hale Farm & Village	\$	250,000
<del>CAP-895</del>	<del>Blossom Music Center</del>	\$	<del>2,512,500</del>
CAP-896	Richard Howe House	\$	100,000
CAP-897	Ward-Thomas Museum	\$	30,000
CAP-898	Packard Music Hall Renovation Project	\$	100,000
CAP-899	Holland Theatre	\$	100,000
CAP-900	Van Wert Historical Society	\$	32,000
CAP-901	Warren County Historical Society	\$	225,000
CAP-902	Marietta Colony Theatre	\$	335,000
CAP-903	West Salem Village Opera House	\$	92,000
CAP-904	Beavercreek Community Theater	\$	100,000
CAP-905	Smith Orr Homestead	\$	100,000
Total Cultural Facilities Commission		\$	<del>43,592,560</del>
			<u>41,165,060</u>
TOTAL Cultural and Sports Facilities Building Fund		\$	<del>43,592,560</del>
			<u>41,165,060</u>

Sec. 20.01. All items set forth in this section are hereby appropriated out of any moneys in the state treasury to the credit of the Ohio Parks and Natural Resources Fund (Fund 031) that are not otherwise appropriated.

#### Appropriations

#### DNR DEPARTMENT OF NATURAL RESOURCES STATEWIDE AND LOCAL PROJECTS

CAP-012	Land Acquisition	\$	750,000
CAP-051	Buck Creek State Park - Camp/Dock Renovations	\$	25,000
CAP-060	East Fork State Park Renovation	\$	50,000
<u>CAP-068</u>	<u>Kennedy Stone House</u>	<u>\$</u>	<u>15,000</u>
CAP-080	Atwood Lake Conservancy District	\$	75,000
CAP-083	John Bryan State Park Shelter Construction	\$	30,000
CAP-084	Findley State Park General Improvements	\$	12,500
<del>CAP-085</del>	<del>The Wilds Carnivore Center</del>	<del>\$</del>	<del>1,000,000</del>
CAP-086	Scippo Creek Conservation	\$	75,000

CAP-087	Belpre City Swimming Pool	\$	125,000
CAP-705	Ohio-Erie Canal Tuscarawas River Logjam Removal	\$	25,000
CAP-748	Local Parks Projects - Statewide	\$	2,511,079
CAP-753	Project Planning	\$	1,144,316
CAP-881	Dam Rehabilitation	\$	5,000,000
CAP-931	Wastewater/Water Systems Upgrades	\$	2,900,000
Total Statewide and Local Projects		\$	<del>13,722,895</del>
			<u>12,737,895</u>
Total Department of Natural Resources		\$	<del>13,722,895</del>
			<u>12,737,895</u>
TOTAL Ohio Parks and Natural Resources Fund		\$	<del>13,722,895</del>
			<u>12,737,895</u>

## Appropriations

## Sec. 22.03. DMH DEPARTMENT OF MENTAL HEALTH

CAP-479	Community Assistance Projects	\$	<del>1,800,000</del>
			<u>1,950,000</u>
CAP-978	Infrastructure Improvements	\$	8,050,000
<del>CAP-989</del>	<del>Cleveland Christian Home</del>	\$	<del>100,000</del>
Total Department of Mental Health		\$	<del>9,950,000</del>
			<u>10,000,000</u>

## COMMUNITY ASSISTANCE PROJECTS

Of the foregoing appropriation item CAP-479, Community Assistance Projects, \$200,000 shall be used for the Center for Families and Children, \$100,000 shall be used for the Cleveland Christian Home, and \$100,000 \$150,000 shall be used for the Berea Children's Home.

## Appropriations

## Sec. 22.04. DMR DEPARTMENT OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES

## STATEWIDE AND CENTRAL OFFICE PROJECTS

CAP-480	Community Assistance Projects	\$	9,475,000
CAP-955	Statewide Development Centers	\$	3,257,257
Total Statewide and Central Office Projects		\$	12,732,257
TOTAL Department of Mental Retardation and Developmental Disabilities		\$	12,732,257
TOTAL MENTAL HEALTH FACILITIES IMPROVEMENT FUND		\$	22,782,257

## COMMUNITY ASSISTANCE PROJECTS

The foregoing appropriation item CAP-480, Community Assistance Projects, may be used to provide community assistance funds for the development, purchase, construction, or renovation of facilities for day programs or residential programs that provide services to persons eligible for services from the Department of Mental Retardation and Developmental Disabilities or county boards of mental retardation and developmental disabilities. Any funds provided to nonprofit agencies for the construction or renovation of facilities for persons eligible for services from the Department of Mental Retardation and Developmental Disabilities and county boards of mental retardation and developmental disabilities shall be governed by the



prevailing wage provisions in section 176.05 of the Revised Code.

Of the foregoing appropriation item CAP-480, \$200,000 shall be used for the Achievement Centers for Children; and \$250,000 shall be used for Bellefaire Jewish Children's Bureau;.

Notwithstanding any other provision of law to the contrary, of the foregoing appropriation item CAP-480, \$250,000 shall be used for the Julie Billart facility; and \$75,000 shall be used for the Hanson Home.

#### Appropriations

#### Sec. 23.02. ~~OEB OHIO EDUCATIONAL TELECOMMUNICATIONS NETWORK COMMISSION ETC ETECH OHIO~~

CAP-001	Educational TV and Radio Equipment	\$	1,027,038
Total	<del>Ohio Educational Telecommunications Network Commission</del> <u>eTech Ohio</u>	\$	1,027,038

#### Appropriations

#### Sec. 23.12. CLS CLEVELAND STATE UNIVERSITY

CAP-023	Basic Renovations	\$	3,267,875
CAP-125	College of Education Building	\$	8,057,262
<del>CAP-130</del>	<del>WVIZ Technology Center/Playhouse Square</del>	<del>\$</del>	<del>750,000</del>
CAP-152	Rhodes Tower-Data Center Relocation	\$	1,000,000
CAP-153	University Annex-Vacation and Demolition	\$	49,390
CAP-154	Main Classroom Stair Tower & Entry	\$	1,500,000
CAP-155	Cleveland Playhouse	\$	250,000
CAP-156	Physical Education Building Rehabilitation	\$	1,000,000
Total	Cleveland State University	\$	<del>15,874,527</del> <u>15,124,527</u>

#### Appropriations

#### Sec. 23.13. KSU KENT STATE UNIVERSITY

CAP-022	Basic Renovations	\$	3,573,078
CAP-105	Basic Renovations-East Liverpool	\$	151,408
CAP-106	Basic Renovations-Geauga	\$	45,607
CAP-107	Basic Renovations-Salem	\$	105,640
CAP-108	Basic Renovations-Stark	\$	325,358
CAP-110	Basic Renovations-Ashtabula	\$	177,801
CAP-111	Basic Renovations-Trumbull	\$	347,695
CAP-112	Basic Renovations-Tuscarawas	\$	171,699
CAP-212	Health Science Building, Planning	\$	705,720
CAP-235	Rehabilitation of Franklin Hall	\$	13,923,684
CAP-260	Land Acquisitions & Improvements-East Liverpool	\$	638,419
CAP-261	Addition/Renovation of Classrooms-Geauga	\$	246,878
CAP-262	Gym Renovation Planning-Salem	\$	490,213
CAP-263	Parking Lot & Roadway Paving-Stark	\$	162,076
CAP-264	Fine Arts Building & New Campus Center-Stark	\$	1,000,000
CAP-265	Science Lab Addition-Trumbull	\$	991,786
CAP-266	Fine & Performing Arts Center - Tuscarawas	\$	844,655
CAP-267	Columbiana County Port Authority	\$	875,000
CAP-268	Canton Convention Center	\$	735,000
<u>CAP-269</u>	<u>Blossom Music Center</u>	<u>\$</u>	<u>2,512,500</u>
Total	Kent State University	\$	<del>25,511,717</del> <u>28,024,217</u>

## Sec. 23.19. WSU WRIGHT STATE UNIVERSITY

CAP-015	Basic Renovations	\$	2,752,255
CAP-064	Basic Renovations - Lake	\$	91,232
CAP-115	Russ Engineering Expansion	\$	369,000
CAP-116	Rike Hall Renovation	\$	2,000,000
CAP-119	Science Lab Renovations (Planning)	\$	5,720,940
CAP-120	Lake Campus University Center	\$	1,420,709
CAP-127	Rehabilitate Festival Playhouse	\$	1,000,000
CAP-128	Glenn Helen Preserve Eco Art Classroom	\$	25,000
<u>CAP-132</u>	<u>Montgomery County Port Authority</u>	<u>\$</u>	<u>1,000,000</u>
Total Wright State University		\$	<del>13,379,136</del> 14,379,136

MONTGOMERY COUNTY PORT AUTHORITY

Appropriation item CAP-132, Montgomery County Port Authority, shall not be released unless the Controlling Board approves the release, and, within 90 days after the effective date of this amendment, Wright State University shall seek the Controlling Board's approval to release the funds appropriated to CAP-132, Montgomery County Port Authority.

## Sec. 23.26. CCC CUYAHOGA COMMUNITY COLLEGE

		Appropriations	
CAP-031	Basic Renovations	\$	2,428,960
CAP-079	Cleveland Art Museum Improvements	\$	3,000,000
CAP-094	Collegewide Wayfinding Signage System	\$	1,067,510
CAP-095	Collegewide Asset Protection and Building Codes Upgrade	\$	1,491,522
CAP-096	Health Care Technology Building - Eastern	\$	6,050,264
<u>CAP-097</u>	<u>WVIZ Technology Center/Playhouse Square</u>	<u>\$</u>	<u>750,000</u>
Total Cuyahoga Community College		\$	<del>14,038,256</del> 14,788,256

## Sec. 23.45. STC STARK TECHNICAL COLLEGE

CAP-004	Basic Renovations	\$	438,295
CAP-035	Business Technologies Addition Rehabilitation	\$	1,378,892
CAP-037	Fuel Cell Initiative	\$	250,000
Total Stark Technical College		\$	2,067,187
Total Board of Regents and State Institutions of Higher Education		\$	<del>488,343,998</del> 490,956,498
TOTAL Higher Education Improvement Fund		\$	<del>489,371,036</del> 492,883,536

Sec. 24.01. All items set forth in this section are hereby appropriated out of any moneys in the state treasury to the credit of the Parks and Recreation Improvement Fund (Fund 035) that are not otherwise appropriated.

## Appropriations

## DNR DEPARTMENT OF NATURAL RESOURCES

CAP-004	Burr Oak Lodge	\$	150,000
CAP-012	Land Acquisition	\$	243,663
<u>CAP-085</u>	<u>The Wilds Carnivore Center</u>	<u>\$</u>	<u>1,000,000</u>
<del>CAP-088</del>	<del>Muskingum River Lock and Dam</del>	<del>\$</del>	<del>250,000</del>

<u>CAP-716</u>			
CAP-234	State Park Campgrounds, Cabins, and Lodges	\$	2,712,500
CAP-331	Park Boating Facilities	\$	7,588,383
CAP-701	Buckeye Lake State Park - Dam Rehabilitation	\$	4,000,000
CAP-718	Grand Lake St. Mary's State Park Erosion Control Project	\$	450,000
CAP-748	Local Park Projects	\$	2,715,000
CAP-753	Project Planning	\$	175,000
CAP-848	Hazardous Dam Repair - Statewide	\$	1,325,000
CAP-876	Statewide Trails	\$	<del>1,101,500</del> <u>1,851,500</u>
CAP-931	Statewide Wastewater/Water Systems Upgrade	\$	2,500,000
Total Department of Natural Resources		\$	<del>23,211,046</del> <u>24,961,046</u>
TOTAL Parks and Recreation Improvement Fund		\$	<del>23,211,046</del> <u>24,961,046</u>

#### FEDERAL REIMBURSEMENT

All reimbursements received from the federal government for any expenditures made pursuant to this section shall be deposited in the state treasury to the credit of the Parks and Recreation Improvement Fund (Fund 035).

#### LOCAL PARKS PROJECTS

Of the foregoing appropriation item CAP-748, Local Parks Projects, \$75,000 shall be used for the Springfield Arts Veterans' Park; \$50,000 shall be used for the Village of Bentleyville Park; \$25,000 shall be used for the Cleveland Police and Firefighters Memorial Park; \$100,000 shall be used for the Parma Heights Greenbriar Park; \$125,000 shall be used for the Fairborn Park Entrance Project; \$250,000 shall be used for the Greene County Soccer Park; \$750,000 shall be used for the Banks Park; \$400,000 shall be used for the Colerain Township Park Improvements; \$200,000 shall be used for the Colerain Township Heritage Park; \$75,000 shall be used for the London Park Project; \$50,000 shall be used for Somerset Park Improvements; \$50,000 shall be used for Meadowbrook Park; \$25,000 shall be used for Early Hill Park; \$25,000 shall be used for the Wright-Flyer Aviation Park; \$200,000 shall be used for Madison Township Park; \$10,000 shall be used for the Wellington Soccer Field Park; \$10,000 shall be used for the Greenwich Township Baseball Field Park Improvements; \$20,000 shall be used for the City of London Sports Park; \$25,000 shall be used for the Pleasant Hill Park Ball Field Project; and \$250,000 shall be used for the Education Gateway at Sippo Lake Park.

#### STATEWIDE TRAILS PROGRAM

Of the foregoing appropriation item CAP-876, Statewide Trails, \$85,000 shall be used for the Williamsburg-Batavia hike/bike trail; \$16,500 shall be used for the South Milford Road Bike Trail Project; \$125,000 shall

be used for the Tri-County Triangle Trail in Fayette county; ~~\$100,00~~ \$100,000 shall be used for the Tri-County Triangle Trail in Highland County; \$125,000 shall be used for the Tri-County Triangle Trail in Ross county; \$550,000 shall be used for the Camp Chase Ohio to Erie Trail; ~~and~~ \$100,000 shall be used for the Holmes County Park District - Rails to Trails; and \$750,000 shall be used for the Little Miami Trail through the Village of Terrace Park. The state funds for the Little Miami Trail Project shall be used to undertake project work that is eligible for reimbursement under the federal Land and Water Conservation Fund and the Recreational Trails Program. The federal reimbursement funds for the project work shall be credited to the Parks and Recreation Improvement Fund (Fund 035).

SECTION 401.06. That existing Sections 16.09, 19.01, 20.01, 22.03, 22.04, 23.02, 23.12, 23.13, 23.19, 23.26, 23.45, and 24.01 of Am. Sub. H.B. 16 of the 126th General Assembly are hereby repealed.

SECTION 401.07. That Section 3 of Am. H.B. 67 of the 126th General Assembly be amended to read as follows:

Sec. 3. All items in this section are hereby appropriated out of any moneys in the state treasury to the credit of the designated fund. For all appropriations made in this act, those in the first column are for fiscal year 2006, and those in the second column are for fiscal year 2007.

FND AI	AI TITLE	Appropriations	
BWC BUREAU OF WORKERS' COMPENSATION			
Workers' Compensation Fund Group			
023	855-401	William Green Lease	\$ 19,736,600 \$ 20,125,900
		Payments to OBA	
023	855-407	Claims, Risk & Medical Management	\$ 140,052,037 \$ 140,052,037
023	855-408	Fraud Prevention	\$ 11,713,797 \$ 11,713,797
023	855-409	Administrative Services	\$ 119,246,553 \$ 119,246,553
023	855-410	Attorney General Payments	\$ 4,314,644 \$ 4,314,644
822	855-606	Coal Workers' Fund	\$ 91,894 \$ 91,894
823	855-608	Marine Industry	\$ 53,952 \$ 53,952
825	855-605	Disabled Workers Relief Fund	\$ 693,764 \$ 693,764
826	855-609	Safety & Hygiene Operating	\$ 20,130,820 \$ 20,130,820
826	855-610	Safety Grants Program	\$ 4,000,000 \$ 4,000,000
TOTAL WCF Workers' Compensation Fund Group		\$ 320,034,061	\$ 320,423,361
Federal Special Revenue Fund Group			
349	855-601	OSHA Enforcement	\$ 1,527,750 \$ 1,604,140
TOTAL FED Federal Special Revenue Fund Group		\$ 1,527,750	\$ 1,604,140
TOTAL ALL BUDGET FUND GROUPS		\$ 321,561,811	\$ 322,027,501

**WILLIAM GREEN LEASE PAYMENTS**

The foregoing appropriation item 855-401, William Green Lease Payments to OBA, shall be used for lease payments to the Ohio Building Authority, and these appropriations shall be used to meet all payments at the times they are required to be made during the period from July 1, 2005, to June 30, 2007, by the Bureau of Workers' Compensation to the Ohio Building Authority pursuant to leases and agreements made under Chapter 152. of the Revised Code and Section 6 of Am. Sub. H.B. 743 of the 118th General Assembly. Of the amounts received in Fund 023, appropriation item 855-401, William Green Lease Payments to OBA, up to \$39,862,500 shall be restricted for lease rental payments to the Ohio Building Authority. If it is determined that additional appropriations are necessary for such purpose, such amounts are hereby appropriated.

Notwithstanding any other provision of law to the contrary, all tenants of the William Green Building not funded by the Workers' Compensation Fund (Fund 023) shall pay their fair share of the costs of lease payments to the Workers' Compensation Fund (Fund 023) by intrastate transfer voucher.

**WORKERS' COMPENSATION OVERSIGHT COMMISSION**

Of the foregoing appropriation item 855-409, Administrative Services, up to \$18,000 per calendar year shall be used to pay the annual compensation of each investment expert member of the Workers' Compensation Oversight Commission, as provided in divisions (D) and (F) of section 4121.12 of the Revised Code. Each investment expert member shall also receive reasonable and necessary expenses while engaged in the performance of his or her duties, as provided in division (F) of section 4121.12 of the Revised Code.

**WORKERS' COMPENSATION FRAUD UNIT**

The Workers' Compensation Section Fund (Fund 195) shall receive payments from the Bureau of Workers' Compensation at the beginning of each quarter of each fiscal year to fund expenses of the Workers' Compensation Fraud Unit of the Attorney General's Office. Of the foregoing appropriation item 855-410, Attorney General Payments, \$773,151 in fiscal year 2006 and \$773,151 in fiscal year 2007 shall be used to provide these payments.

**SAFETY AND HYGIENE**

Notwithstanding section 4121.37 of the Revised Code, the Administrator of Workers' Compensation shall transfer moneys from the State Insurance Fund so that appropriation item 855-609, Safety and Hygiene Operating, is provided \$20,130,820 in fiscal year 2006 and \$20,130,820 in fiscal year 2007.

**LONG-TERM CARE LOAN FUND**

Upon the request of the Administrator of the Bureau of Workers' Compensation and with the advice and consent of the Bureau of Workers' Compensation Oversight Commission, the Director of Budget and Management shall transfer cash in the amounts requested from the Safety and Hygiene Operating Fund (Fund 826) to the Long-Term Care Loan Fund (Fund 829) created in section 4121.48 of the Revised Code. The amounts transferred are hereby appropriated.

**OSHA ON-SITE CONSULTATION PROGRAM**

The Bureau of Workers' Compensation may designate a portion of appropriation item 855-609, Safety and Hygiene Operating, to be used to match federal funding for the federal Occupational Safety and Health Administration's (OSHA) on-site consultation program.

**VOCATIONAL REHABILITATION**

The Bureau of Workers' Compensation and the Rehabilitation Services Commission shall enter into an interagency agreement for the provision of vocational rehabilitation services and staff to mutually eligible clients. The bureau shall provide \$587,774 in fiscal year 2006 and \$605,407 in fiscal year 2007 from the State Insurance Fund to fund vocational rehabilitation services and staff in accordance with the interagency agreement.

**FUND BALANCE**

Any unencumbered cash balance in excess of \$45,000,000 in the Workers' Compensation Fund (Fund 023) on the thirtieth day of June of each fiscal year shall be used to reduce the administrative cost rate charged to employers to cover appropriations for Bureau of Workers' Compensation operations.

**OSHA ENFORCEMENT FUND TRANSFER**

On July 1, 2005, or as soon thereafter as possible, the Director of Budget and Management shall transfer the OSHA Enforcement Fund (Fund 349) from the Department of Commerce to the Bureau of Workers' Compensation. At the request of the Director of the Department of Commerce, the Director of Budget and Management may cancel encumbrances in this fund from appropriation item 800-626, OSHA Enforcement, within the budget of the Department of Commerce, and reestablish those encumbrances or parts of those encumbrances in fiscal year 2006 for the same purpose and to the same vendor to appropriation item 855-601, OSHA Enforcement, within the budget of the Bureau of Workers' Compensation. As determined by the Director of Budget and Management, the appropriation authority necessary to reestablish encumbrances or parts of encumbrances in fiscal year 2006 for the Bureau of Workers' Compensation

is hereby granted.

SECTION 401.08. That existing Section 3 of Am. H.B. 67 of the 126th General Assembly is hereby repealed.

SECTION 401.11. That Sections 203.03, 203.03.09, 203.03.10, 203.06.06, 203.06.12, 203.06.15, and 203.06.24 of Am. Sub. H.B. 68 of the 126th General Assembly be amended to read as follows:

**Sec. 203.03. DOT DEPARTMENT OF TRANSPORTATION**

FUND	TITLE		FY 2006		FY 2007
<b>Transportation Planning and Research</b>					
<b>Highway Operating Fund Group</b>					
002	771-411	Planning and Research - State	\$ 19,000,000	\$	19,112,000
002	771-412	Planning and Research - Federal	\$ 40,000,000	\$	40,000,000
TOTAL HOF Highway Operating Fund Group			\$ 59,000,000	\$	59,112,000
<b>TOTAL ALL BUDGET FUND GROUPS - Transportation Planning and Research</b>					
			\$ 59,000,000	\$	59,112,000
<b>Highway Construction</b>					
<b>Highway Operating Fund Group</b>					
002	772-421	Highway Construction - State	\$ 585,240,305	\$	578,969,730
002	772-422	Highway Construction - Federal	\$ 1,021,500,000	\$	1,131,500,000
002	772-424	Highway Construction - Other	\$ 62,500,000	\$	53,500,000
214	770-401	Infrastructure Debt Service - Federal	\$ 80,182,400	\$	105,129,400
214	772-434	Infrastructure Lease Payments - Federal	\$ 12,537,100	\$	12,536,000
212	772-426	Highway Infrastructure Bank - Federal	\$ 1,500,000	\$	2,000,000
212	772-427	Highway Infrastructure Bank - State	<del>9,353,400</del> <u>5,353,400</u>	\$	<del>12,853,400</del> <u>8,853,400</u>
212	772-429	Highway Infrastructure Bank - Local	\$ 12,500,000	\$	12,500,000
212	772-430	Infrastructure Debt Reserve Title 23-49	\$ 1,500,000	\$	1,500,000
<u>213</u>	<u>772-431</u>	<u>Roadway Infrastructure Bank - State</u>	<u>\$ 500,000</u>	<u>\$</u>	<u>500,000</u>
213	772-432	Roadway Infrastructure Bank - Local	\$ 7,000,000	\$	7,000,000
<u>213</u>	<u>772-433</u>	<u>Infrastructure Debt Reserve - State</u>	<u>\$ 2,000,000</u>	<u>\$</u>	<u>2,000,000</u>
TOTAL HOF Highway Operating Fund Group			\$ <del>1,793,813,205</del> <u>1,792,313,205</u>	\$	<del>1,917,488,530</del> <u>1,915,988,530</u>

**Highway Capital Improvement Fund Group**

042 772-723 Highway Construction \$ 220,000,000 \$ 150,000,000

**- Bonds****Infrastructure Bank Obligations Fund Group**045 772-428 Highway Infrastructure Bank - \$ 180,000,000 \$ 160,000,000  
Bonds

TOTAL 045 Infrastructure Bank

Obligations Fund Group \$ 180,000,000 \$ 160,000,000

TOTAL ALL BUDGET FUND GROUPS -

Highway Construction \$ 2,193,813,205 \$ 2,227,488,530

**Highway Maintenance****Highway Operating Fund Group**

002 773-431 Highway Maintenance - State \$ 386,527,582 \$ 393,313,472

TOTAL HOF Highway Operating

Fund Group \$ 386,527,582 \$ 393,313,472

TOTAL ALL BUDGET FUND GROUPS -

Highway Maintenance \$ 386,527,582 \$ 393,313,472

**Public Transportation****Highway Operating Fund Group**002 775-452 Public Transportation - \$ 30,000,000 \$ 30,365,000  
Federal

002 775-454 Public Transportation - Other \$ 1,500,000 \$ 1,500,000

002 775-459 Elderly and Disabled Special \$ 4,595,000 \$ 4,595,000  
Equipment - Federal212 775-408 Transit Infrastructure Bank - \$ 2,500,000 \$ 2,500,000  
Local212 775-455 Title 49 Infrastructure Bank - \$ 1,000,000 \$ 1,000,000  
State213 775-457 Transit Infrastructure Bank - \$ 500,000 \$ 500,000  
State213 775-460 Transit Infrastructure Bank - \$ 1,000,000 \$ 1,000,000  
Local

TOTAL HOF Highway Operating

Fund Group \$ ~~39,595,000~~ \$ ~~39,960,000~~  
41,095,000 41,460,000

TOTAL ALL BUDGET FUND GROUPS -

Public Transportation \$ ~~39,595,000~~ \$ ~~39,960,000~~  
41,095,000 41,460,000**Rail Transportation****Highway Operating Fund Group**

002 776-462 Grade Crossings - Federal \$ 15,000,000 \$ 15,000,000

TOTAL HOF Highway Operating

Fund Group \$ 15,000,000 \$ 15,000,000

TOTAL ALL BUDGET FUND GROUPS -

Rail Transportation \$ 15,000,000 \$ 15,000,000

**Aviation****Highway Operating Fund Group**002 777-472 Airport Improvements - \$ 405,000 \$ 405,000  
Federal

002 777-475 Aviation Administration \$ 4,007,600 \$ 4,046,900



2229

213	777-477	Aviation Infrastructure Bank - State	\$	3,000,000	\$	3,000,000
213	777-478	Aviation Infrastructure Bank - Local	\$	7,000,000	\$	7,000,000
TOTAL HOF Highway Operating Fund Group						
			\$	14,412,600	\$	14,451,900
TOTAL ALL BUDGET FUND GROUPS - Aviation						
			\$	14,412,600	\$	14,451,900

**Administration****Highway Operating Fund Group**

002	779-491	Administration - State	\$	119,624,513	\$	121,057,898
TOTAL HOF Highway Operating Fund Group						
			\$	119,624,513	\$	121,057,898
TOTAL ALL BUDGET FUND GROUPS - Administration						
			\$	119,624,513	\$	121,057,898

**Debt Service****Highway Operating Fund Group**

002	770-003	Administration - State - Debt Service	\$	13,074,500	\$	10,923,100
TOTAL HOF Highway Operating Fund Group						
			\$	13,074,500	\$	10,923,100
TOTAL ALL BUDGET FUND GROUPS - Debt Service						
			\$	13,074,500	\$	10,923,100

**TOTAL Department of Transportation**

TOTAL HOF Highway Operating Fund Group						
			\$	2,441,047,400	\$	2,571,306,900
TOTAL 042 Highway Capital Improvement Fund Group						
			\$	220,000,000	\$	150,000,000
TOTAL 045 Infrastructure Bank Obligations Fund Group						
			\$	180,000,000	\$	160,000,000
TOTAL ALL BUDGET FUND GROUPS						
			\$	2,841,047,400	\$	2,881,306,900

**Sec. 203.03.09. PUBLIC ACCESS ROADS FOR STATE FACILITIES**

Of the foregoing appropriation item 772-421, Highway Construction - State, ~~\$4,517,500~~ \$5,000,000 shall be used in each fiscal year during the fiscal year 2006-2007 biennium by the Department of Transportation for the construction, reconstruction, or maintenance of public access roads, including support features, to and within state facilities owned or operated by the Department of Natural Resources, ~~as requested by the Director of Natural Resources.~~

Notwithstanding section 5511.06 of the Revised Code, of the foregoing appropriation item 772-421, Highway Construction - State, \$2,228,000 in each fiscal year of the fiscal year 2006-2007 biennium shall be used by the Department of Transportation for the construction, reconstruction, or maintenance of park drives or park roads within the boundaries of metropolitan parks.

Included in the foregoing appropriation item 772-421, Highway Construction - State, the department may perform related road work on

behalf of the Ohio Expositions Commission at the state fairgrounds, including reconstruction or maintenance of public access roads and support features, to and within fairground facilities as requested by the commission and approved by the Director of Transportation.

#### LIQUIDATION OF UNFORESEEN LIABILITIES

Any appropriation made to the Department of Transportation, Highway Operating Fund, not otherwise restricted by law, is available to liquidate unforeseen liabilities arising from contractual agreements of prior years when the prior year encumbrance is insufficient.

#### Sec. 203.03.10. PREVENTIVE MAINTENANCE

The Department of Transportation shall contract with an independent party to ~~issue a yearly report~~ conduct a study and issue a report on the effectiveness and progress of preventive maintenance projects ~~that meet warranty guidelines. The~~ Thereafter, the Department shall issue a yearly report on or before the first day of December for three consecutive years ~~beginning in fiscal year 2005.~~

~~The Department shall provide in its annual report data~~ on actual and planned pavement preventive maintenance activities. The data shall include the following: (1) the total number of lane miles receiving preventive maintenance treatment, by treatment type and highway system category; (2) the total number of lane miles programmed to receive treatment; (3) the actual costs of the pavement preventive maintenance activities per lane mile, by treatment type and highway system category; (4) the total number of lane miles rehabilitated or reconstructed; and (5) the actual cost per lane mile of rehabilitated or reconstructed highway, by highway system category.

#### Sec. 203.06.06. ENFORCEMENT

##### State Highway Safety Fund Group

036 764-033	Minor Capital Projects	\$	1,250,000	\$	1,250,000
036 764-321	Operating Expense - Highway Patrol	\$	229,293,561	\$	237,364,988
036 764-605	Motor Carrier Enforcement Expenses	\$	2,643,022	\$	2,670,911
5AY764-688	Traffic Safety Operating	\$	3,082,962	\$	1,999,437
83C 764-630	Contraband, Forfeiture, Other	\$	622,894	\$	622,894
83F 764-657	Law Enforcement Automated Data System	\$	7,324,524	\$	7,544,260
83G 764-633	OMVI Fines	\$	820,927	\$	820,927
831 764-610	Patrol - Federal	\$	2,430,950	\$	2,455,484
831 764-659	Transportation Enforcement - Federal	\$	4,880,671	\$	5,027,091
837 764-602	Turnpike Policing	\$	9,942,621	\$	10,240,900
838 764-606	Patrol Reimbursement	\$	222,108	\$	222,108
840 764-607	State Fair Security	\$	1,496,283	\$	1,496,283
840 764-617	Security and Investigations	\$	8,145,192	\$	8,145,192
840 764-626	State Fairgrounds Police Force	\$	788,375	\$	788,375

841 764-603	Salvage and Exchange - Highway Patrol	\$	1,305,954	\$	1,339,399
TOTAL HSF State Highway Safety Fund Group					
		\$	274,250,044	\$	281,988,249
General Services Fund Group					
4S2 764-660	MARCS Maintenance	\$	252,432	\$	262,186
TOTAL GSF General Services Fund Group					
		\$	252,432	\$	262,186
<u>Federal Special Revenue Fund Group</u>					
3BF 764-692	Federal Contraband, Forfeiture, and Other	\$	1,942,040	\$	1,942,040
TOTAL FED Federal Special Revenue Fund Group					
		\$	1,942,040	\$	1,942,040
TOTAL ALL BUDGET FUND GROUPS - Enforcement					
		\$	274,502,476	\$	282,250,435
			276,444,516		284,192,475

CASH TRANSFER TO HIGHWAY PATROL FEDERAL CONTRABAND, FORFEITURE, AND OTHER FUND (FUND 3BF)

On July 1, 2005, or as soon thereafter as possible, notwithstanding any other provision of law to the contrary, the Director of Budget and Management shall transfer \$1,942,040 in cash from the Highway Patrol State Contraband, Forfeiture, and Other Fund (Fund 83C) in the State Highway Safety Fund Group to the Highway Patrol Federal Contraband, Forfeiture, and Other Fund (Fund 3BF) in the Federal Special Revenue Fund Group.

**COLLECTIVE BARGAINING INCREASES**

Notwithstanding division (D) of section 127.14 and division (B) of section 131.35 of the Revised Code, except for the General Revenue Fund, the Controlling Board may, upon the request of either the Director of Budget and Management, or the Department of Public Safety with the approval of the Director of Budget and Management, increase appropriations for any fund, as necessary for the Department of Public Safety, to assist in paying the costs of increases in employee compensation that have occurred pursuant to collective bargaining agreements under Chapter 4117. of the Revised Code and, for exempt employees, under section 124.152 of the Revised Code.

**Sec. 203.06.12. INVESTIGATIVE UNIT**

**State Highway Safety Fund Group**

831 767-610	Liquor Enforcement - Federal	\$	514,184	\$	514,184
831 769-610	Food Stamp Trafficking Enforcement - Federal	\$	992,920	\$	1,032,135
TOTAL HSF State Highway Safety Fund Group					
		\$	1,507,104	\$	1,546,319

**Liquor Control Fund Group**

043 767-321	Liquor Enforcement - Operations	\$	10,120,365	\$	10,423,976
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TOTAL LCF Liquor Control Fund Group	\$	10,120,365	\$	10,423,976
<b>State Special Revenue Fund Group</b>				
<u>5CM 767-691 Equitable Share Account</u>	\$	<u>642,175</u>	\$	<u>642,175</u>
622 767-615 Investigative Contraband and Forfeiture	\$	404,111	\$	404,111
850 767-628 Investigative Unit Salvage	\$	120,000	\$	120,000
TOTAL SSR State Special Revenue Fund Group	\$	<del>524,111</del> <u>1,166,286</u>	\$	<del>524,111</del> <u>1,166,286</u>
TOTAL ALL BUDGET FUND GROUPS - Special Enforcement	\$	<del>12,151,580</del> <u>12,793,755</u>	\$	<del>12,494,406</del> <u>13,136,581</u>

**CASH TRANSFER TO INVESTIGATIVE UNIT FEDERAL EQUITABLE SHARE ACCOUNT FUND (FUND 5CM)**

On July 1, 2005, or as soon thereafter as possible, notwithstanding any other provision of law to the contrary, the Director of Budget and Management shall transfer \$642,175 in cash from the Investigative, Contraband, and Forfeiture Fund (Fund 622) in the State Special Revenue Fund Group to the Investigative Unit Federal Equitable Share Account Fund (Fund 5CM) in the State Special Revenue Fund Group.

**LEASE RENTAL PAYMENTS FOR CAP-076, INVESTIGATIVE UNIT MARCS EQUIPMENT**

The Director of Public Safety, using intrastate transfer vouchers, shall make cash transfers to the State Highway Safety Fund (Fund 036) from other funds to reimburse the State Highway Safety Fund for the share of lease rental payments to the Ohio Building Authority that are associated with appropriation item CAP-076, Investigative Unit MARCS Equipment.

**Sec. 203.06.15. EMERGENCY MANAGEMENT**

**Federal Special Revenue Fund Group**

3N5 763-644 U.S. DOE Agreement	\$	275,000	\$	275,000
329 763-645 Federal Mitigation Program	\$	<del>303,504</del> <u>8,937,624</u>	\$	<del>303,504</del> <u>8,937,624</u>
337 763-609 Federal Disaster Relief	\$	27,269,140	\$	27,280,000
339 763-647 Emergency Management Assistance and Training	\$	129,622,000	\$	129,622,000
TOTAL FED Federal Special Revenue Fund Group	\$	<del>157,469,644</del> <u>166,103,764</u>	\$	<del>157,480,504</del> <u>166,114,624</u>

**State Special Revenue Fund Group**

4V3 763-662 EMA Service and Reimbursement	\$	696,446	\$	696,446
657 763-652 Utility Radiological Safety	\$	1,260,000	\$	1,260,000
681 763-653 SARA Title III HAZMAT Planning	\$	271,510	\$	271,510
TOTAL SSR State Special Revenue Fund Group	\$	2,227,956	\$	2,227,956
TOTAL ALL BUDGET FUND GROUPS - Emergency Management	\$	<del>159,697,600</del> <u>168,331,720</u>	\$	<del>159,708,460</del> <u>168,342,580</u>

**FEDERAL MITIGATION PROGRAM**

The fund created by the Controlling Board known as the Disaster ~~Relief~~ Services Plan and Grant Administration Fund is now the Federal Mitigation Program Fund, and shall be used to plan and mitigate against future disaster costs.

The appropriation item 763-645, heretofore known as Individual/Family Grant - Fed, is hereafter known as Federal Mitigation Program, and shall be used to plan and mitigate against future disaster costs.

**STATE DISASTER RELIEF**

The appropriation item 763-601, State Disaster Relief, may accept transfers of cash and appropriations from Controlling Board appropriation items to reimburse eligible local governments and private nonprofit organizations for costs related to disasters that have been declared by local governments or the Governor. The Ohio Emergency Management Agency shall publish and make available an application packet outlining eligible items and application procedures for entities requesting state disaster relief.

Individuals may be eligible for reimbursement of costs related to disasters that have been declared by the Governor and the Small Business Administration. The funding in appropriation item 763-601, State Disaster Relief, shall be used in accordance with the principles of the federal Individual and Family Grant Program, which provides grants to households that have been affected by a disaster to replace basic living items. The Ohio Emergency Management Agency shall publish and make available an application procedure for individuals requesting assistance under the state Individual Assistance Program.

**SARA TITLE III HAZMAT PLANNING**

The SARA Title III HAZMAT Planning Fund (Fund 681) is entitled to receive grant funds from the Emergency Response Commission to implement the Emergency Management Agency's responsibilities under Chapter 3750. of the Revised Code.

**Sec. 203.06.24. REVENUE DISTRIBUTION****Holding Account Redistribution Fund Group**

R24	762-619	Unidentified Public Safety Receipts	\$	1,885,000	\$	1,885,000
R52	762-623	Security Deposits	\$	250,000	\$	250,000
TOTAL 090 Holding Account Redistribution Fund Group			\$	2,135,000	\$	2,135,000
TOTAL ALL BUDGET FUND GROUPS - Revenue Distribution			\$	2,135,000	\$	2,135,000

**TRANSFER OF CASH BALANCE FROM FUND R27, HIGHWAY PATROL FEE REFUND FUND**

On July 1, 2005, or as soon as possible thereafter, the Director of

Budget and Management shall transfer the cash balance in the Highway Patrol Fee Refund Fund (Fund R27) created in former section 4501.12 of the Revised Code to the Unidentified Public Safety Receipts Fund (Fund R24).

**TOTAL Department of Public Safety**

TOTAL HSF State Highway Safety Fund Group	\$	459,009,425	\$	464,841,856
TOTAL SSR State Special Revenue Fund Group	\$	<del>2,991,969</del> <u>3,634,144</u>	\$	<del>2,991,969</del> <u>3,634,144</u>
TOTAL LCF Liquor Control Fund Group	\$	10,120,365	\$	10,423,976
TOTAL GSF General Services Fund Group	\$	752,432	\$	762,186
TOTAL FED Federal <u>Special</u> Revenue <del>Special</del> Fund Group	\$	<del>157,469,644</del> <u>168,045,804</u>	\$	<del>157,480,504</del> <u>168,056,664</u>
TOTAL AGY Agency Fund Group	\$	100,000	\$	100,000
TOTAL 090 Holding Account Redistribution Fund Group	\$	2,135,000	\$	2,135,000
TOTAL ALL BUDGET FUND GROUPS	\$	<del>632,578,835</del> <u>643,797,170</u>	\$	<del>638,735,491</del> <u>649,953,826</u>

SECTION 401.12. That existing Sections 203.03, 203.03.09, 203.03.10, 203.06.06, 203.06.12, 203.06.15, and 203.06.24 of Am. Sub. H.B. 68 of the 126th General Assembly are hereby repealed.

SECTION 401.13. Notwithstanding section 5511.05 of the Revised Code, the Director of Transportation shall confer with the Director of Natural Resources in fiscal years 2006 and 2007 concerning the establishment, construction, reconstruction, improvement, repair, and maintenance of all roads and bridges within the boundaries of all state parks, including all such parks and properties under the control and custody of the Department of Natural Resources. After conferring with the Director of Natural Resources, the Director of Transportation shall establish, construct, reconstruct, improve, repair, and maintain all such roads and bridges. \$5,000,000 shall be expended to establish, construct, reconstruct, improve, repair, and maintain all such roads and bridges in each fiscal year.

SECTION 403.01. That Section 14 of Sub. H.B. 434 of the 125th General Assembly be amended to read as follows:

Sec. 14. ~~NET SCHOOL~~ NET COMMISSION ETC ETECH OHIO

Tobacco Master Settlement Agreement Fund Group

S87 <del>228</del>	Education Technology Trust	\$	9,277,865	\$	6,274,109
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935-602 Fund  
 TOTAL TSF Tobacco Master  
 Settlement Agreement Fund  
 Group \$ 9,277,865 \$ 6,274,109  
 TOTAL ALL BUDGET FUND GROUPS \$ 9,277,865 \$ 6,274,109

**SCHOOLNET PLUS**

~~The Ohio SchoolNet Commission shall distribute SchoolNet Plus Grants to qualifying school districts in fiscal year 2005 to establish and equip at least one interactive computer workstation for each five students enrolled in the seventh grade as reported by school districts pursuant to division (A) of section 3317.03 of the Revised Code.~~

Upon completion of the SchoolNet Plus Grant Program for the seventh grade, ~~the Ohio SchoolNet Commission~~ eTech Ohio shall distribute SchoolNet Plus Grants to qualifying school districts in fiscal year 2006 to establish and equip at least one interactive computer workstation for each five children enrolled in the eighth grade as reported by school districts pursuant to division (A) of section 3317.03 of the Revised Code.

Districts in the first two quartiles of wealth shall receive up to \$275 per pupil for students in the targeted grade to purchase classroom computers. Districts in the third and fourth quartiles shall receive up to \$105 per pupil in the targeted grade. If a district has met the state's goal of one computer to every five students in the targeted grade, the district may use the funds provided through SchoolNet Plus to purchase computers for successive grades or to fulfill educational technology needs in other grades as specified in the district's technology plan.

SECTION 403.02. That existing Section 14 of Sub. H.B. 434 of the 125th General Assembly is hereby repealed.

SECTION 403.05. That Section 4 of Am. Sub. H.B. 516 of the 125th General Assembly be amended to read as follows:

Sec. 4. The following agencies shall be retained pursuant to division (D) of section 101.83 of the Revised Code and shall expire on December 31, 2010:

AGENCY NAME	REVISED CODE OR UNCODIFIED SECTION
Administrator, Interstate Compact on Mental Health	5119.50

Administrator, Interstate Compact on Placement of Children	5103.20
Advisory Board of Governor's Office of Faith-Based and Community Initiatives	107.12
Advisory Boards to the EPA for Air Pollution	121.13
Advisory Boards to the EPA for Water Pollution	121.13
Advisory Committee of the State Veterinary Medical Licensing Board	4741.03(D)(3)
Advisory Committee on Livestock Exhibitions	901.71
Advisory Council on Amusement Ride Safety	1711.51
Advisory Board of Directors for Prison Labor	5145.162
Advisory Council for Each Wild, Scenic, or Recreational River Area	1517.18
Advisory Councils or Boards for State Departments	107.18 or 121.13
Advisory Group to the Ohio Water Resources Council	1521.19(C)
Alzheimer's Disease Task Force	173.04(F)
AMBER Alert Advisory Committee	5502.521
Apprenticeship Council	4139.02
Armory Board of Control	5911.09
Automated Title Processing Board	4505.09(C)(1)
Banking Commission	1123.01
Board of Directors of the Ohio Health Reinsurance Program	3924.08
Board of Voting Machine Examiners	3506.05(B)
Board of Tax Appeals	5703.02
Brain Injury Advisory Committee	3304.231
Capitol Square Review and Advisory Board	105.41
Child Support Guideline Advisory Council	3119.024
Children's Trust Fund Board	3109.15
Citizens Advisory Committee (BMV)	4501.025
Citizen's Advisory Councils (Dept. of Mental Retardation and Developmental Disabilities)	5123.092
Clean Ohio Trail Advisory Board	1519.06
Coastal Resources Advisory Council	1506.12
Commission on African-American Males	4112.12
Commission on Hispanic-Latino Affairs	121.31
Commission on Minority Health	3701.78
Committee on Prescriptive Governance	4723.49



Commodity Advisory Commission	926.32
Community Mental Retardation and Developmental Disabilities Trust Fund Advisory Council	5123.353
Community Oversight Council	3311.77
Compassionate Care Task Force	Section 3, H.B. 474, 124th GA
<del>Consumer Advisory Committee to the Rehabilitation Services Commission</del>	<del>3304.24</del>
Continuing Education Committee (for Sheriffs)	109.80
Controlling Board	127.12
Coordinating Committee, Agricultural Commodity Marketing Programs	924.14
Council on Alcohol and Drug Addiction Services	3793.09
Council on Unreclaimed Strip Mined Lands	1513.29
Council to Advise on the Establishment and Implementation of the Birth Defects Information System	3705.34
County Sheriffs' Standard Car-Marking and Uniform Commission	311.25
Credit Union Council	1733.329
Criminal Sentencing Advisory Committee	181.22
Day-Care Advisory Council	5104.08
Dentist Loan Repayment Advisory Board	3702.92
Development Financing Advisory Council	122.40
Education Commission of the States (Interstate Compact for Education)	3301.48
Electrical Safety Inspector Advisory Committee	3783.08
Emergency Response Commission	3750.02
Engineering Experiment Station Advisory Committee	3335.27
Environmental Education Council	3745.21
Environmental Review Appeals Commission	3745.02
EPA Advisory Boards or Councils	121.13
Farmland Preservation Advisory Board	901.23
Financial Planning & Supervision Commission for Municipal Corporation, County, or Township	118.05
Financial Planning & Supervision Commission for School District	3316.05

Forestry Advisory Council	1503.40
Governance Authority for a State University or College	3345.75
Governor's Advisory Council on Physical Fitness, Wellness, & Sports	3701.77
Governor's Council on People with Disabilities	3303.41
Governor's Residence Advisory Commission	107.40
Great Lakes Commission (Great Lakes Basin Compact)	6161.01
Gubernatorial Transition Committee	107.29
Head Start Partnership Study Council	Section 41.35, H.B. 95, 125th GA
Hemophilia Advisory Subcommittee	3701.0210
Housing Trust Fund Advisory Committee	175.25
Industrial Commission Nominating Council	4121.04
Industrial Technology and Enterprise Advisory Council	122.29
Infant Hearing Screening Subcommittee	3701.507
Insurance Agent Education Advisory Council	3905.483
Interagency Council on Hispanic/Latino Affairs	121.32(J)
Interstate Mining Commission (Interstate Mining Compact)	1514.30
Interstate Rail Passenger Advisory Council (Interstate High Speed Intercity Rail Passenger Network Compact)	4981.35
Joint Council on MR/DD	101.37
Joint Select Committee on Volume Cap	133.021
Labor-Management Government Advisory Council	4121.70
Legal Rights Service Commission	5123.60
Legislative Task Force on Redistricting, Reapportionment, and Demographic Research	103.51
Maternal and Child Health Council	3701.025
Medically Handicapped Children's Medical Advisory Council	3701.025
Midwest Interstate Passenger Rail Compact Commission (Ohio members)	4981.361
Military Activation Task Force	5902.15
Milk Sanitation Board	917.03
Mine Subsidence Insurance Governing Board	3929.51

Minority Development Financing Board	122.72
Multi-Agency Radio Communications Systems Steering Committee	Sec. 21, H.B. 790, 120th GA
Multidisciplinary Council	3746.03
Muskingum River Advisory Council	1501.25
National Museum of Afro-American History and Culture Planning Committee	149.303
<del>Nursing Facility Reimbursement Study Council</del>	<del>5111.34</del>
Ohio Advisory Council for the Aging	173.03
Ohio Aerospace & Defense Advisory Council	122.98
Ohio Arts Council	3379.02
Ohio Business Gateway Steering Committee	5703.57
Ohio Cemetery Dispute Resolution Commission	4767.05
Ohio Civil Rights Commission Advisory Agencies and Conciliation Councils	4112.04(B)
Ohio Commercial Insurance Joint Underwriting Association Board Of Governors	3930.03
Ohio Commercial Market Assistance Plan Executive Committee	3930.02
Ohio Commission on Dispute Resolution and Conflict Management	179.02
Ohio Commission to Reform Medicaid	Section 59.29, H.B. 95, 125th GA
Ohio Community Service Council	121.40
Ohio Council for Interstate Adult Offender Supervision	5149.22
Ohio Cultural Facilities Commission	3383.02
Ohio Developmental Disabilities Council	5123.35
<del>Ohio Educational Telecommunications Network Commission</del>	<del>3353.02</del>
Ohio Ethics Commission	102.05
Ohio Expositions Commission	991.02
Ohio Family and Children First Cabinet Council	121.37
Ohio Geology Advisory Council	1505.11
Ohio Grape Industries Committee	924.51
Ohio Hepatitis C Advisory Commission	3701.92
Ohio Historic Site Preservation Advisory Board	149.301
Ohio Historical Society Board of Trustees	149.30
Ohio Judicial Conference	105.91

Ohio Lake Erie Commission	1506.21
Ohio Medical Malpractice Commission	Section 4, S.B. 281, 124th GA and Section 3, S.B. 86, 125th GA
Ohio Medical Quality Foundation	3701.89
Ohio Parks and Recreation Council	1541.40
Ohio Peace Officer Training Commission	109.71
Ohio Public Defender Commission	120.01
Ohio Public Library Information Network Board	Sec. 69, H.B. 117, 121st GA, as amended by H.B. 284, 121st GA
Ohio Public Works Commission	164.02
Ohio Quarter Horse Development Commission	3769.086
<del>Ohio SchoolNet Commission</del>	<del>3301.80</del>
Ohio Small Government Capital Improvements Commission	164.02
Ohio Soil and Water Conservation Commission	1515.02
Ohio Standardbred Development Commission	3769.085
Ohio Steel Industry Advisory Council	122.97
Ohio Teacher Education and Licensure Advisory Council	3319.28(D)
Ohio Thoroughbred Racing Advisory Committee	3769.084
Ohio Tuition Trust Authority	3334.03
Ohio University College of Osteopathic Medicine Advisory Committee	3337.10
Ohio Vendors Representative Committee	3304.34
Ohio War Orphans Scholarship Board	5910.02
Ohio Water Advisory Council	1521.031
Ohio Water Resources Council	1521.19
Ohioana Library Association, Martha Kinney Cooper Memorial	3375.62
Oil and Gas Commission	1509.35
Operating Committee, Agricultural Commodity Marketing Programs	924.07
Organized Crime Investigations Commission	177.01

Parole Board	5149.10
Pharmacy and Therapeutics Committee of the Dept. of Job and Family Services	5111.81
Physician Loan Repayment Advisory Board	3702.81
Power Siting Board	4906.02
Prequalification Review Board	5525.07
Private Water Systems Advisory Council	3701.346
Public Employment Risk Reduction Advisory Commission	4167.02
Public Health Council	3701.33
Public Utilities Commission Nominating Council	4901.021
Public Utility Property Tax Study Committee	5727.85
Radiation Advisory Council	3748.20
Reclamation Commission	1513.05
Recreation and Resources Commission	1501.04
Recycling and Litter Prevention Advisory Council	1502.04
Rehabilitation Services Commission Consumer Advisory Committee	3304.24
Release Authority of Department of Youth Services	5139.50
Savings & Loans Associations & Savings Banks Board	1181.16
Schools and Ministerial Lands Divestiture Committee	501.041
Second Chance Trust Fund Advisory Committee	2108.17
Self-Insuring Employers Evaluation Board	4123.352
Services Committee of the Workers' Compensation System	4121.06
Small Business Stationary Source Technical and Environmental Compliance Assistance Council	3704.19
Solid Waste Management Advisory Council	3734.51
State Agency Coordinating Group	1521.19
State Board of Deposit	135.02
State Board of Emergency Medical Services	4765.04
Subcommittees	
State Council of Uniform State Laws	105.21
State Committee for the Purchase of Products and Services Provided by Persons with Severe Disabilities	4115.32
State Criminal Sentencing Commission	181.21
State Employment Relations Board	4117.02

State Fire Commission	3737.81
State Racing Commission	3769.02
State Victims Assistance Advisory Committee	109.91
Student Tuition Recovery Authority	3332.081
Tax Credit Authority	122.17
Technical Advisory Committee to Assist the Director of the Ohio Coal Development Office	1551.35
Technical Advisory Council on Oil and Gas	1509.38
Transportation Review Advisory Council	5512.07
Unemployment Compensation Review Commission	4141.06
Unemployment Compensation Advisory Council	4141.08
Utility Radiological Safety Board	4937.02
Vehicle Management Commission	125.833
Veterans Advisory Committee	5902.02(K)
Volunteer Fire Fighters' Dependents Fund Boards (Private and Public)	146.02
Water and Sewer Commission	1525.11(C)
Waterways Safety Council	1547.73
Wildlife Council	1531.03
Workers' Compensation System Oversight Commission	4121.12
Workers' Compensation Oversight Commission	4121.123
Nominating Committee	

SECTION 403.06. That existing Section 4 of Am. Sub. H.B. 516 of the 125th General Assembly is hereby repealed.

SECTION 403.10.01. That Sections 3.01, 3.04, and 26.01 of Am. Sub. S.B. 189 of the 125th General Assembly be amended to read as follows:

#### Reappropriations

#### Sec. 3.01. DAS DEPARTMENT OF ADMINISTRATIVE SERVICES

CAP-773	Governor's Residence Restoration	\$	4,705
CAP-786	Rural Areas Community Improvements	\$	365,000
CAP-804	Day Care Centers	\$	6,472
CAP-817	Urban Areas Community Improvements	\$	1,058,900
Total Department of Administrative Services		\$	1,435,077

#### RURAL AREAS COMMUNITY IMPROVEMENTS

From the foregoing appropriation item CAP-786, Rural Areas Community Improvements, grants shall be made for the following projects:

\$20,000 for the Smith Field Memorial Foundation; \$200,000 for the Champaign YMCA; \$100,000 for the Mentor Fire & Police Headquarters Relocation; \$20,000 for the Red Mill Creek Water Retention Basin; and \$25,000 for the Lawrence County Water Projects.

The amount reappropriated for the foregoing appropriation item CAP-786, Rural Areas Community Improvements, is the unencumbered and unallotted balance as of June 30, 2004, in appropriation item CAP-786, Rural Areas Community Improvements, minus \$75,000.

#### URBAN AREAS COMMUNITY IMPROVEMENTS

From the foregoing appropriation item CAP-817, Urban Areas Community Improvements, grants shall be made for the following projects: \$100,000 for the Maumee Youth Center; \$25,000 for the Columbus Civic Arena Development Planning; \$50,000 for the Brown Senior Center Renovations; \$100,000 for Project AHEAD Facility Improvements; \$75,000 for the J. Frank-Troy Senior Citizens Center; \$15,000 for the Victorian Village Society; \$50,000 for the Beech Acres Family Center; \$23,900 for the Canton Jewish Women's Center; \$450,000 for the Gateway Social Services Building; \$50,000 for the Loew Field Improvements; \$20,000 for the Harvard Community Services Center Renovation & Expansion; \$20,000 for the Collinwood Community Service Center Repair & Renovation; and \$80,000 for Bowman Park - City of Toledo.

#### Reappropriations

#### Sec. 3.04. DNR DEPARTMENT OF NATURAL RESOURCES

CAP-245	Millcreek Valley Conservancy District	\$	230,503
CAP-702	Upgrade Underground Fuel Tanks	\$	296,963
CAP-703	Cap Abandoned Water Wells	\$	357,481
CAP-823	Cost Sharing-Pollution Abatement	\$	33,614
CAP-847	Assistance to Local Governments for Conservation Works of Improvement	\$	25,000
CAP-848	Hazardous Dam Repair	\$	91,521
CAP-875	Ohio River Access	\$	100,000
CAP-929	Hazardous Waste/Asbestos Abatement	\$	286,154
CAP-931	Wastewater/Water Systems Upgrades	\$	32,205
CAP-932	Wetlands/Waterfront Development and Acquisition	\$	32,460
CAP-942	Local Parks Projects	\$	80,225
CAP-969	Frost-Parker Wetlands Preserve	\$	4,760
CAP-999	Geographic Information Management System	\$	1,085
Total Department of Natural Resources		\$	1,571,971
TOTAL GRF General Revenue Fund		\$	3,462,769

#### LOCAL PARKS PROJECTS

From the foregoing appropriation item CAP-942, Local Parks Projects, \$75,000 shall be granted for the Liberty Township Playground. The amount reappropriated for the foregoing appropriation item CAP-942, Local Parks Projects, is the unencumbered and unallotted balance as of June 30, 2004, in

appropriation item CAP-942, Local Parks Projects, plus \$75,000.

Reappropriations

Sec. 26.01. ~~OEB OHIO EDUCATIONAL TELECOMMUNICATIONS NETWORK COMMISSION ETC ETECH OHIO~~

CAP-001	Educational Television and Radio Equipment	\$	1,650,617
			<u>3,378,684</u>
CAP-002	Educational Broadcasting Fiber Optic Network	\$	51,748
Total <del>Ohio Educational Telecommunications Network Commission</del>		\$	<u>1,702,365</u>
<del>eTech Ohio</del>			<u>3,430,432</u>

EDUCATIONAL TELEVISION AND RADIO EQUIPMENT

The foregoing appropriation item CAP-001, Educational Television and Radio Equipment, shall be used to provide broadcasting, transmission, and production equipment to Ohio public radio and television stations, radio reading services, and ~~the Ohio Educational Telecommunications Network Commission~~ eTech Ohio.

EDUCATIONAL BROADCASTING FIBER OPTIC NETWORK

The foregoing appropriation item CAP-002, Educational Broadcasting Fiber Optic Network, shall be used to link the Ohio public radio and television stations, radio reading services, and ~~the Ohio Educational Broadcasting Network~~ eTech Ohio for the reception and transmission of digital communications through fiber optic cable or other technology.

SECTION 403.10.02. That existing Sections 3.01, 3.04, and 26.01 of Am. Sub. S.B. 189 of the 125th General Assembly is hereby repealed.

SECTION 403.09. That Section 22 of Am. Sub. S.B. 189 of the 125th General Assembly, as amended by Am. Sub. H.B. 16 of the 126th General Assembly, be amended to read as follows:

Sec. 22. All items set forth in this section are hereby appropriated out of any moneys in the state treasury to the credit of the Cultural and Sports Facilities Building Fund (Fund 030) that are not otherwise appropriated:

Reappropriations

AFC CULTURAL FACILITIES COMMISSION

CAP-003	Center of Science and Industry - Toledo	\$	12,268
CAP-004	Valentine Theatre	\$	1,111
CAP-005	Center of Science and Industry - Columbus	\$	181,636
CAP-010	Sandusky State Theatre Improvements	\$	1,000,000
CAP-017	Zion Center of the National Afro-American Museum	\$	488,232
CAP-021	Ohio Historical Center - Archives and Library Shelving	\$	2,395
CAP-033	Woodward Opera House Renovation	\$	1,050,000
CAP-037	Canton Palace Theatre Renovations	\$	1,066,126
CAP-038	Center Exhibit Replacement	\$	750,000
CAP-042	Statewide Site Exhibit/Renovation & Construction	\$	625,000



CAP-043	Statewide Site Repairs	\$	454,000
CAP-046	Cincinnati Museum Center Improvements	\$	500,000
CAP-052	Akron Art Museum	\$	6,634,666
CAP-053	Powers Auditorium Improvements	\$	200,000
CAP-055	Waco Museum & Aviation Learning Center	\$	500,000
CAP-057	Comprehensive Master Plan	\$	180,000
CAP-058	Cedar Bog Nature Preserve Education Center	\$	766,200
CAP-061	Statewide Arts Facilities Planning	\$	35,931
CAP-063	Robins Theatre Renovations	\$	1,000,000
CAP-064	Bramley Historic House	\$	75,000
CAP-066	Delaware County Cultural Arts Center	\$	40,000
CAP-068	Perry County Historical Society	\$	100,000
CAP-069	Cleveland Institute of Art	\$	750,000
CAP-071	Cleveland Institute of Music	\$	750,000
CAP-072	West Side Arts Consortium	\$	138,000
CAP-074	Stan Hywet Hall & Gardens	\$	250,000
CAP-075	McKinley Museum Improvements	\$	125,000
CAP-076	Spring Hill Historic Home	\$	125,000
CAP-077	Western Reserve Ballet Improvements	\$	100,000
CAP-078	Midland Theatre	\$	175,000
CAP-079	Lorain Palace Civic Theatre	\$	200,000
CAP-080	Great Lakes Historical Society	\$	150,000
CAP-734	Hayes Presidential Center	\$	75,000
CAP-745	Historic Sites and Museums	\$	750,000
CAP-753	Buffington Island State Memorial	\$	91,500
CAP-770	Serpent Mound State Memorial	\$	295,000
CAP-784	Ohio Historical Center Rehabilitation	\$	673,700
CAP-786	Piqua/Ft Picakawillany Acquisition and Improvements	\$	136,000
CAP-789	Neil Armstrong Air and Space Museum Improvements	\$	103,516
CAP-791	Harrison Tomb and Site Renovations	\$	149,500
CAP-796	Moundbuilders State Memorial	\$	530,000
CAP-806	Grant Boyhood Home Improvements	\$	68,333
CAP-809	Cincinnati Ballet Facility Improvements	\$	450,000
CAP-810	Toledo Museum of Art Improvements	\$	2,000,000
CAP-814	Crawford Museum of Transportation & Industry	\$	2,500,000
CAP-820	Historical Center Ohio Village Buildings	\$	502,000
CAP-821	Lorain County Historical Society	\$	300,000
CAP-822	Madison County Historic Schoolhouse	\$	40,000
CAP-823	Marion Palace Theatre	\$	825,000
CAP-824	McConnellsville Opera House	\$	75,000
CAP-825	Secrest Auditorium	\$	75,000
CAP-826	Renaissance Theatre	\$	50,000
CAP-827	Trumpet in the Land	\$	100,000
<del>CAP-828</del>	<del>Becky Thatcher Showboat</del>	<del>\$</del>	<del>30,000</del>
CAP-829	Mid Ohio Valley Players	\$	<del>50,000</del> 80,000
CAP-830	The Anchorage	\$	50,000
CAP-831	Wayne County Historical Society	\$	300,000
CAP-833	Promont House Museum	\$	200,000
<del>CAP-836</del>	<del>Fairfield Outdoor Theatre</del>	<del>\$</del>	<del>100,000</del>
CAP-837	Lake County Historical Society	\$	250,000
CAP-839	Hancock Historical Society	\$	75,000
CAP-840	Riversouth Development	\$	1,000,000
CAP-841	Ft. Piqua Hotel	\$	200,000
CAP-843	Marina District/Ice Arena Development	\$	4,000,000

Total Cultural Facilities Commission	\$	<del>34,470,114</del> <u>34,370,114</u>
TOTAL CULTURAL and Sports Facilities Building Fund	\$	<del>34,470,114</del> <u>34,370,114</u>

#### **COSI COLUMBUS - LOCAL ADMINISTRATION OF CAPITAL PROJECT CONTRACTS**

Notwithstanding division (A) of section 3383.07 of the Revised Code, the Ohio Cultural Facilities Commission, with respect to the foregoing appropriation item CAP-005, Center of Science and Industry - Columbus, may administer all or part of capital facilities project contracts involving exhibit fabrication and installation as determined by the Department of Administrative Services, the Center of Science and Industry - Columbus, and the Ohio Cultural Facilities Commission in review of the project plans. The Ohio Cultural Facilities Commission shall enter into a contract with the Center of Science and Industry - Columbus to administer the exhibit fabrication and installation contracts and such contracts are not subject to Chapter 123. or 153. of the Revised Code.

#### **SPORTS FACILITIES IMPROVEMENTS - AKRON**

The amount reappropriated to the Cultural and Sports Facilities Building Fund (Fund 030), CAP-024, Sports Facilities Improvements - Akron, is the unallotted and unencumbered balance in the Sports Facilities Building Fund (Fund 024), CAP-024, Sports Facilities Improvements - Akron.

#### **REDS HALL OF FAME**

The amount reappropriated to the Cultural and Sports Facilities Building Fund (Fund 030), CAP-025, Reds Hall of Fame, is the unallotted and unencumbered balance in the Sports Facilities Building Fund (Fund 024), CAP-025, Reds Hall of Fame.

#### **AKRON ART MUSEUM**

The amount reappropriated for the foregoing appropriation item CAP-052, Akron Art Museum, is the unencumbered and unallotted balance as of June 30, 2004, in appropriation item CAP-052, Akron Art Museum, plus \$1,634,666.

#### **RIVERSOUTH DEVELOPMENT**

The amount reappropriated for the foregoing appropriation item CAP-840, Riversouth Development, is the unencumbered and unallotted balance as of June 30, 2004, in appropriation item CAP-840, Riversouth Development, minus \$9,000,000.

#### **MARINA DISTRICT/ICE ARENA DEVELOPMENT**

The amount reappropriated to the Cultural and Sports Facilities Building Fund (Fund 030), CAP-843, Marina District/Ice Arena Development, is the unallotted and unencumbered balance in the Sports Facilities Building Fund

(Fund 024), CAP-073, Marina District/Ice Arena Development.

SECTION 403.10. That existing Section 22 of Am. Sub. S.B. 189 of the 125th General Assembly, as amended by Am. Sub. H.B. 16 of the 126th General Assembly, is hereby repealed.

SECTION 403.11. That Section 3 of Am. Sub. H.B. 621 of the 122nd General Assembly, as most recently amended by Am. Sub. H.B. 95 of the 125th General Assembly, be amended to read as follows:

Sec. 3. That sections 166.031, 901.80, 901.81, 901.82, and 901.83 of the Revised Code are hereby repealed, effective October 15, ~~2005~~ 2007.

SECTION 403.12. That existing Section 3 of Am. Sub. H.B. 621 of the 122nd General Assembly, as most recently amended by Am. Sub. H.B. 95 of the 125th General Assembly, is hereby repealed.

SECTION 403.17. That Section 153 of Am. Sub. H.B. 117 of the 121st General Assembly, as most recently amended by Am. Sub. H.B. 95 of the 125th General Assembly, be amended to read as follows:

Sec. 153. (A) Sections 5112.01, 5112.03, 5112.04, 5112.05, 5112.06, 5112.07, 5112.08, 5112.09, 5112.10, 5112.11, 5112.18, 5112.19, 5112.21, and 5112.99 of the Revised Code are hereby repealed, effective October 16, ~~2005~~ 2007.

(B) Any money remaining in the Legislative Budget Services Fund on October 16, ~~2005~~ 2007, the date that section 5112.19 of the Revised Code is repealed by division (A) of this section, shall be used solely for the purposes stated in then former section 5112.19 of the Revised Code. When all money in the Legislative Budget Services Fund has been spent after then former section 5112.19 of the Revised Code is repealed under division (A) of this section, the fund shall cease to exist.

SECTION 403.18. That existing Section 153 of Am. Sub. H.B. 117 of the 121st General Assembly, as most recently amended by Am. Sub. H.B. 95 of the 125th General Assembly, is hereby repealed.

SECTION 403.23. That Section 5 of Am. Sub. S.B. 50 of the 121st

General Assembly, as most recently amended by Am. Sub. H.B. 95 of the 125th General Assembly, be amended to read as follows:

Sec. 5. Sections 3 and 4 of Am. Sub. S.B. 50 of the 121st General Assembly shall take effect July 1, ~~2005~~ 2007.

SECTION 403.24. That existing Section 5 of Am. Sub. S.B. 50 of the 121st General Assembly, as most recently amended by Am. Sub. H.B. 95 of the 125th General Assembly is hereby repealed.

\* SECTION 490.03. That Section 59.19 of Am. Sub. H.B. 95 of the 125th General Assembly is hereby repealed.

\* SECTION 490.04. Section 89.17 of Am. Sub. H.B. 95 of the 125th General Assembly is hereby repealed.

SECTION 490.06. That Section 147 of Am. Sub. H.B. 95 of the 125th General Assembly is hereby repealed.

SECTION 502.01. Nothing in this act shall affect the term of any member of the workers' compensation oversight commission serving on the effective date of this act.

The Treasurer of State shall appoint a person to serve as an investment expert member of the Workers' Compensation Oversight Commission and the President of the Senate and the Speaker of the House of Representatives jointly shall appoint a person to serve as an investment expert member of the Oversight Commission not later than ninety days after the effective date of this section, and those persons shall take office not later than ninety days after the effective date of this section. The Treasurer and the President and Speaker shall appoint those members to a term ending September 1, 2008. Each investment expert member shall have the following qualifications:

(A) Be a resident of this state;

(B) Within the three years immediately preceding the appointment, not have been employed by the bureau of workers' compensation or by any person, partnership, or corporation that has provided to the bureau services of a financial or investment nature, including the management, analysis,

supervision, or investment of assets;

(C) Have direct experience in the management, analysis, supervision, or investment of assets.

The investment expert members of the oversight commission shall vote only on investment matters.

\* SECTION 502.02. Within thirty days after the effective date of section 4121.12 of the Revised Code as amended by this act, the workers' compensation oversight commission shall adopt new objectives, criteria, and policies for the investment program of the bureau of workers' compensation that complies with the requirements of section 4121.12 of the Revised Code as amended by this act.

\* SECTION 502.03. Within thirty days after the effective date of this section, the Workers' Compensation Oversight Commission shall submit both of the following lists to the Governor, the President of the Senate, and the Speaker of the House of Representatives:

(A) A list of all of the classes of investments in which assets of funds are invested at the time the act takes effect and in which assets of funds have been invested in the twelve months immediately preceding the effective date of this act;

(B) A list of all investments that are prohibited by this act in which the Administrator of Workers' Compensation has invested, and the value of each investment.

The Oversight Commission shall submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives, within thirty days after the effective date of this section, a plan to divest itself, within six months after the effective date of this section, of any investments that are prohibited by section 4121.12 of the Revised Code, as amended by this act.

SECTION 502.03.01. In addition to the Inspector General's powers and duties specified in sections 121.41 to 121.50 of the Revised Code and notwithstanding division (F) of section 121.42 of the Revised Code, as part of the Inspector General's investigation of the investments of the assets of the funds specified in Chapters 4121., 4123., 4127., and 4131. of the Revised Code that the Administrator of Workers' Compensation has the authority to invest, the Inspector General shall have a fiduciary review of those investments conducted by an independent firm. The Inspector General

shall award a contract to an independent firm in the same manner as the Inspector General awards contracts to special investigators. The Inspector General shall submit a copy of the fiduciary review that the Inspector General receives to the Governor, the Attorney General, the Auditor of State, and the General Assembly.

\* SECTION 502.04. Nothing in this act shall be construed to limit the Ohio Ethics Commission's authority, responsibility, and powers under Chapter 102. of the Revised Code as it existed immediately prior to the effective date of this section as applied to members of the Workers' Compensation Oversight Commission and employees of the Bureau of Workers' Compensation. Any authority, power, or responsibilities of the Ohio Ethics Commission expressly created by this act are in addition to any authority, power, or responsibilities of the Commission in effect immediately prior to the effective date of this section.

SECTION 503.03. As used in this section, "state agency" means the administrative departments identified in section 121.02 of the Revised Code and the bureau of workers' compensation.

During 2005, the Auditor of State shall examine the compliance of each state agency with the requirements of section 131.02 of the Revised Code. The examination shall inquire into the following matters:

(A) The practices and procedures used by the agency to collect claims before the claims are certified to the Attorney General as required by section 131.02 of the Revised Code;

(B) The number of individuals employed by the agency or engaged under contract with the agency in 2003 and 2004 whose only or whose primary duty is to collect amounts owed to the agency;

(C) For claims certified to the Attorney General under section 131.02 of the Revised Code in 2003 and 2004, the average number of days elapsing between the last day for timely payment of the claims and the day the agency certified the claim to the Attorney General.

For the purposes of the examination required by this section, the Auditor of State may request a state agency to provide reports to the Auditor of State on the matters described under divisions (A), (B), and (C) of this section. State agencies shall provide such reports to the Auditor of State within 60 days after the request, but the Auditor of State may extend the

time for providing the report for good cause for up to sixty days.

Not later than March 31, 2006, the Auditor of State shall submit a written report of the Auditor of State's findings under this section to the Governor, the Speaker of the House of Representatives, the President of the Senate, and the Legislative Service Commission.

SECTION 503.06. (A) There is hereby created the Task Force on Law Library Associations, consisting of thirteen members. The Speaker and Minority Leader of the House of Representatives shall each appoint one member of the House of Representatives to the Task Force. The President and Minority Leader of the Senate shall each appoint one member of the Senate to the Task Force. The Ohio Judicial Conference shall appoint three members to the Task Force, two of whom shall be judges who are members of the Conference and one of whom shall be a law librarian associated with a law library association. The County Commissioners Association of Ohio shall appoint three members to the Task Force. The Ohio State Bar Association shall appoint three members to the Task Force, two of whom shall be attorneys licensed to practice law in this state and one of whom shall be a law librarian associated with a law library association. Appointments to the Task Force shall be made by September 1, 2005. Vacancies on the Task Force shall be filled in the manner provided for original appointments.

(B)(1) The Task Force shall do each of the following:

(a) Gather information on and study the current state of the law library associations in this state covered by sections 3375.48 to 3375.56 of the Revised Code, with particular emphasis on the structure, funding, and administration of their law libraries, and on the effect of technology on, and access to, their law libraries;

(b) Make recommendations on the structure, funding, and administration of these law libraries presently and over the next five calendar years;

(c) Make recommendations as to how to ensure that these law libraries remain open and may be made available to members of the public.

(2) The Task Force shall submit a report of its findings and recommendations to the Speaker and Minority Leader of the House of Representatives, the President and Minority Leader of the Senate, and the Chief Justice of the Supreme Court by October 31, 2006. Upon submission of its report, the Task Force shall cease to exist.

(C) Sections 101.82 to 101.87 of the Revised Code do not apply to the Task Force.

SECTION 503.09. (A) There is hereby created the Correctional Faith-Based Initiatives Task Force consisting of the following seventeen members:

(1) One member of the House of Representatives appointed by the Speaker of the House of Representatives;

(2) One member of the House of Representatives appointed by the Speaker of the House of Representatives after considering the recommendation of the leader of the minority party of the House of Representatives;

(3) One member of the Senate appointed by the President of the Senate;

(4) One member of the Senate appointed by the President of the Senate after considering the recommendation of the Minority Leader of the Senate;

(5) Two members appointed by the Governor;

(6) The Director of Rehabilitation and Correction or the director's designee;

(7) Three members appointed by the Director of Rehabilitation and Correction who have expertise or experience in faith-based programs in the correctional setting;

(8) The Director of Job and Family Services or the director's designee;

(9) The Director of Youth Services or the director's designee;

(10) One member appointed by the Director of Youth Services who has expertise or experience in the juvenile court system;

(11) The Director of Alcohol and Drug Addiction Services or the director's designee;

(12) The Director of Mental Health or the director's designee;

(13) The Executive Director of the Division of Criminal Justice Services or the executive director's designee;

(14) One member appointed by the executive assistant in charge of the Governor's Office of Faith-Based and Community Initiatives.

(B) The Director of Rehabilitation and Correction, or the director's designee, and the member of the House of Representatives appointed by the Speaker of the House of Representatives shall be co-chairs of the task force. The task force shall meet at least once each month. The Department of Rehabilitation and Correction shall provide the task force with a meeting room and secretarial assistance.

(C) The task force shall study seamless faith-based solutions to problems in the correctional system, focusing on diversion programs, programs and services in the prison system and for families of incarcerated individuals, and the faith-based and nonprofit organizations that provide the



programs and services. The task force shall examine existing faith-based programs in prisons in Ohio and other states and shall consider the feasibility of replicating programs from other states and developing model faith-based penal institutions, faith-based units within penal institutions, and faith-based programs to reduce recidivism of offenders after their release from prison, improve prison management, and deal with juveniles who have been held over to or are in the adult penal system or who have parents who are incarcerated.

(D) On or before the first anniversary of the effective date of this section, the task force shall provide a written report and recommendations to the Governor, the Speaker of the House of Representatives, and the President of the Senate. Upon submitting the report and recommendations, the task force shall cease to exist.

SECTION 503.12. (A) There is hereby created the Local Government and Library Revenue Distribution Task Force consisting of the following members:

(1) Five members of the House of Representatives to be appointed by the Speaker of the House of Representatives, at least two of whom shall be from the minority party;

(2) Five members of the Senate to be appointed by the President of the Senate, at least two of whom shall be from the minority party;

(3) One nonvoting member to be appointed by the Ohio Library Council;

(4) One nonvoting member to be appointed by the County Commissioners' Association of Ohio;

(5) One nonvoting member to be appointed by the Ohio Municipal League;

(6) One nonvoting member to be appointed by the Ohio Township Association;

(7) One nonvoting member to be appointed by the Ohio Parks and Recreation Association.

All appointments shall be made within thirty days after the effective date of this section. Vacancies on the Task Force shall be filled in the same manner as the original appointments. The Task Force shall designate one of the members to serve as chairperson. The initial meeting to organize the Task Force shall be called by the Tax Commissioner.

(B) The Task Force shall study potential sources of state funding for the Local Government Fund, the Library and Local Government Support Fund, and the Local Government Revenue Assistance Fund that have the capacity

to allow for growth in funding levels and to provide stability in funding levels. In addition, the Task Force shall consider changes to the codified funding formulae for the Local Government Fund, the Library and Local Government Support Fund, and the Local Government Revenue Assistance Fund that reflect the reform to Ohio tax code.

(C) The Task Force shall receive staff assistance from the Tax Commissioner and may request assistance from the Legislative Service Commission. The Task Force shall also seek the input and testimony of interested parties.

(D) Not later than December 1, 2006, the Task Force shall submit a report to the Governor and to the General Assembly setting forth its recommendations for sources of funding for the funds specified in division (B) of this section, together with suggested legislation to implement the recommendations.

(E) The Task Force shall cease to exist upon issuing its report.

SECTION 503.15. (A) Notwithstanding any other provision of law to the contrary, the appointment and removal provisions of the resolutions and ordinances governing the board of trustees of any regional transit authority consisting of a county having a population of at least five hundred thousand, according to the 2000 federal census, and two municipal corporations, are void on the effective date of this act. The appointment and removal of the board of trustees of such regional transit authority shall comply with section 306.331 of the Revised Code.

(B) Within the first five days after the effective date of this act, the county and municipal corporations specified in section 306.331 of the Revised Code shall appoint a new board of trustees for the regional transit authority in accordance with section 306.331 of the Revised Code.

(C) Notwithstanding any other provision of law to the contrary, on the fifth day after the effective date of this act, the board of trustees of such regional transit authority, as constituted on the effective date of this act, is dissolved and the board appointed in accordance with section 306.331 of the Revised Code shall meet and organize.

(D) This act shall not be construed as affecting the validity of any action of such regional transit authority taken prior to the effective date of this act.

SECTION 503.18. OCCUPATIONAL THERAPY, PHYSICAL THERAPY, AND ATHLETIC TRAINERS BOARD MEMBER APPOINTMENT

The term of the licensed occupational therapy assistant, as established in section 4755.03 of the Revised Code as amended by this act, shall commence at the time of the next appointment to the Occupational Therapy, Physical Therapy, and Athletic Trainers Board.

SECTION 506.03. (A) The Governor is hereby authorized to execute a deed in the name of the state conveying to Hocking.Athens.Perry Community Action and its successors and assigns all of the state's right, title, and interest in the following described real estate:

Situate in the Village of Glouster, Trimble Township, Athens County, Ohio, and being a part of a tract as described in Volume 384, Page 47 of the Deed Records of Athens County, and being more particularly described as follows:

Beginning at an iron pin set at the northeast corner of Lot 848 of the Wassall Fire Clay Company's Addition to the Village of Glouster; thence along the south line of a 10.00 foot alley South 85° 54' 29" East 219.30 feet to an iron pin set, thence along the west line of a 4.27 acre tract (ORV 4-442) South 2° 25' 37" East, 528.53 feet to an iron pin found; thence along the west line of a 44.21 acre tract (ORV 172-611) South 24° 08' 53" West, 412.51 feet to an iron pin found; thence North 81° 51' 07" West 594.65 feet to a point on the east right of way line of the former Toledo and Ohio Central Railroad (passing an iron pin found at 586.43 feet); thence along said line North 1° 39' 06" West, 734.24 feet to an iron pin found; thence along the south line of Lot 860 in said Village South 85° 54' 11" East, 188.77 feet to an iron pin set; thence along the east line of Lots 860 and 859 North 4° 05' 20" East, 100.00 feet to an iron pin set (an iron pin found for reference bears South 70° 30' 21" East, 1.01 feet); thence along the south line of Lots 857 and 848 South 85° 54' 29" East, 340.04 feet to an iron pin found; thence along the east line of Lot 848 North 4° 05' 30" East, 40.00 feet to the point of beginning and containing 14.046 acres.

Subject to all Easements and Rights of Way of Record.

Bearings used are to an assumed meridian and are for angular determination only.

Surveyed October 1996 by Kenneth E. Highland, Ohio PLS #S-7581.

EXCEPTING THEREFROM THE FOLLOWING DESCRIBED TWO TRACTS:

Tract 1-0.020 acre: Situate in the Village of Glouster, Trimble Township, Athens County, Ohio, and being a part of a tract as previously described in Volume 384, Page 47 of the Deed Records of Athens County and being more particularly described as follows: Commencing at an iron

pin set at the southeast corner of Lot 860 of the Wassall Fire Clay Company's Addition to the Village of Glouster; thence along the south line of said lot North 85° 54' 11" West, 88.77 feet to an iron pin set at the point of beginning of this tract; thence leaving said line and along a new line South 4° 05' 49" West, 15.00 feet to a point (passing an iron pin set at 10.00 feet); thence along a new line parallel to the south line of the previously mentioned lot line North 85° 54' 11" West, 60.00 feet to an iron pin set; thence North 4° 05' 49" East, 15.00 feet to an iron pin set on grantors most westerly north line (passing an iron pin set at 5.00 feet); thence along said line South 85° 54' 11" East, 60.00 feet to the point of beginning and containing 0.020 acre. Subject to all easements and rights of way of record. Bearings used are to an assumed meridian and are for angular determination only. Surveyed August 1997 by Kenneth E. Highland, Ohio PLS #S-7581.

Deed Reference: Volume 263, Page 540 and Volume 299, Page 185, Athens County Official Records.

Tract 2-0.013 acre: Situate in the Village of Glouster, Trimble Township, Athens County, Ohio, and being a part of a tract as previously described in Volume 384, Page 47 of the Deed Records of Athens County and being more particularly described as follows: Commencing at an iron pin set at the southwest corner of Lot 857 of the Wassall Fire Clay Company's Addition to the Village of Glouster; thence along the south line of said lot South 85° 54' 29" East, 90.00 feet to an iron pin set at the point of beginning of this tract; thence continuing along said line South 85° 54' 29" East, 60.00 feet to an iron pin set at the southeast corner of said lot; thence along a new line South 4° 05' 31" West 10.00 feet to an iron pin set; thence along a line parallel to the south line of Lot 857 North 85° 54' 29" West, 60.00 feet to an iron pin set; thence along a new line North 4° 05' 31" East, 10.00 feet to the point of beginning and containing 0.013 acre. Subject to all easements and rights of way of record. Bearings used are to an assumed meridian and are for angular determination only. Surveyed August 1997 by Kenneth E. Highland, Ohio PLS #S-7581; revised June 2000.

Deed Reference: Volume 299, Page 704; Volume 263, Page 544; and Volume 299, Page 183, Athens County Official Records.

DEED REFERENCE: VOLUME \_\_\_\_\_, PAGE \_\_\_\_\_; VOLUME 298, PAGE 2439; AND VOLUME 258, PAGE 79, ATHENS COUNTY OFFICIAL RECORDS.

(B) Consideration for the conveyance of the real estate described in division (A) of this section is the purchase price of one dollar.

(C) Upon payment of the purchase price, the Auditor of State, with the assistance of the Attorney General, shall prepare a deed to the real estate

described in division (A) of this section. The deed shall state the consideration. The deed shall be executed by the Governor in the name of the state, countersigned by the Secretary of State, sealed with the Great Seal of the State, presented in the Office of the Auditor of State for recording, and delivered to Hocking.Athens.Perry Community Action. Hocking.Athens.Perry Community Action shall present the deed for recording in the Office of the Athens County Recorder.

(D) Hocking.Athens.Perry Community Action shall pay the costs of the conveyance of the real estate described in division (A) of this section.

(E) This section expires one year after its effective date.

SECTION 509.03. (A)(1) The Clerk of the Medina Municipal Court shall be elected by the qualified electors of the territory of the court in the manner that is provided for the election of the judge of that court in section 1901.07 of the Revised Code at the first general election that occurs not less than six months after the effective date of this section.

(2) Notwithstanding division (A)(1)(a) of section 1901.31 of the Revised Code, the term of the Clerk of the Medina Municipal Court elected under division (A)(1) of this section shall commence on the first day of January following the clerk's election and continue until the clerk's successor is elected and qualified. The clerk's successor shall be elected pursuant to the schedule for the election of the judge of that court in sections 1901.07 and 1901.08 of the Revised Code.

(B) The Clerk of the Medina Municipal Court shall continue in office until the clerk elected pursuant to division (A) of this section takes office. If the office of Clerk of the Medina Municipal Court becomes vacant prior to the date that the clerk elected pursuant to division (A) of this section takes office, the judges of the court shall appoint a clerk to serve until the clerk elected pursuant to division (A) of this section takes office.

SECTION 512.03. The Motor Vehicle Inspection and Maintenance Fund that is created in section 3704.14 of the Revised Code, as reenacted by this act, is a continuation of the Motor Vehicle Inspection and Maintenance Fund that was created in section 3704.14 of the Revised Code, as repealed by this act. Money credited to the Fund under former section 3704.14 of the Revised Code shall be used for the purposes specified in new section 3704.14 of the Revised Code, as enacted by this act.

" SECTION 513.03. (A) Notwithstanding any provision of law to the contrary and during the period beginning July 1, 2005, and ending December 31, 2005, the Director of Environmental Protection or a board of health as defined in section 3714.01 of the Revised Code shall not issue a license to open a new construction and demolition debris facility under Chapter 3714. of the Revised Code and rules adopted under it. Except as otherwise provided in this division, the moratorium established by this division applies both with respect to an application for a license to open a new construction and demolition debris facility that is submitted on or after the effective date of this section and to an application for such a license that has been submitted to the Director or a board of health prior to the effective date of this section, but concerning which a license for a facility has not been issued as of that effective date.

The board of county commissioners of a county may request the Director or a board of health to continue to process an application for a license to open a new construction and demolition debris facility in that county that has been submitted to the Director or board of health prior to the effective date of this section. After receiving such a request from a board of county commissioners, the Director or board of health may then issue a license for the new construction and demolition debris facility notwithstanding the moratorium established by this division.

The moratorium established by this division does not apply to a license for a new construction and demolition debris facility if the new facility will be located adjacent or contiguous to a previously licensed construction and demolition debris facility. The moratorium also does not apply to an expansion of or other modification to an existing licensed construction and demolition debris facility.

(B)(1) There is hereby created the Construction and Demolition Debris Facility Study Committee composed of the following thirteen members:

(a) Three members of the House of Representatives appointed by the Speaker of the House of Representatives;

(b) Three members of the Senate appointed by the President of the Senate;

(c) The Director of Environmental Protection or the Director's designee;

(d) One member representing health districts in the state appointed by the Governor;

(e) Three members representing the construction and demolition debris industry in the state appointed by the Governor, one of whom shall be the owner of both a construction and demolition debris facility and a solid waste

disposal facility;

(f) Two members representing environmental consulting organizations or firms in the state appointed by the Governor.

Appointments shall be made to the Committee not later than fifteen days after the effective date of this section. Members of the Committee shall not receive compensation for their service on the Committee and shall not receive reimbursement for expenses incurred related to that service.

(2) The Committee shall study the laws of this state governing construction and demolition debris facilities and the rules adopted under those laws and shall make recommendations to the General Assembly regarding changes to those laws including, but not limited to, recommendations concerning the following topics:

(a) The establishment of a code of ethics for owners and operators of construction and demolition debris facilities;

(b) The establishment of best management practices;

(c) Licensing requirements;

(d) Testing and monitoring requirements and protocols;

(e) Siting and setback criteria for construction and demolition debris facilities;

(f) State and local oversight and regulatory authority;

(g) Fees;

(h) The regulation of construction and demolition debris from sources inside and outside the state;

(i) The closure process for construction and demolition debris facilities.

(3) The Committee shall submit a report of its study and any recommendations that it has developed to the General Assembly not later than September 30, 2005. The Committee shall cease to exist on the date on which it submits its report.

The General Assembly shall enact legislation based on the recommendations of the Committee as soon as is practicable.

SECTION 514.03. (A) As used in this section:

(1) "Automatic tabulating equipment," "direct recording electronic voting machine," "marking device," and "voting machines" have the same meanings as in section 3506.01 of the Revised Code.

(2) "Help America Vote Act of 2002" means the "Help America Vote Act of 2002," Pub. L. No. 107-252, 116 Stat. 1666.

(B) A county that is scheduled to acquire voting machines, marking devices, or automatic tabulating equipment with funds made available pursuant to the Help America Vote Act of 2002 and that selects direct

recording electronic voting machines as the primary voting system to be used in the county and not only for accessibility for individuals with disabilities as required under the Help America Vote Act of 2002 and section 3506.19 of the Revised Code, only may acquire direct recording electronic voting machines with funds made available pursuant to the Help America Vote Act of 2002 if the county acquires sufficient direct recording electronic voting machines to meet the minimum number of direct recording electronic voting machines required to be established by the Secretary of State under division (C) of this section.

(C) The Secretary of State shall establish, for each county, a minimum number of direct recording electronic voting machines that the county shall be required to acquire to be eligible to acquire direct recording electronic voting machines as the primary voting system in the county with funds made available pursuant to the Help America Vote Act of 2002. The minimum number for each county shall be calculated as follows:

(1) The total number of registered voters in the county on January 1, 2005, shall be multiplied by the statewide percentage of voters who were purged from the official lists of registered voters during the 2001 calendar year.

(2) The number resulting from the calculation in division (C)(1) of this section shall be subtracted from the total number of registered voters in the county on January 1, 2005.

(3) The number resulting from the calculation in division (C)(2) of this section shall be divided by one hundred seventy-five.

(4) Any fraction resulting from the calculation in division (C)(3) of this section shall be rounded up to the next whole number.

SECTION 515.03. (A) On or before December 31, 2005, a transportation improvement district and any two or more governmental agencies may enter into an agreement providing for the joint financing of any street, highway, interchange, or other transportation project. Any such agreement shall be approved by resolution or ordinance passed by the legislative authority of each of the parties to such agreement, which resolution or ordinance shall authorize the execution thereof by a designated official or officials of each of such parties, and such agreement, when so approved and executed, shall be in full force and effect.

(B)(1) Subject to division (B)(2) of this section, any party to such an agreement may issue and, notwithstanding any other provision of the Revised Code, a district may purchase directly from the party as an investment, securities to evidence the obligations of that party to the district



pursuant to the agreement for its portion of the cost of the project pursuant to Chapter 133. or other applicable provisions of the Revised Code.

(2) More than half of the property necessary for any project undertaken pursuant to an agreement under this section for which a district is purchasing securities under division (B)(1) of this section shall be located within the territory of the transportation improvement district.

(C) Any term used in this section has the same meaning as defined in section 5540.01 of the Revised Code, as amended by this act, unless the context clearly requires another meaning.

SECTION 553.01. (A) As used in this section:

(1) "Qualifying delinquent taxes" means any tax levied under Chapter 5733., 5739., 5741., 5747., or 5748. of the Revised Code, including the taxes levied under sections 5733.41 and 5747.41 of the Revised Code and taxes required to be withheld under Chapters 5747. and 5748. of the Revised Code, which were due and payable from any person as of May 1, 2005, were unreported or underreported, and remain unpaid.

(2) "Qualifying delinquent personal property taxes" means a tax for which a return is filed under section 5711.02 of the Revised Code.

(3) "Qualifying delinquent taxes" and "qualifying delinquent personal property taxes" do not include any tax for which a notice of assessment or audit has been issued, for which a bill has been issued, which relates to a tax period that ends after the effective date of this section, or for which an audit has been conducted or is currently being conducted.

(B) The Tax Commissioner shall establish and administer a tax amnesty program with respect to qualifying delinquent taxes and qualifying delinquent personal property taxes. The program shall commence on January 1, 2006, and shall conclude on February 15, 2006. The Tax Commissioner shall issue forms and instructions and take other actions necessary to implement the program. The Tax Commissioner shall publicize the program so as to maximize public awareness and participation in the program.

(C)(1) During the program, if a person pays the full amount of qualifying delinquent taxes owed by that person and one-half of any interest that has accrued as a result of the person failing to pay those taxes in a timely fashion, the Tax Commissioner shall waive or abate all applicable penalties and one-half of any interest that accrued on the qualifying delinquent taxes.

(2) During the program, if a person who owes qualifying delinquent personal property taxes files a return with the Tax Commissioner, in the

form and manner prescribed by the Tax Commissioner, listing all taxable property that was required to be listed on the return required to be filed under section 5711.02 of the Revised Code, the Tax Commissioner shall issue a preliminary assessment certificate to the appropriate county auditor. Upon receiving a preliminary assessment certificate issued by the Tax Commissioner pursuant to this division, the county auditor shall compute the amount of qualifying delinquent personal property taxes owed by the person and shall add to that amount one-half of the interest prescribed under sections 5711.32 and 5719.041 of the Revised Code. The county treasurer shall collect the amount of tax and interest computed by the county auditor under this division by preparing and mailing a tax bill to the person as prescribed in section 5711.32 of the Revised Code. If the person pays the full amount of tax and interest thereon on or before the date shown on the tax bill all applicable penalties and one-half of any interest that accrued on the qualifying delinquent personal property taxes shall be waived.

(3) No payment required under division (G) of section 321.24 of the Revised Code shall be made with respect to any person who pays qualifying delinquent personal property taxes under division (C)(2) of this section.

(4) Notwithstanding any contrary provision of the Revised Code, the Tax Commissioner shall not furnish to the county auditor any information pertaining to the exemption from taxation under division (C)(3) of section 5709.01 of the Revised Code insofar as that information pertains to any person who pays qualifying delinquent personal property taxes under division (C)(2) of this section.

(D) The Tax Commissioner may require a person participating in the program to file returns or reports, including amended returns and reports, in connection with the person's payment of qualifying delinquent taxes or qualifying delinquent personal property taxes.

(E) A person who participates in the program and pays in full any outstanding qualifying delinquent tax or qualifying delinquent personal property tax and the interest payable on such tax in accordance with this section shall not be subject to any criminal prosecution or any civil action with respect to that tax, and no assessment shall thereafter be issued against that person with respect to that tax.

(F) Taxes and interest collected under the program shall be credited to the General Revenue Fund, except that:

(1) Qualifying delinquent personal property taxes and interest payable thereon shall be credited to the appropriate county undivided income tax fund, and the county auditor shall distribute the amount thereof among the various taxing districts in the county as if it had been levied, collected, and

settled, as personal property taxes;

(2) Qualifying delinquent taxes levied under section 5739.021, 5739.023, or 5739.026 of the Revised Code shall be distributed to the appropriate counties and transit authorities in accordance with section 5739.21 of the Revised Code during the next distribution required under that section;

(3) Qualifying delinquent taxes levied under section 5741.021, 5741.022, or 5741.023 of the Revised Code shall be distributed to the appropriate counties and transit authorities in accordance with section 5741.03 of the Revised Code during the next distribution required under that section; and

(4) Qualifying delinquent taxes levied under Chapter 5748. of the Revised Code shall be credited to the school district income tax fund and then paid to the appropriate school district during the next payment required under division (D) of section 5747.03 of the Revised Code.

SECTION 553.02. Section 553.01 of this act is hereby repealed, effective February 16, 2006. The repeal of Section 553.01 of this act does not affect, after the effective date of the repeal, the rights, remedies, or actions authorized under that section.

SECTION 553.02.01. Notwithstanding section 5735.142 of the Revised Code, a city, exempted village, joint vocational, or local school district or educational service center that failed to file or failed to file in a timely manner an application for a refund of that portion of the motor vehicle fuel tax imposed by section 5735.29 of the Revised Code that became effective on July 1, 2003, as permitted by section 5735.142 of the Revised Code, that the school district or educational service center paid through the purchase of motor fuel on or after that date may file such a refund application with the Tax Commissioner during the sixty-day period next following the effective date of this section. The Tax Commissioner shall process a refund application received under this section in accordance with section 5735.142 of the Revised Code, treating such an application as if it had been timely filed with the Tax Commissioner in accordance with that section.

SECTION 553.02.03. (A) The amendment by this act of section 5709.07 of the Revised Code first applies with respect to tax year 2005.

(B) Notwithstanding that buildings and lands described in division (D)

of section 5709.07 of the Revised Code, as amended by this act, may qualify for an exemption from real property taxation under a provision of another section of the Revised Code that specifically applies to such buildings and lands, the buildings and lands are nevertheless entitled to the exemption allowed under division (A)(4) of section 5709.07 of the Revised Code, as amended by this act.

SECTION 553.02.06. Notwithstanding section 5709.40, 5709.41, 5709.73, or 5709.78 of the Revised Code to the contrary, exemptions from taxation granted pursuant to an ordinance or resolution adopted under any of those sections on or after July 1, 2005, and on or before December 31, 2005, shall commence with the tax year specified in the ordinance or resolution.

SECTION 557.03. A credit is hereby allowed against the additional estate tax imposed by section 5731.18 of the Revised Code on the estate of a decedent who dies on or after January 1, 2002, but before the effective date of that section as amended by this act. The credit shall equal that portion of the additional estate tax imposed by section 5731.18 of the Revised Code that is over and above the additional estate tax that would have been imposed if the tax levied by division (A) of that section had been an amount equal to the maximum credit allowable by section 2011 of the Internal Revenue Code that was in effect and applicable on the date of such decedent's death for any taxes paid to any state.

SECTION 557.04. Notwithstanding division (A)(3) of section 5733.09 or section 5733.98 of the Revised Code, the credit allowed under section 5733.56 of the Revised Code to telephone companies for providing programs to aid the communicatively impaired shall be allowed in tax year 2005 so that there is full recovery of the tax credit under that section for that tax year.

SECTION 557.06. (A) As used in this section, "net additional tax" means, in the case of a wholesale dealer, the net additional amount of tax resulting from the amendment by this act of section 5743.02 of the Revised Code, less the discount allowed under section 5743.05 of the Revised Code as a commission for affixing and canceling stamps or meter impressions, that is due on all packages of Ohio stamped cigarettes and on all unaffixed Ohio cigarette tax stamps that the wholesale dealer has on hand as of the

beginning of business on July 1, 2005, and, in the case of a retail dealer, means the net additional amount of tax resulting from the amendment by this act of section 5743.02 of the Revised Code that is due on all packages of Ohio stamped cigarettes and on all unaffixed Ohio cigarette tax stamps that the retail dealer has on hand as of the beginning of business on July 1, 2005.

(B) In addition to the return required under section 5743.03 of the Revised Code, each wholesale dealer and each retail dealer shall make and file a return on forms prescribed by the tax commissioner showing the net additional tax due and any other information that the commissioner considers necessary to apply sections 5743.01 to 5743.20 of the Revised Code in the administration of the net additional tax. On or before September 30, 2005, each wholesale dealer and each retail dealer shall deliver the return to the treasurer of state, together with remittance of the net additional tax shown on the return to be due. A wholesale dealer or retail dealer may claim a credit equal to five per cent of the net additional tax shown on the return to be due if the wholesale dealer or retail dealer delivers the return required under this section to the treasurer of state on or before August 15, 2005, together with remittance of the net additional tax due after allowing for the five per cent credit. The treasurer of state shall stamp or otherwise mark on the return the date on which the return and remittance were received by the treasurer of state and also shall show on the return by stamp or otherwise the amount of the tax payment remitted with the return. Upon receipt, the treasurer of state shall immediately transmit all returns filed under this section to the commissioner.

(C) Any wholesale or retail dealer who fails to file a return or remit net additional tax as required under this section shall forfeit and pay into the state treasury a late charge equal to fifty dollars or ten per cent of the net additional tax due, whichever is greater. If the net additional tax, or any portion thereof, whether determined by the commissioner or the wholesale or retail dealer, is not paid on or before the date prescribed for payment under this section, interest shall accrue on the unpaid amount at the rate per annum required by section 5703.47 of the Revised Code from the date prescribed for payment of the net additional tax to the date of payment or to the date the commissioner issues an assessment under section 5743.081 or 5743.082 of the Revised Code, whichever occurs first. Interest shall be paid and collected in the same manner as the net additional tax.

(D) Unpaid or unreported net additional taxes, late charges, and interest may be collected by assessment in the manner prescribed under sections

5743.081 and 5743.082 of the Revised Code.

(E) All amounts collected under this section shall be considered revenue arising from the tax imposed by section 5743.02 of the Revised Code.

SECTION 557.09. (A) This section applies only to the semiannual period from July 1, 2005, to December 31, 2005.

Notwithstanding any provision of Chapter 5751. of the Revised Code as enacted by this act, for purposes of making the first payment of the tax imposed under that chapter, a tax return for both calendar year and calendar quarter taxpayers for that semiannual period shall be filed not later than February 10, 2006. The tax imposed by this section is a semiannual privilege tax measured for the semiannual period commencing July 1, 2005, that is the six-month tax period during which the tax is measured on receipts during that period. The semiannual tax payment for all taxpayers for that semiannual period shall be seventy-five dollars for the first five hundred thousand dollars in taxable gross receipts during that semiannual period. In addition, a tax is imposed on all taxable gross receipts for that semiannual period in excess of five hundred thousand dollars. Such tax shall equal the product of six-tenths of one mill per dollar (the result of rounding twenty-three per cent of two and six-tenths mills) times the remaining amount of taxable gross receipts after subtracting five hundred thousand dollars in taxable gross receipts.

(B) Only persons excluded pursuant to divisions (E)(2) to (10) of section 5751.01 of the Revised Code, as enacted by this act, and persons with less than one hundred fifty thousand dollars in taxable gross receipts during calendar year 2005 are not subject to this section.

(C) The tax commissioner shall take the necessary steps to implement this section and use money in the commercial tax administrative fund to promote awareness of the tax imposed under this section and under Chapter 5751. of the Revised Code as enacted by this act by means of advertising and other reasonable means.

SECTION 557.09.03. It is the intent of the General Assembly that section 5751.033 of the Revised Code, as enacted by this act, be applied in a manner that is consistent with and identical to the situsing provisions that apply to the corporation franchise tax. That section shall be interpreted and applied by the Tax Commissioner in a manner that is consistent with the body of case law addressing the situsing of sales for purposes of the sales factor as determined under Chapter 5733. of the Revised Code, and in a manner that

is consistent with the Tax Commissioner's prior treatment of the corporation franchise tax sales factor situsing law for taxpayers under that chapter.

SECTION 557.09.06. (A) Notwithstanding any provision of Chapter 5751. of the Revised Code as enacted by this act, "gross receipts," as defined in section 5751.01 of the Revised Code, excludes all of the following receipts if they are received prior to July 1, 2007:

(1) Receipts from the sale of fuel by a refinery to a terminal that is intended to be used as motor fuel;

(2) Receipts from the sale of motor fuel from a terminal to a motor fuel dealer, excluding motor fuel that is not subject to taxation under Chapter 5735. of the Revised Code;

(3) Receipts from the sale of motor fuel upon which the tax under Chapter 5735. of the Revised Code has been imposed.

For the purposes of this division, "motor fuel," "motor fuel dealer, and "terminal" have the same meanings as used in section 5735.01 of the Revised Code.

(B) For the purposes of division (A) of this section, the imposition of tax on motor fuel for the illegal use of that fuel shall not be considered motor fuel subject to the tax under Chapter 5735. of the Revised Code.

(C) The Tax Commissioner may promulgate rules to administer this section, including prescribing the method to determine which fuel is intended to be used as motor fuel.

Between July 1, 2005, and March 1, 2007, the Tax Commissioner shall accept recommendations and comments on the taxation of receipts from the sale or other transfer of motor fuel under Chapter 5751. of the Revised Code, including from persons required to report and pay the tax under Chapter 5735. of the Revised Code, and shall prepare a report summarizing those recommendations and comments and presenting any recommendations of the Tax Commissioner. The Tax Commissioner shall submit the report to the President of the Senate, the Speaker of the House of Representatives, and the leader of the minority caucus in each house on or before March 1, 2007.

SECTION 557.09.07. Notwithstanding anything in Chapter 5735. of the Revised Code as amended by this act, the discount or shrinkage allowance provided for in sections 5735.06 and 5735.141 of the Revised Code for the period July 1, 2005, through June 30, 2007, shall be based on divisions (A) and (B) of this section:

(A) For the discount under section 5735.06 of the Revised Code:

(1) For July 2005 through June 2006, if the monthly report is timely filed and the tax is timely paid, 2.5 per cent of the total number of gallons of motor fuel received by the motor fuel dealer within the state during the preceding calendar month less the total number of gallons deducted under divisions (B)(1)(a) and (b) of section 5735.06 of the Revised Code, less 0.83 per cent of the total number of gallons of motor fuel that were sold to a retail dealer during the preceding calendar month.

(2) For July 2006 through June 2007, if the monthly report is timely filed and the tax is timely paid, 1.95 per cent of the total number of gallons of motor fuel received by the motor fuel dealer within the state during the preceding calendar month less the total number of gallons deducted under divisions (B)(1)(a) and (b) of section 5735.06 of the Revised Code, less 0.65 per cent of the total number of gallons of motor fuel that were sold to a retail dealer during the preceding calendar month.

(B) For the refund provided retail dealers under section 5735.141 of the Revised Code:

(1) For the semiannual periods ending December 31, 2005, and June 30, 2006, the refund shall be 0.83 per cent of the Ohio motor fuel taxes paid on fuel purchased during those semiannual periods.

(2) For the semiannual periods ending December 31, 2006, and June 30, 2007, the refund shall be 0.65 per cent of the Ohio motor fuel taxes paid on fuel purchased during those semiannual periods.

The Tax Commissioner may adopt rules to administer this section.

SECTION 557.09.09. Notwithstanding any provision of Chapter 5751. of the Revised Code as enacted by this act, for purposes of Chapter 5751. of the Revised Code, "gross receipts" excludes amounts received from the sale of tangible personal property that is delivered into or shipped from a qualified foreign trade zone area that includes a qualified intermodal facility.

As used in this section:

(A) "Qualified foreign trade zone area" means a warehouse or other place of delivery or shipment that is:

(1) Located within one mile of the nearest boundary of an international airport; and

(2) Located, in whole or in part, within a foreign trade zone as defined in division (A)(2) of section 5709.44 of the Revised Code.

(B) "Qualified intermodal facility" means a transshipment station that is capable of receiving and shipping freight through rail transportation, highway transportation, and air transportation. A transshipment station is



"capable of receiving and shipping freight" after the commencement of the construction of each of the rail, highway, and air transportation components of the facility.

SECTION 557.10. In lieu of the certification and crediting of money to the Recycling and Litter Prevention Fund in fiscal year 2006 that would be required under section 5733.122 of the Revised Code if that section were not repealed by this act, the Director of Budget and Management, during fiscal year 2006, shall transfer \$1,500,000 from the General Revenue Fund to the Recycling and Litter Prevention Fund according to a schedule to be determined by the Director.

SECTION 557.11. For tax years 2007 and thereafter, telephone, telegraph, and interexchange telecommunications companies, as defined in section 5727.01 of the Revised Code, shall list taxable property at the percentage of true value required in Chapter 5711. of the Revised Code. For purposes of assigning taxable valuation to each taxing district for those years, the Tax Commissioner shall continue to use the apportionment provisions of Chapter 5727. of the Revised Code. However, such property shall be listed by the county auditor and certified to the county treasurer for collection under the provisions applicable to the general list of taxable property and not upon the tax list and duplicate of real and public utility personal property.

#### SECTION 557.12. ADJUSTMENT TO LOCAL GOVERNMENT DISTRIBUTIONS

(A) On or before the seventh day of each month of the period July 2005 through June 2007, the Tax Commissioner shall determine and certify to the Director of Budget and Management the amount to be credited, by tax, during that month to the Local Government Fund, to the Library and Local Government Support Fund, and to the Local Government Revenue Assistance Fund, respectively, under divisions (B) to (G) of this section.

(B) Notwithstanding sections 5727.45, 5727.84, 5733.12, 5739.21, 5741.03, and 5747.03 of the Revised Code to the contrary, for each month in the period July 1, 2005, through June 30, 2007, from the utility excise, kilowatt-hour, corporation franchise, sales and use, and personal income taxes collected:

(1) An amount shall first be credited to the Local Government Fund equal to the amount credited to that fund from that tax according to the

schedule in divisions (C), (D), (E), and (F) of this section;

(2) An amount shall next be credited to the Local Government Revenue Assistance Fund equal to the amount credited to that fund from that tax according to the schedule in divisions (C), (D), (E), and (F) of this section;

(3) An amount shall next be credited to the Library and Local Government Support Fund equal to the amount credited to that fund from that tax according to the schedule in division (G) of this section.

To the extent the amounts credited under divisions (B) through (G) of this section exceed the amounts that otherwise would have been credited under sections 5727.45, 5727.84, 5733.12, 5739.21, 5741.03, and 5747.03 of the Revised Code, the amounts credited to the general revenue fund shall be reduced. To the extent the amounts credited under divisions (B) through (G) of this section are less than the amounts that otherwise would have been credited under sections 5727.45, 5727.84, 5733.12, 5739.21, 5741.03, and 5747.03 of the Revised Code, the amounts credited to the general revenue fund shall be increased. After the appropriate amounts are credited to funds under division (B) of this section, additional adjustments may be required in June 2006 and June 2007 pursuant to division (I) of this section.

(C) Pursuant to divisions (B)(1) and (2) of this section, the amounts shall be credited from the corporation franchise, sales and use, and personal income taxes to each respective fund as follows:

(1) In July 2005, one hundred per cent of the amount credited in July 2004; in July 2006, one hundred per cent of the amount credited in July 2005;

(2) In August 2005, one hundred per cent of the amount credited in August 2004; in August 2006, one hundred per cent of the amount credited in August 2005;

(3) In September 2005, one hundred per cent of the amount credited in September 2004; in September 2006, one hundred per cent of the amount credited in September 2005;

(4) In October 2005, one hundred per cent of the amount credited in October 2004; in October 2006, one hundred per cent of the amount credited in October 2005;

(5) In November 2005, one hundred per cent of the amount credited in November 2004; in November 2006, one hundred per cent of the amount credited in November 2005;

(6) In December 2005, one hundred per cent of the amount credited in December 2004; in December 2006, one hundred per cent of the amount credited in December 2005;

(7) In January 2006, one hundred per cent of the amount credited in

January 2005; in January 2007, one hundred per cent of the amount credited in January 2006;

(8) In February 2006, one hundred per cent of the amount credited in February 2005; in February 2007, one hundred per cent of the amount credited in February 2006;

(9) In March 2006, one hundred per cent of the amount credited in March 2005; in March 2007, one hundred per cent of the amount credited in March 2006;

(10) In April 2006, one hundred per cent of the amount credited in April 2005; in April 2007, one hundred per cent of the amount credited in April 2006;

(11) In May 2006, one hundred per cent of the amount credited in May 2005; in May 2007, one hundred per cent of the amount credited in May 2006;

(12) In June 2006, one hundred per cent of the amount credited in June 2005; in June 2007, one hundred per cent of the amount credited in June 2006.

(D) Pursuant to divisions (B)(1) and (2) of this section, from the public utility excise tax, amounts shall be credited to the Local Government Fund and the Local Government Revenue Assistance Fund as follows:

(1) In July 2005 and July 2006, no amount shall be credited to the Local Government Fund and no amount shall be credited to the Local Government Revenue Assistance Fund;

(2) In August 2005 and August 2006, no amount shall be credited to the Local Government Fund or to the Local Government Revenue Assistance Fund;

(3) In September 2005 and September 2006, no amount shall be credited to the Local Government Fund or to the Local Government Revenue Assistance Fund;

(4) In October 2005 and October 2006, thirty per cent of \$7,870,426.16 shall be credited to the Local Government Fund and thirty per cent of \$1,124,346.59 shall be credited to the Local Government Revenue Assistance Fund;

(5) In November 2005 and November 2006, thirty per cent of \$1,045,731.11 shall be credited to the Local Government Fund and thirty per cent of \$149,390.15 shall be credited to the Local Government Revenue Assistance Fund;

(6) In December 2005 and December 2006, thirty per cent of \$1,210,041.67 shall be credited to the Local Government Fund and thirty per cent of \$172,863.13 shall be credited to the Local Government Revenue

Assistance Fund;

(7) In January 2006 and January 2007, no amount shall be credited to the Local Government Fund or to the Local Government Revenue Assistance Fund;

(8) In February 2006 and February 2007, thirty per cent of \$1,515,069.22 shall be credited to the Local Government Fund and thirty per cent of \$216,438.43 shall be credited to the Local Government Revenue Assistance Fund;

(9) In March 2006 and March 2007, thirty per cent of \$7,859,958.57 shall be credited to the Local Government Fund and thirty per cent of \$1,122,851.24 shall be credited to the Local Government Revenue Assistance Fund;

(10) In April 2006 and April 2007, no amount shall be credited to the Local Government Fund or to the Local Government Revenue Assistance Fund;

(11) In May 2006 and May 2007, thirty per cent of \$3,300,718.22 shall be credited to the Local Government Fund and thirty per cent of \$471,531.17 shall be credited to the Local Government Revenue Assistance Fund;

(12) In June 2006 and June 2007, thirty per cent of \$9,344,500.89 shall be credited to the Local Government Fund and thirty per cent of \$1,334,928.70 shall be credited to the Local Government Revenue Assistance Fund.

(E) Pursuant to divisions (B)(1) and (2) of this section, from the kilowatt-hour tax, amounts shall be credited to the Local Government Fund and the Local Government Revenue Assistance Fund as follows:

(1) In July 2005 and July 2006, no amount shall be credited to the Local Government Fund and no amount shall be credited to the Local Government Revenue Assistance Fund;

(2) In August 2005 and August 2006, no amount shall be credited to the Local Government Fund or to the Local Government Revenue Assistance Fund;

(3) In September 2005, and September 2006, no amount shall be credited to the Local Government Fund or to the Local Government Revenue Assistance Fund;

(4) In October 2005 and October 2006, seventy per cent of \$7,870,426.16 shall be credited to the Local Government Fund and seventy per cent of \$1,124,346.59 shall be credited to the Local Government Revenue Assistance Fund;

(5) In November 2005 and November 2006, seventy per cent of

\$1,045,731.11 shall be credited to the Local Government Fund and seventy per cent of \$149,390.15 shall be credited to the Local Government Revenue Assistance Fund;

(6) In December 2005 and December 2006, seventy per cent of \$1,210,041.67 shall be credited to the Local Government Fund and seventy per cent of \$172,863.13 shall be credited to the Local Government Revenue Assistance Fund;

(7) In January 2006 and January 2007, no amount shall be credited to the Local Government Fund or to the Local Government Revenue Assistance Fund;

(8) In February 2006 and February 2007, seventy per cent of \$1,515,069.22 shall be credited to the Local Government Fund and seventy per cent of \$216,438.43 shall be credited to the Local Government Revenue Assistance Fund;

(9) In March 2006 and March 2007, seventy per cent of \$7,859,958.57 shall be credited to the Local Government Fund and seventy per cent of \$1,122,851.24 shall be credited to the Local Government Revenue Assistance Fund;

(10) In April 2006 and April 2007, no amount shall be credited to the Local Government Fund or to the Local Government Revenue Assistance Fund;

(11) In May 2006 and May 2007, seventy per cent of \$3,300,718.22 shall be credited to the Local Government Fund and seventy per cent of \$471,531.17 shall be credited to the Local Government Revenue Assistance Fund;

(12) In June 2006 and June 2007, seventy per cent of \$9,344,500.89 shall be credited to the Local Government Fund and seventy per cent of \$1,334,928.70 shall be credited to the Local Government Revenue Assistance Fund.

(F) Notwithstanding the amounts required to be credited pursuant to division (C) of this section, the amount credited in June 2006 and June 2007 to the Local Government Fund and the Local Government Revenue Assistance Fund from the personal income tax shall be net of a reduction that may be required by division (I) of this section.

(G) Pursuant to division (B)(3) of this section, amounts shall be credited from the personal income tax to the Library and Local Government Support Fund as follows:

(1) In July 2005, one hundred per cent of the amount credited in July 2004; in July 2006, one hundred per cent of the amount credited in July 2005;

(2) In August 2005, one hundred per cent of the amount credited in August 2004; in August 2006, one hundred per cent of the amount credited in August 2005;

(3) In September 2005, one hundred per cent of the amount credited in September 2004; in September 2006, one hundred per cent of the amount credited in September 2005;

(4) In October 2005, one hundred per cent of the amount credited in October 2004; in October 2006, one hundred per cent of the amount credited in October 2005;

(5) In November 2005, one hundred per cent of the amount credited in November 2004; in November 2006, one hundred per cent of the amount credited in November 2005;

(6) In December 2005, one hundred per cent of the amount credited in December 2004; in December 2006, one hundred per cent of the amount credited in December 2005;

(7) In January 2006, one hundred per cent of the amount credited in January 2005; in January 2007, one hundred per cent of the amount credited in January 2006;

(8) In February 2006, one hundred per cent of the amount credited in February 2005; in February 2007, one hundred per cent of the amount credited in February 2006;

(9) In March 2006, one hundred per cent of the amount credited in March 2005; in March 2007, one hundred per cent of the amount credited in March 2006;

(10) In April 2006, one hundred per cent of the amount credited in April 2005; in April 2007, one hundred per cent of the amount credited in April 2006;

(11) In May 2006, one hundred per cent of the amount credited in May 2005; in May 2007, one hundred per cent of the amount credited in May 2006;

(12) In June 2006, one hundred per cent of the amount credited in June 2005, less any reduction that may be required by division (I) of this section; in June 2007, one hundred per cent of the amount credited in June 2006, less any reduction that may be required by division (I) of this section.

(H) The total amount credited to the Local Government Fund, the Local Government Revenue Assistance Fund, and the Library and Local Government Support Fund in each month during the period July 2005 through June 2007 shall be distributed by the tenth day of the immediately succeeding month in the following manner:

(1) Each county undivided local government fund shall receive a

distribution from the Local Government Fund based on its proportionate share of the total amount received from the fund in such respective month for the period August 1, 2004, through July 31, 2005.

(2) Each municipal corporation receiving a direct distribution from the Local Government Fund shall receive a distribution based on its proportionate share of the total amount received from the fund in such respective month for the period August 1, 2004, through July 31, 2005.

(3) Each county undivided local government revenue assistance fund shall receive a distribution from the Local Government Revenue Assistance Fund based on its proportionate share of the total amount received from the fund in such respective month for the period August 1, 2004, through July 31, 2005.

(4) Each county undivided library and local government support fund shall receive a distribution from the Library and Local Government Support Fund based on its proportionate share of the total amount received from the fund in such respective month for the period August 1, 2004, through July 31, 2005.

(I) The Tax Commissioner shall do each of the following:

(1) By June 7, 2006, the Commissioner shall subtract the amount calculated in division (I)(1)(b) of this section from the amount calculated in division (I)(1)(a) of this section. If the amount in division (I)(1)(a) of this section is greater than the amount in division (I)(1)(b) of this section, then such difference shall be subtracted from the total amount of income tax revenue credited to the Local Government Fund, the Local Government Revenue Assistance Fund, and the Library and Local Government Support Fund in June 2006. An amount shall be subtracted from income tax revenue credited to the Local Government Fund, the Local Government Revenue Assistance Fund, or the Library and Local Government Support Fund only if, and according to the proportion by which, such fund contributed to the result that the amount in division (I)(1)(a) of this section exceeds the amount in division (I)(1)(b) of this section.

(a) The sum of all money credited to the Local Government Fund, the Local Government Revenue Assistance Fund, and the Library and Local Government Support Fund from July 2005 through May 2006. The sum computed in division (I)(1)(a) of this section shall exclude any dealer in intangibles tax revenues credited to the Local Government Fund.

(b) The sum of all money that would have been credited to the Local Government Fund, the Local Government Revenue Assistance Fund, and the Library and Local Government Support Fund from July 2005 through May 2006, if sections 5727.45, 5727.84, 5733.12, 5739.21, 5741.03, and

5747.03 of the Revised Code were in effect during this period.

(2) By June 7, 2007, the Commissioner shall subtract the amount calculated in division (I)(2)(b) of this section from the amount calculated in division (I)(2)(a) of this section. If the amount in division (I)(2)(a) of this section is greater than the amount in division (I)(2)(b) of this section, then such difference shall be subtracted from the total amount of income tax revenue credited to the Local Government Fund, the Local Government Revenue Assistance Fund, and the Library and Local Government Support Fund in June 2007. An amount shall be subtracted from income tax revenue credited to the Local Government Fund, the Local Government Revenue Assistance Fund, or the Library and Local Government Support Fund only if, and according to the proportion by which, such fund contributed to the result that the amount in division (I)(2)(a) of this section exceeds the amount in division (I)(2)(b) of this section.

(a) The sum of all money credited to the Local Government Fund, the Local Government Revenue Assistance Fund, and the Library and Local Government Support Fund from June 2006 through May 2007. The sum computed in division (I)(2)(a) of this section shall exclude any dealer in intangibles tax revenues credited to the Local Government Fund and shall be prior to any reduction required by division (I)(1) of this section.

(b) The sum of all money that would have been credited to the Local Government Fund, the Local Government Revenue Assistance Fund, and the Library and Local Government Support Fund from June 2006 through May 2007, if sections 5727.45, 5727.84, 5733.12, 5739.21, 5741.03, and 5747.03 of the Revised Code were in effect during this period.

(3) On the advice of the Tax Commissioner, during any month other than June 2006 or June 2007 of the period July 1, 2005, through July 31, 2007, the Director of Budget and Management may reduce the amounts that are to be otherwise credited to the Local Government Fund, Local Government Revenue Assistance Fund, or Library and Local Government Support Fund in order to accomplish more effectively the purposes of the adjustments in divisions (I)(1) and (2) of this section. If the respective calculations made in June 2006 and June 2007 pursuant to divisions (I)(1) and (2) of this section indicate that excess reductions had been made during the previous months, such excess amounts shall be credited, as appropriate, to the Local Government Fund, Local Government Revenue Assistance Fund, and Library and Local Government Support Fund.

(J) For the 2005, 2006, and 2007 distribution years, the Tax Commissioner is not required to issue the certifications otherwise required by sections 5747.47, 5747.501, 5747.51, and 5747.61 of the Revised Code,



but shall provide to each county auditor by the twentieth day of July 2005, July 2006, and July 2007 an estimate of the amounts to be received by the county in the ensuing year from the Local Government Fund, Local Government Revenue Assistance Fund, and Library and Local Government Support Fund pursuant to this section and any pertinent section of the Revised Code. At the discretion of the Tax Commissioner, the Tax Commissioner may report to each county auditor additional revised estimates of the 2005, 2006, or 2007 distributions at any time during the period July 1, 2005, through July 31, 2007.

(K) During the period July 1, 2005, through July 31, 2007, the Director of Budget and Management shall issue such directives to state agencies that are necessary to ensure that the appropriate amounts are distributed to the Local Government Fund, to the Local Government Revenue Assistance Fund, and to the Library and Local Government Support Fund.

(L) No subdivision shall receive a proportionate share from the county undivided local government fund or county undivided local government revenue assistance fund during the period July 1, 2005, through June 30, 2007, that is less than the proportionate share the subdivision received from that fund during the period July 1, 2004, through June 30, 2005, unless the subdivision consents to receive the lesser proportionate share.

SECTION 557.12.01. (A) Each county and each city with a population of one hundred thousand or more persons shall submit to the Auditor of State a report on or before October 1, 2005, that describes efforts on the part of the county or city to reduce costs by consolidating services and engaging in regional cooperation, specifies cost savings resulting from consolidation of services and regional cooperation, and describes the county's or city's future plans with respect to consolidating services and engaging in regional cooperation as described in division (B) of this section.

(B) The report described in division (A) of this section shall describe future plans with respect to consolidating services, including, but not limited to, consolidating fire, law enforcement, water, sewer, and solid waste services provided by the county or city. The report shall describe any efforts already undertaken by the county or city to analyze how these future consolidation efforts would impact costs and affect existing collective bargaining agreements. If no such analyses have been undertaken at the time the report is filed, the report shall set forth a timeline for completing the analyses.

The report also shall describe future plans with respect to cooperating with one or more neighboring political subdivisions in the financing of

operations that serve all of the subdivisions. The report shall describe the county's or city's future plans, if any, to cooperate with other political subdivisions in the consolidation of purchasing or construction functions.

(C) The report described in division (A) of this section shall be used by the Auditor of State for informational purposes only. The Auditor of State shall have no authority to approve or disapprove any plan described in a report.

SECTION 557.13.03. The Tax Commissioner shall review the calculations of the multipliers used in the determination of oil and gas valuations, in light of the amendment by this act to section 5715.01 of the Revised Code, and the enactment by this act of section 5709.112 of the Revised Code. The review shall be conducted in sufficient time to be used in the Commissioner's annual entry adopting the multipliers for tax year 2006, to ensure that oil and gas properties are uniformly assessed as provided by law and this act.

SECTION 557.13.06. Prior to adopting the rule defining "primarily," as required by division (B)(2) of section 5725.01 of the Revised Code, the Tax Commissioner shall seek the input of current dealers in intangibles.

SECTION 557.13.09. (A) There is hereby created the Joint Legislative Tax Reform Impact Study Committee. The Committee shall consist of the following members of the General Assembly: the chairperson of the Senate's standing committee with primary responsibility for tax legislation, the chairperson of the House of Representatives' standing committee with primary responsibility for tax legislation, four members of the House of Representatives appointed by the Speaker of the House of Representatives, and four members of the Senate appointed by the President of the Senate. Not more than two members appointed by the Speaker and not more than two members appointed by the President may be of the same political party. The appointments shall be made not later than July 31, 2005. The chairpersons of the standing committees with primary responsibility for tax legislation shall serve as co-chairpersons of the Committee. The Department of Taxation shall cooperate with the Committee and, on request, shall provide any information and assistance that is required by the Committee to carry out its duties.

(B) The Committee shall study the effects on school districts and other

local taxing units of phasing-out the tangible personal property tax under this act, and any other matter related to that phase-out that it considers of significance. As part of the study, the Committee shall do all of the following:

(1) Estimate the total taxes lost by school districts and local taxing units as a result of the phase-out;

(2) Estimate the capacity of the commercial activity tax levied under Chapter 5751. of the Revised Code, as enacted by this act, to replace lost tangible personal property tax revenues and to fund the General Revenue Fund;

(3) Estimate the cost for delivery of services by school districts and other local taxing units and the emerging service demands for those services arising from demographic and economic changes to the districts and units;

(4) Identify alternatives for effectively balancing state and local tax revenues available to school districts and other taxing units and their responsibilities for delivery of services;

(5) Examine how the commercial activity tax treats for-profit corporations as compared to nonprofit corporations;

(6) Review the impact of the commercial activity tax on the various business sectors;

(7) Estimate the revenue impact of reclassifying rental real property having more than three units as residential/agricultural real property instead of as nonresidential/agricultural real property under section 5713.041 of the Revised Code.

(C) At the call of the co-chairpersons, the Committee shall hold not less than four meetings. The co-chairpersons shall determine the time, place, and agenda for each meeting of the Committee. Not later than January 31, 2006, the Committee shall issue a report of its findings and shall make recommendations to the President of the Senate and the Speaker of the House of Representatives, at which time the Committee shall cease to exist.

SECTION 557.15. The amendment by this act of sections 319.302 and 323.152 of the Revised Code first applies in tax year 2005.

SECTION 557.17. The amendments to sections 5709.40, 5709.73, 5709.77, and 5709.78 of the Revised Code by this act do not apply, but those sections as they were in effect prior January 1, 2006, do apply, to any project, as defined in section 5709.40 of the Revised Code, if the project meets either of the following requirements:

(A) A project agreement has been completed on or before December 31, 2005, for the project.

(B) Bonds have been issued on or before December 31, 2005, for the project.

SECTION 557.19. Sections 5713.01 and 5727.12 of the Revised Code, as amended by this act, first apply to tax year 2006.

SECTION 557.24. The amendment by this act of sections 5731.01, 5731.05, 5731.131, 5731.14, 5731.18, and 5731.181 of the Revised Code, and the repeal by this act of section 5731.20 of the Revised Code, applies to estates of decedents dying on or after the effective date of those sections as amended by this act.

SECTION 557.27. The amendment by this act of section 5733.40 of the Revised Code applies to taxable years ending on or after the effective date of this act.

SECTION 557.30. Except as otherwise provided in division (A)(18) of section 5747.01 and division (A) of section 5747.02 of the Revised Code, the amendment by this act of sections 5747.01 and 5747.02 of the Revised Code applies to taxable years ending on or after the effective date of this section.

SECTION 557.33. The amendment by this act of section 5747.05 of the Revised Code applies to taxable years ending on or after the effective date of this section.

SECTION 559.03. (A) Sections 9.23, 9.231, 9.232, 9.233, 9.234, 9.235, 9.236, 9.237, 9.238, and 9.239 of the Revised Code, as enacted by this act, apply only to disbursements of money that occur on or after January 1, 2006.

(B) Section 9.241 of the Revised Code, as enacted by this act, applies only to contracts that are entered into or awarded on or after the effective date of that section.

SECTION 560.03. There is hereby created the Ohio Military Reserve Homeland Security Study Commission to evaluate the role and effectiveness of the Ohio Military Reserve. The Commission shall consist of seven members: the Chairperson of the House Commerce and Labor Committee, who shall serve as chairperson of the Commission, two members of the House of Representatives whom the Speaker of the House of Representatives shall appoint, two members of the Senate whom the President of the Senate shall appoint, the Adjutant General or a representative the Adjutant General designates, and the Director of Public Safety or a representative the Director designates. The chairperson shall call the meetings of the Commission. The Commission shall report its findings to the General Assembly before January 1, 2006.

SECTION 563.03. It is the intention of the General Assembly that the amendments made by this act to sections 3319.081 and 3319.17 of the Revised Code, and the enactment by this act of section 3319.172 of the Revised Code, shall not affect collective bargaining agreements between public employers and public employees entered into prior to the effective date of this section.

SECTION 569.03. (A) As used in this section, "appointing authority" has the same meaning as in section 124.01 of the Revised Code, and "exempt employee" has the same meaning as in section 124.152 of the Revised Code.

(B) Notwithstanding section 124.181 of the Revised Code both of the following apply:

(1) In cases where no vacancy exists, an appointing authority may, with the written consent of an exempt employee, assign duties of a higher classification for a period of time not to exceed two years to that exempt employee, and that exempt employee shall receive compensation at a rate commensurate with the duties of the higher classification.

(2) If necessary, employees exempt from collective bargaining who are assigned to duties within their agency to maintain operations during the Ohio Administrative Knowledge System (OAKS) implementation may agree to a temporary assignment that exceeds the two-year limit.

SECTION 569.06. (A) As used in this section, "exempt employee" has the same meaning as in section 124.152 of the Revised Code.

(B) Notwithstanding any provision to the contrary in Chapter 124. of the Revised Code, for the period beginning on July 1, 2005, and ending on June 30, 2007, the Director of Job and Family Services shall have the authority to do the following:

(1) Establish, change, and abolish positions of employment in the Department of Job and Family Services that are in the classified civil service;

(2) Assign, reassign, classify, reclassify, transfer, reduce, promote, and demote exempt employees of the Department who are in the classified civil service, including, but not limited to, assigning or reassigning an employee to a bargaining unit classification if the Director determines that the classification is the proper classification for that employee.

(C) All actions taken by the Director under division (B) of this section relative to exempt employees of the Department who are in the classified civil service and are subject to section 900.603 of Title 5 of the Code of Federal Regulations, 5 C.F.R. 900.603, as amended, shall be consistent with the requirements of that section.

(D) If an exempt employee of the Department who is in the classified civil service and paid in accordance with salary schedule E-1 of section 124.152 of the Revised Code is to be assigned, reassigned, classified, reclassified, transferred, reduced, or demoted to a position in a lower job classification by the Director under division (B) of this section, the Director, or in the case of a transfer of the employee outside the Department, the Director of Administrative Services, shall assign the employee to the appropriate job classification and place the exempt employee in pay step X. The employee shall not receive an increase in compensation until the maximum rate of pay for that classification exceeds the employee's compensation.

(E) Actions taken by the Director under division (B) of this section shall not be subject to appeal to the State Personnel Board of Review.

SECTION 569.12. As used in this section, "municipal public safety director" has the same meaning as in section 145.01 of the Revised Code, as amended by this act.

Not later than November 1, 2005, each municipal public safety director who is a member of the Public Employees Retirement System shall indicate to the retirement system, on a form supplied by the retirement system, a choice of whether to receive benefits under division (A) of section 145.33 of the Revised Code or under division (B) of that section.

SECTION 606.03. If any item of law that constitutes the whole or part of a codified or uncoded section of law contained in this act, or if any application of any item of law that constitutes the whole or part of a codified or uncoded section of law contained in this act, is held invalid, the invalidity does not affect other items of law or applications of items of law that can be given effect without the invalid item of law or application. To this end, the items of law of which the codified and uncoded sections contained in this act are composed, and their applications, are independent and severable.

SECTION 609.03. An item of law, other than an amending, enacting, or repealing clause, that composes the whole or part of an uncoded section contained in this act has no effect after June 30, 2007, unless its context clearly indicates otherwise.

SECTION 611.03. DELAYED IMPLEMENTATION OF  
CENTRALIZED PUBLIC SCHOOL EMPLOYEES' HEALTH CARE  
BENEFITS SYSTEM

Notwithstanding the amendments made to sections 9.833, 9.90, 3311.19, 3313.12, 3313.202, 3313.33, 4117.03, and 4117.08 of the Revised Code by this act and the enactment of section 9.901 of the Revised Code by this act, the following amendments to a section or enactment of provisions shall not take effect unless and until the General Assembly, by subsequent enactment of law, confirms those amendments and provisions, orders their implementation, and makes such other specifications pertaining to that implementation as is then necessary:

(A) All amendments to sections 9.833, 9.90, 3311.19, 3313.12, 3313.202, 3313.33, 4117.03, and 4117.08 of the Revised Code.

(B) The following provisions of section 9.901 of the Revised Code as enacted:

- (1) Division (A)(1);
- (2) The provision that authorizes the soliciting of bids in division (A)(3);
- (3) Division (F), except for the provision that creates the school employees health care fund in the state treasury;
- (4) Division (I)(1);
- (5) Division (I)(5);

(6) Division (J), except for the provision that authorizes the School Employees Health Care Board to contract with the Department of Administrative Services for central services and reimburse the Department for such services;

(7) Division (K);

(8) Division (L); and

(9) Division (M).

(C) The provision in Section 203.12.02 of this act that extends the duties of the executive director and assistant to the School Employees Health Care Board to the Public School Employee Health Insurance Program being proposed for establishment and the provision requiring the reimbursement of the General Revenue Fund of \$2,700,000 by the School Employees Health Care Fund pending a future determination of the sufficiency of premium payments.

SECTION 612.03. Except as otherwise specifically provided in this act, the codified sections of law amended or enacted in this act, and the items of law of which the codified sections of law amended or enacted in this act are composed, are subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1c and section 1.471 of the Revised Code, the codified sections of law amended or enacted by this act, and the items of law of which the codified sections of law as amended or enacted by this act are composed, take effect on the ninety-first day after this act is filed with the Secretary of State. If, however, a referendum petition is filed against any such codified section of law as amended or enacted by this act, or against any item of law of which any such codified section of law as amended or enacted by this act is composed, the codified section of law as amended or enacted, or item of law, unless rejected at the referendum, takes effect at the earliest time permitted by law.

SECTION 612.06. Except as otherwise specifically provided in this act, the repeal by this act of a codified section of law is subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1c and section 1.471 of the Revised Code, the repeal by this act of a codified section of law takes effect on the ninety-first day after this act is filed with the Secretary of State. If, however, a referendum petition is filed against any such repeal, the repeal, unless rejected at the referendum, takes effect at the earliest time permitted by law.



SECTION 612.09. The sections of law amended, enacted, or repealed by this act that are listed in this section are subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1c and section 1.471 of the Revised Code, the sections, and the items of law of which they are composed, take effect as specified in this section. If, however, a referendum petition is filed against any such section as amended, enacted, or repealed, or against any item of law of which any such section as amended or enacted is composed, the section as amended, enacted, or repealed goes into effect at the earliest time permitted by law that is on or after the effective date specified in this section.

Sections 9.24, 120.52, 120.53, 131.23, 317.08, 317.36, 323.01, 329.051, 340.03, 340.16, 1901.26, 1907.24, 2303.201, 2305.234, 2744.05, 3111.04, 3119.54, 3121.12, 3121.50, 3702.74, 4123.27, 4705.09, 4731.65, 4731.71, 4736.11, 5101.181, 5101.241, 5101.26, 5101.31, 5101.36, 5107.26, 5110.01, 5110.05, 5111.021 (5111.022), 5111.022 (5111.023), 5111.023 (5111.0115), 5111.025, 5111.062, 5111.10, 5111.85, 5111.851, 5111.852, 5111.853, 5111.854, 5111.855, 5111.856, 5111.89, 5111.891, 5111.892, 5111.893, 5111.914, 5111.97 (5111.86), 5112.03, 5112.08, 5112.17, 5115.10, 5115.11, 5115.12, 5115.13, 5115.14, 5115.20, 5115.22, 5115.23, and 5119.61 of the Revised Code take effect October 1, 2005.

Sections 1711.531, 4753.03, 4753.06, 4753.071, 4753.08, 4753.09, 5107.05, 5107.30, 5107.301, 5121.01 (5121.02), 5121.02 (5121.03), 5121.03 (5121.01), 5121.04, 5121.05, 5121.06, 5121.061, 5121.07, 5121.08, 5121.09, 5121.10, 5121.11, 5121.12, 5121.21, 5121.30, 5121.31, 5121.32, 5121.33, 5121.34, 5121.35, 5121.36, 5121.37, 5121.38, 5121.40, 5121.41, 5121.42, 5121.43, 5121.44, 5121.45, 5121.46, 5121.47, 5121.48, 5121.49, 5121.50, 5121.51, 5121.52, 5121.53, 5121.54, 5121.55, 5121.56, 5122.03, 5122.31, and 5123.701 of the Revised Code take effect January 1, 2006.

Sections 3301.0710 and 3301.0714 of the Revised Code take effect July 1, 2006.

SECTION 612.12. Sections 101.391, 108.05, 109.57, 109.91, 121.37, 121.38, 121.381, 121.382, 122.011, 122.083, 123.17, 125.11, 125.60, 125.601, 125.602, 125.603, 125.604, 125.605, 125.606, 125.607, 125.608, 125.609, 125.6010, 125.6011, 125.6012, 125.831, 125.832, 126.25, 131.02, 133.09, 141.011, 141.04, 147.05, 147.10, 147.11, 147.12, 147.371, 149.30, 181.251 (5502.63), 181.51 (5502.61), 181.52 (5502.62), 181.54 (5502.64), 181.55 (5502.65), 181.56 (5502.66), 307.86, 339.72, 339.88, 731.14,

731.141, 742.59, 901.43, 901.44, 905.32, 905.33, 905.331, 905.36, 905.37, 905.38, 905.381, 905.50, 905.66, 907.16, 913.02, 913.23, 915.02, 915.16, 915.24, 921.02, 921.16, 923.44, 923.45, 923.46, 926.01, 927.69, 1327.511, 1502.02, 1515.14, 1541.03, 1713.03, 2113.041, 2117.061, 2151.416, 2152.74, 2901.07, 2923.25, 3107.10, 3125.191, 3301.311, 3301.32, 3301.86, 3301.88, 3302.03, 3310.01, 3310.02, 3310.03, 3310.04, 3310.05, 3310.06, 3310.07, 3310.08, 3310.09, 3310.10, 3310.13, 3310.14, 3310.16, 3310.17, 3311.11, 3313.975, 3313.976, 3313.977, 3313.978, 3313.98, 3314.013, 3314.014, 3314.015, 3314.021, 3314.06, 3314.061, 3314.084, 3314.085, 3314.13, 3314.27, 3314.28, 3316.043, 3317.013, 3317.016, 3317.017, 3317.02, 3317.021, 3317.022, 3317.023, 3317.026, 3317.027, 3317.028, 3317.029, 3317.0216, 3317.0217, 3317.03, 3317.031, 3317.035, 3317.05, 3317.052, 3317.053, 3317.063, 3317.07, 3317.081, 3317.10, 3317.16, 3317.20, 3317.201, 3317.21 (3318.47), 3317.22 (3318.48), 3317.23 (3318.49), 3318.33, 3319.06, 3323.091, 3323.14, 3323.16, 3323.19, 3325.11, 3325.12, 3325.16, 3325.17, 3333.28, 3333.36, 3334.02, 3334.19, 3365.01, 3365.02, 3365.04, 3365.041, 3365.05, 3365.08, 3365.11, 3701.073, 3701.146, 3702.141, 3702.68, 3702.83, 3712.03, 3714.073, 3715.04, 3721.011, 3721.03, 3721.032, 3721.07, 3721.121, 3721.15, 3721.21, 3721.541, 3734.57, 3734.901, 3734.9010, 3743.57, 3745.015, 3745.11, 3745.114, 3748.07, 3748.13, 3770.061, 3793.09, 3901.021, 3901.17, 3905.36, 4112.12, 4115.32, 4115.34, 4115.36, 4511.75, 4519.02, 4519.09, 4723.32, 4723.33, 4723.34, 4723.341, 4723.61, 4723.62, 4723.621, 4723.63 (4723.91), 4723.64, 4723.65, 4723.651, 4723.652, 4723.66, 4723.67, 4723.68, 4723.69, 4736.12, 4766.09, 4766.14, 4905.10, 4911.18, 4973.171, 5101.07, 5101.071, 5101.21, 5101.46, 5101.461, 5101.821, 5104.01, 5104.32, 5110.352, 5111.019, 5111.061, 5111.082, 5111.11, 5111.111, 5111.112 (5111.113), 5111.113 (5111.114), 5111.16, 5111.161, 5111.162, 5111.17, 5111.176, 5111.19, 5111.191, 5111.98, 5112.30, 5112.341, 5120.09, 5120.51, 5139.01, 5502.01, 5540.01, 5540.09, 5731.39, and 6109.21 of the Revised Code as amended or enacted by this act, and the items of law of which such sections as amended or enacted by this act are composed, are not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, such sections as amended or enacted by this act, and the items of law of which such sections as amended or enacted by this act are composed, go into immediate effect when this act becomes law.

SECTION 612.12.01. The enactment by this act of new section 4723.63 of the Revised Code, and the items of which it is composed, are not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, the new section, and the items of which it is composed, go into immediate effect when this act becomes law.

SECTION 612.12.03. New sections 3317.012, 5111.02, and 5111.112 of the Revised Code as enacted by this act, and the items of law of which such sections as enacted by this act are composed, are not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, such sections as enacted by this act, and the items of law of which such sections as enacted by this act are composed, go into immediate effect when this act becomes law.

SECTION 612.15. The repeal by this act of sections 181.53, 339.77, 742.36, 3301.31, 3301.33, 3301.34, 3301.35, 3301.36, 3301.37, 3301.38, 3301.85, 3301.87, 3317.012, 3317.0212, and 3317.0213 of the Revised Code is not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, the repeals go into immediate effect when this act becomes law.

SECTION 612.18. The sections of law amended, enacted, or repealed by this act that are listed in this section are not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, the sections as amended, enacted, or repealed, and the items of law of which such sections as amended or enacted by this act are composed, go into effect as specified in this section.

Sections 9.981, 125.05, 133.08, 133.081, 140.01, 154.11, 183.28, 3301.80, 3314.074, 3317.06, 3317.50, 3317.51, 3319.22, 3319.235, 3323.021, 3353.01, 3353.02, 3353.03, 3353.04, 3353.06, 3353.07, 3506.17, 3704.035, 3704.14, 3704.142, 3704.143, 3704.17, 3704.99, 3721.01, 3721.19, 3721.50, 3721.51, 3721.511, 3721.52, 3721.56, 3721.561, 3721.58, 3722.01, 3722.02, 4117.24, 4503.103, 5111.041, 5111.042, 5111.20, 5111.21, 5111.22, 5111.221, 5111.222, 5111.223, 5111.23, 5111.231 (5111.232), 5111.235, 5111.24, 5111.241, 5111.242, 5111.243, 5111.244, 5111.25, 5111.251, 5111.254, 5111.255, 5111.257 (5111.258), 5111.26, 5111.261, 5111.262, 5111.263, 5111.264, 5111.265, 5111.266, 5111.27,

5111.28, 5111.29, 5111.291, 5111.30, 5111.31, 5111.32, 5111.33, 5111.34, 5111.65, 5111.651, 5111.66, 5111.661, 5111.67, 5111.671, 5111.672, 5111.673, 5111.674, 5111.675, 5111.676, 5111.677, 5111.68, 5111.681, 5111.682, 5111.683, 5111.684, 5111.685, 5111.686, 5111.687, 5111.688, 5111.871, 5112.31, 5123.01, 5123.041, 5123.045, 5123.046, 5123.047, 5123.048, 5123.049, 5123.0412, 5123.16, 5123.34, 5123.41, 5123.71, 5123.76, 5126.01, 5126.035, 5126.042, 5126.054, 5126.055, 5126.056, 5126.057, 5126.12, 5552.01, and 5705.091 of the Revised Code take effect July 1, 2005.

New sections 3353.02, 3353.03, 3704.14, 5111.231, 5111.24, 5111.257, 5111.34, and 5123.048 of the Revised Code take effect July 1, 2005.

The amendment by this act of sections 5709.40, 5709.73, 5709.77, and 5709.78 of the Revised Code takes effect January 1, 2006.

SECTION 612.21. The amendment or enactment by this act of sections 122.17, 122.171, 122.172, 122.173, 122.18, 150.07, 150.10, 319.302, 323.152, 325.31, 351.01, 351.021, 351.06, 351.141, 351.16, 718.09, 718.10, 1548.06, 2921.13, 2927.023, 4301.43, 4505.06, 5101.184, 5101.98, 5703.052, 5703.053, 5703.057, 5703.47, 5703.50, 5703.70, 5707.031, 5709.07, 5709.112, 5709.12, 5709.121, 5711.01, 5711.16, 5711.21, 5711.22, 5711.28, 5713.01, 5715.01, 5715.24, 5719.041, 5725.19, 5725.32, 5727.01, 5727.02, 5727.031, 5727.06, 5727.08, 5727.10, 5727.11, 5727.111, 5727.12, 5727.23, 5727.241, 5728.01, 5728.02, 5728.03, 5728.04, 5728.06, 5728.08, 5729.032, 5729.08, 5731.01, 5731.05, 5731.131, 5731.14, 5731.18, 5731.181, 5731.22, 5731.23, 5731.41, 5733.01, 5733.33, 5733.351, 5733.352, 5733.40, 5733.41, 5733.49, 5733.98, 5737.03, 5739.025, 5739.034, 5739.035, 5739.08, 5739.10, 5743.01, 5743.03, 5743.031, 5743.05, 5743.071, 5743.072, 5743.08, 5743.10, 5743.111, 5743.112, 5743.14, 5743.15, 5743.16, 5743.18, 5743.19, 5743.20, 5743.331, 5743.71, 5747.012, 5747.02, 5747.05, 5747.056, 5747.08, 5747.113, 5747.212, 5747.331, 5747.80, 5747.98, 5748.01, 5748.02, 5748.03, 5748.04, 5748.08,, 5751.01, 5751.011, 5751.012, 5751.013, 5751.02, 5751.03, 5751.031, 5751.032, 5751.033, 5751.04, 5751.05, 5751.051, 5751.06, 5751.07, 5751.08, 5751.081, 5751.09, 5751.10, 5751.11, 5751.12, 5751.20, 5751.21, 5751.22, 5751.23, 5751.31, 5751.50, 5751.51, 5751.52, 5751.53, 5751.98, and 5751.99 of the Revised Code provides for or is essential to implementation of a tax levy. Therefore, under Ohio Constitution, Article II, Section 1d, the amendments and enactments, and the items of which they are composed, are not subject to the referendum and go into immediate effect when this act becomes law.

SECTION 612.24. The repeal by this act of section 5731.20 of the Revised Code provides for or is essential to implementation of a tax levy. Therefore, under Ohio Constitution, Article II, Section 1d, the repeal is not subject to the referendum and goes into immediate effect when this act becomes law.

SECTION 612.27. The amendment, enactment, or repeal by this act of the sections of law that are listed in this section provides for or is essential to implementation of a tax levy. Therefore, under Ohio Constitution, Article II, Section 1d, the amendments, enactments, and repeals, and the items of which any such amendment or enactment is composed, are not subject to the referendum and go into effect as specified in this section.

Sections 5703.80, 5733.065, 5733.066, 5733.122, 5739.033, 5739.12, 5743.02, 5743.32, and 5743.33 of the Revised Code take effect July 1, 2005.

Sections 5739.012, 5739.03, 5739.16, and 5741.16 of the Revised Code take effect January 1, 2006.

SECTION 612.30. (A) Except as otherwise provided in division (B) of this section, the amendments by this act to section 127.16 of the Revised Code are not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, the amendments take effect July 1, 2005.

(B) The amendment to division (D)(2) of section 127.16 of the Revised Code is subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1c and section 1.471 of the Revised Code, the amendment takes effect October 1, 2005. If, however, a referendum petition is filed against the amendment, the amendment, unless rejected at the referendum, takes effect at the earliest time permitted by law that is on or after the effective date specified in this division.

SECTION 612.31. (A) Except as otherwise provided in division (B) of this section, the amendments by this act to section 307.695 of the Revised Code are subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1c and section 1.471 of the Revised Code, the amendments go into effect on the ninety-first day after this act is filed with the Secretary of State. If, however, a referendum petition is filed against the amendments, the amendments, unless rejected at the referendum, take effect

at the earliest time permitted by law.

(B) The amendments to section 307.695 of the Revised Code relating to community improvement corporations provide for or are essential to implementation of a tax levy. Therefore, under Ohio Constitution, Article II, Section 1d, the amendments take effect July 1, 2005.

SECTION 612.33. (A) Except as otherwise provided in division (B) of this section, the amendments by this act to section 321.24 of the Revised Code provides for or is essential to implementation of a tax levy. Therefore, under Ohio Constitution, Article II, Section 1d, the amendments are not subject to the referendum and go into immediate effect when this act becomes law.

(B) The amendment to division (F) of section 321.24 of the Revised Code provides for or is essential to implementation of a tax levy. Therefore, under Ohio Constitution, Article II, Section 1d, the amendment takes effect July 1, 2005.

SECTION 612.36. (A) Except as otherwise provided in division (B) of this section, the amendments by this act to section 329.04 of the Revised Code are not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, the amendments go into immediate effect.

(B) The amendments to divisions (A)(3) to (9) of section 329.04 of the Revised Code are subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1c and section 1.471 of the Revised Code, the amendments take effect October 1, 2005. If, however, a referendum petition is filed against the amendments, the amendments, unless rejected at the referendum, take effect at the earliest time permitted by law that is on or after the effective date specified in this division.

SECTION 612.36.03. (A) Except as otherwise provided in division (B) of this section, the amendments to section 3301.0711 of the Revised Code are subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1c and section 1.471 of the Revised Code, the amendments take effect July 1, 2006. If, however, a referendum petition is filed against the amendments, the amendments, unless rejected at the referendum, take effect at the earliest time permitted by law that is on or after the effective date

specified in this division.

(B) The amendments to division (N) of section 3301.0711 of the Revised Code are not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, the amendments go into immediate effect.

SECTION 612.37. (A) Except as otherwise provided in division (B) of this section, the amendments to section 3314.02 of the Revised Code are subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1c and section 1.471 of the Revised Code, the amendments go into effect on the ninety-first day after this act is filed with the Secretary of State. If, however, a referendum petition is filed against the amendments, the amendments, unless rejected at the referendum, take effect at the earliest time permitted by law.

(B) The amendment striking the paragraph immediately following division (C)(1)(f)(iii) of section 3314.02 of the Revised Code is not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, the amendment goes into immediate effect when this act becomes law.

SECTION 612.38. (A) Except as otherwise provided in division (B) of this section, the amendments by this act to section 3314.03 of the Revised Code are not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, the amendments go into immediate effect.

(B) The amendment to division (A)(4) and the amendments adding divisions (A)(25) and (F) of section 3314.03 of the Revised Code are subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1c and section 1.471 of the Revised Code, the amendments take effect on the ninety-first day after this act is filed with the Secretary of State. If, however, a referendum petition is filed against the amendments, the amendments, unless rejected at the referendum, take effect at the earliest time permitted by law.

SECTION 612.38.03. (A) Except as otherwise provided in division (B) of this section, the amendments by this act to section 3314.08 of the Revised Code are not subject to the referendum. Therefore, under Ohio Constitution,

Article II, Section 1d and section 1.471 of the Revised Code, the amendments go into immediate effect.

(B) The amendments to division (N) of section 3314.08 of the Revised Code are subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1c and section 1.471 of the Revised Code, the amendments take effect on the ninety-first day after this act is filed with the Secretary of State. If, however, a referendum petition is filed against the amendments, the amendments, unless rejected at the referendum, take effect at the earliest time permitted by law.

SECTION 612.39. (A) Except as otherwise provided in division (B) of this section, the amendments by this act to section 3317.024 of the Revised Code are not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, the amendments go into immediate effect.

(B) The amendment to division (J) of section 3317.024 of the Revised Code is subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1c and section 1.471 of the Revised Code, the amendment takes effect on the ninety-first day after this act is filed with the Secretary of State. If, however, a referendum petition is filed against the amendment, the amendment, unless rejected at the referendum, takes effect at the earliest time permitted by law.

SECTION 612.45. (A) Except as otherwise provided in division (B) of this section, the amendments by this act to section 3702.51 of the Revised Code are not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, the amendments go into immediate effect.

(B) The amendment to division (G)(10) of section 3702.51 of the Revised Code is not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, the amendments take effect July 1, 2005.

SECTION 612.48. (A) Except as otherwise provided in division (B) of this section, the amendments to section 5101.35 of the Revised Code are subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1c and section 1.471 of the Revised Code, the amendments take



effect on the ninety-first day after this act is filed with the Secretary of State. If, however, a referendum petition is filed against the amendments, the amendments, unless rejected at the referendum, take effect at the earliest time permitted by law.

(B) The amendment by this act to division (A)(3) of section 5101.35 of the Revised Code adding a reference to "5101.461" is not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, the amendment goes into immediate effect.

SECTION 612.54. (A) Except as otherwise provided in division (B) of this section, the amendments to section 5111.02 (5111.021) of the Revised Code are subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1c and section 1.471 of the Revised Code, the amendments take effect October 1, 2005. If, however, a referendum petition is filed against the amendments, the amendments, unless rejected at the referendum, take effect at the earliest time permitted by law that is on or after the effective date specified in this division.

(B) The amendment by this act to division (B) of section 5111.02 (5111.021) of the Revised Code striking the last sentence of that division (B) is not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, the amendment takes effect July 1, 2005.

SECTION 612.57. (A) Except as otherwise provided in division (B) of this section, the amendments to section 5111.06 of the Revised Code are subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1c and section 1.471 of the Revised Code, the amendments go into effect on October 1, 2005. If, however, a referendum petition is filed against the amendments, the amendments, unless rejected at the referendum, take effect at the earliest time permitted by law that is on or after the effective date specified in this division.

(B) The amendment to division (A)(1) of section 5111.06 of the Revised Code that inserts a reference to section 5111.061 of the Revised Code is not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, the amendment goes into immediate effect when this act becomes law.

SECTION 612.63. (A) Except as otherwise provided in division (B) of this section, the amendment renumbering section 5111.88 as section 5111.97 of the Revised Code is subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1c and section 1.471 of the Revised Code, the renumbering amendment takes effect October 1, 2005. If, however, a referendum petition is filed against the renumbering amendment, the renumbering amendment, unless rejected at the referendum, takes effect at the earliest time permitted by law that is on or after the effective date specified in this division.

(B) The amendment to division (B)(2) of section 5111.88 (5111.97) of the Revised Code striking "eighteen" and inserting "twelve" is not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, the amendment goes into immediate effect when this act becomes law.

SECTION 612.66. (A) Except as otherwise provided in division (B) of this section, the amendments to section 5727.84 of the Revised Code provide for or are essential to implementation of a tax levy. Therefore, under Ohio Constitution, Article II, Section 1d, the amendments go into immediate effect when this act becomes law.

(B) The amendments striking divisions (B)(6) and (7) and (C)(3) from section 5727.84 of the Revised Code are subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1c and section 1.471 of the Revised Code, the amendments take effect on the ninety-first day after this act is filed with the Secretary of State. If, however, a referendum petition is filed against the amendments, the amendments, unless rejected at the referendum, take effect at the earliest time permitted by law.

SECTION 612.69. (A) Except as otherwise provided in division (B) of this section, the amendments to section 5727.85 of the Revised Code are not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, the amendments go into immediate effect when this act becomes law.

(B) The amendments to section 5727.85 of the Revised Code that insert new language into division (F), strike "February" and insert "May," strike divisions (G) and (H) and the two unlettered paragraphs following, insert new division (H), and add an internal cross-reference to division (F) of the

section are subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1c and section 1.471 of the Revised Code, the amendments take effect on the ninety-first day after this act is filed with the Secretary of State. If, however, a referendum petition is filed against the amendments, the amendments, unless rejected at the referendum, take effect at the earliest time permitted by law.

SECTION 612.69.03. The amendments by this act to section 5739.01 of the Revised Code provide for or are essential to implementation of a tax levy. Therefore, under Ohio Constitution, Article II, Section 1d, the amendments are not subject to the referendum and go into immediate effect when this act becomes law. However, the amendment to divisions (HHH) and (III) of the section goes into effect July 1, 2005, and the amendments to division (H)(1)(a)(vi), adding a new division (H)(1)(b), and adding a new division (H)(1)(c)(iv) of the section go into effect January 1, 2006.

SECTION 612.69.06. The amendments by this act to section 5739.02 of the Revised Code provide for or are essential to implementation of a tax levy. Therefore, under Ohio Constitution, Article II, Section 1d, the amendments are not subject to the referendum and go into immediate effect when this act becomes law. However, the amendment to division (B)(18) of the section and the amendment striking through division (B)(35) of the section go into effect July 1, 2005.

SECTION 612.69.09. (A) Except as otherwise provided in division (B) of this section, the amendments by this act to section 5739.17 of the Revised Code are not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, the amendments take effect on July 1, 2005.

(B) The amendments to division (C) of section 5739.17 of the Revised Code provide for or are essential to implementation of a tax levy. Therefore, under Ohio Constitution, Article II, Section 1d, the amendments are not subject to the referendum and go into immediate effect when this act becomes law.

SECTION 612.69.12. The amendments by this act to section 5741.02 of the Revised Code provide for or are essential to implementation of a tax levy. Therefore, under Ohio Constitution, Article II, Section 1d, the

amendments are not subject to the referendum and go into immediate effect when this act becomes law. However, the amendment to division (E) of the section goes into effect January 1, 2006.

SECTION 612.72. (A) Except as otherwise provided in division (B) of this section, the amendments by this act to section 5747.01 of the Revised Code provides for or is essential to implementation of a tax levy. Therefore, under Ohio Constitution, Article II, Section 1d, the amendments are not subject to the referendum and go into immediate effect when this act becomes law.

(B) The amendment to division (A)(10) of section 5747.01 of the Revised Code is subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1c and section 1.471 of the Revised Code, the amendment takes effect on the ninety-first day after this act is filed with the Secretary of State. If, however, a referendum petition is filed against the amendment, the amendment, unless rejected at the referendum, takes effect at the earliest time permitted by law.

SECTION 615.03. Except as otherwise specifically provided in this act, the uncodified sections of law amended or enacted in this act, and the items of law of which the uncodified sections of law amended or enacted in this act are composed, are not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, the uncodified sections of law amended or enacted in this act, and the items of law of which the uncodified sections of law amended or enacted in this act are composed, go into immediate effect when this act becomes law.

SECTION 615.06. Uncodified sections of law amended or enacted in this act, and items of law contained within the uncodified sections of law amended or enacted in this act, that are marked with an asterisk are subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1c and section 1.471 of the Revised Code, the uncodified sections and items of law marked with an asterisk take effect on the ninety-first day after this act is filed with the Secretary of State. If, however, a referendum petition is filed against an uncodified section or item of law marked with an asterisk, the uncodified section or item of law marked with an asterisk, unless rejected at the referendum, takes effect at the earliest time permitted by law.

If the amending and existing repeal clauses commanding the amendment of an uncodified section of law are both marked with asterisks, the uncodified section as amended is deemed also to have been marked with an asterisk.

An asterisk marking an uncodified section or item of law has the form \*.

This section defines the meaning and form of, but is not itself to be considered marked with, an asterisk.

SECTION 615.90. If the amendment or enactment in this act of a codified or uncodified section of law is subject to the referendum, the corresponding indications in the amending, enacting, or existing repeal clauses commanding the amendment or enactment also are subject to the referendum, along with the amendment or enactment. If the amendment or enactment by this act of a codified or uncodified section of law is not subject to the referendum, the corresponding indications in the amending, enacting, or existing repeal clauses commanding the amendment or enactment also are not subject to the referendum, the same as the amendment or enactment.

SECTION 618.03. The amendment of sections 5112.03 and 5112.08 of the Revised Code are not intended to supersede the earlier repeal, with delayed effective date, of those sections.

SECTION 618.06. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the following sections, presented in this act as composites of the sections as amended by the acts indicated, are the resulting versions of the sections in effect prior to the effective date of the sections as presented in this act:

Section 122.74 of the Revised Code as amended by both Am. Sub. H.B. 356 and Am. Sub. S.B. 310 of the 121st General Assembly.

Section 307.37 of the Revised Code as amended by both Am. Sub. H.B. 175 and Sub. H.B. 231 of the 125th General Assembly.

Section 307.86 of the Revised Code as amended by both Am. Sub. H.B. 11 and Sub. H.B. 230 of the 125th General Assembly.

Section 2921.13 of the Revised Code as amended by Am. Sub. H.B. 12, Am. Sub. H.B. 95, and Am. Sub. H.B. 311 of the 125th General Assembly.

Section 3314.03 of the Revised Code as amended by both Am. Sub.

H.B. 3 and Am. Sub. H.B. 95 of the 125th General Assembly.

Section 3317.023 of the Revised Code as amended by both Am. Sub. H.B. 3 and Am. Sub. H.B. 95 of the 125th General Assembly.

Section 3317.026 of the Revised Code as amended by both Sub. H.B. 129 and Sub. S.B. 200 of the 124th General Assembly.

Section 3704.035 of the Revised Code as amended by both Am. Sub. S.B. 18 and Am. Sub. S.B. 153 of the 120th General Assembly.

Section 4503.571 of the Revised Code as amended by both Am. Sub. S.B. 120 and Am. Sub. S.B. 232 of the 123rd General Assembly.

Section 4723.341 of the Revised Code as amended by both Sub. H.B. 511 and Am. Sub. S.B. 180 of the 123rd General Assembly.

Section 5739.01 of the Revised Code as amended by both Am. Sub. H.B. 95 and Am. Sub. S.B. 37 of the 125th General Assembly.

Section 5739.02 of the Revised Code as amended by both Am. Sub. H.B. 95 and Am. Sub. S.B. 37 of the 125th General Assembly.

Section 5741.02 of the Revised Code as amended by Am. Sub. H.B. 95, Am. Sub. S.B. 37, and Sub. S.B. 47 of the 125th General Assembly.

Section 5743.03 of the Revised Code as amended by both Am. Sub. S.B. 242 and Am. Sub. S.B. 261 of the 124th General Assembly.

Section 6121.04 of the Revised Code as amended by both Sub. H.B. 601 and Am. Sub. H.B. 628 of the 123rd General Assembly.

Am. Sub. H. B. No. 66

126th G.A.

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*Speaker* \_\_\_\_\_ *of the House of Representatives.*

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*President* \_\_\_\_\_ *of the Senate.*

Passed \_\_\_\_\_, 20\_\_\_\_

Approved \_\_\_\_\_, 20\_\_\_\_

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*Governor.*

Am. Sub. H. B. No. 66

126th G.A.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

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*Director, Legislative Service Commission.*

Filed in the office of the Secretary of State at Columbus, Ohio, on the \_\_\_\_ day of \_\_\_\_\_, A. D. 20\_\_\_\_.

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*Secretary of State.*

File No. \_\_\_\_\_ Effective Date \_\_\_\_\_